



An
Bord
Pleanála

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

Inspector's Report ABP-312290-21

Strategic Housing Development

750 apartments, crèche and associated site works.

Location

Park West Avenue and Park West Road, Park West, Dublin 12.
(www.parkwestshd.ie)

Planning Authority

Dublin City Council

Applicant

Greenseed Limited.

Prescribed Bodies

1. Transport Infrastructure Ireland.
2. Iarnród Éireann.
3. Córas Iompair Éireann
4. Commission for Railway Regulation
5. South Dublin County Council

6. Department of Education
7. Irish Water

Observer(s)

1. Aragon Hospitality Limited.
2. John Conway and the Louth Environmental Group (BKC Solicitors).
3. Natasha Alekseeva.

Date of Site Inspection

27 April 2022.

Inspector

Stephen Rhys Thomas

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application was made by Sandford Living Limited and received by the Board on 21st December 2021.

2.0 Site Location and Description

- 2.1. The subject site (c.9.4ha) is located within the Park West Business Park, Park West Road, Dublin 12. The site is 8km to the west of Dublin City Centre. The main Dublin to Cork railway line runs along the northern boundary and the Park West & Cherry Orchard Train Station is located to the north west of the site on the opposite side of Park West Avenue.
- 2.2. The site is largely undeveloped aside from the Aspect Hotel Park West and associated car parking, located along the west, facing onto the Park West Avenue Road. To the east of the site are 2 storey warehouse units which house a range of light industrial uses. The lands to the south and west include a range of development of apartment buildings, ranging in heights from 5 to 7 storeys. The ground floor of the apartment buildings along Park West Avenue has retail/commercial areas which are currently vacant.
- 2.3. The wider area is characterised by business campus type office buildings, apartments and warehouse buildings. There is a core of commercial uses (pub/restaurant/convenience store) at The Plaza Park West to the south the of the site. Barnville Park and Cherry Orchard lie to the north of the site beyond the trainline, there are a number of community uses located here, including a national school and church. The area is an emerging urban quarter with a large amount of vacant sites in between more recent and substantial apartment and office development.

3.0 Proposed Strategic Housing Development

3.1. The proposed development on a total site of 9.4 hectares will consist of 750 residential units in 7 separate blocks, ranging in height from 2 to 15 storeys, the detail is as follows:

| Parameter | Site Proposal |
|-------------------------------|---|
| Application Site | 9.4 hectares (gross) 5.5 (net) |
| Number of Units | 750 apartment units |
| Density | 137 units per hectare (net) 80 units per hectare (gross) |
| Dual Aspect | 423 apartment units (56.4%) |
| Other Uses | Retail Unit – 156 sqm Block A Crèche – 410 sqm 84 child spaces) Block G Community Space – 48 sqm Block G Café/bar – 91 sqm Block G |
| Public Open Space | 1.3 Hectares – 14% of the site |
| Communal Amenity Space | 6,175 sq.m at podium level within each of the proposed Blocks A to F and at roof levels within Block G. |
| Height | 2-15 storeys – 7 to 46 metres |
| Parking | 522 car parking spaces 1,676 bicycle spaces |
| Vehicular Access | Park West Road and Park West Avenue. |
| Part V | 75 (all in Block F) |

3.2. Housing Mix

| Unit Type | 1 bed | 2 bed | 3 bed | Total |
|------------|-------|-------|-------|-------|
| Apartments | 321 | 384 | 45 | 750 |
| % of Total | 43% | 51% | 6% | 100% |

- Vehicular, cycle and pedestrian access to the proposed development will be provided from Park West Road and Park West Avenue
- Parking - 552 car parking spaces in total, 314 undercroft car parking spaces beneath Blocks A, B, C, D, E and F and 238 on-street car parking spaces. The development includes 70 car parking spaces related to the existing Aspect Hotel (36 spaces beneath Blocks A, B, C and 34 spaces and at street level) which are being to be relocated from the existing surface car park to facilitate the development of Block G. The existing Aspect Hotel car park is also the site of a permitted extension to the hotel (Reg. Ref. 3436/18). The existing car park is proposed to be demolished and the site of the permitted hotel extension landscaped pending the development of the hotel extension.
- 1,676 cycle parking spaces at under-croft (1,276 spaces) and on-street (400 spaces)
- Other works -- Bin storage areas and a glass bottle recycling bank, ESB substations, undergrounding of the existing 38kV powerlines and central and western pylons along the northern boundary of the site, plant and public lighting, boundary treatments, surface water drainage infrastructure,
- Public open spaces (c.1.3ha) including hard and soft landscaping and a multi-use games area/ play space.

4.0 Planning History

4.1. Subject site:

Planning ref. **3436/18** - Permission and Retention Permission for development on this site (0.75078ha) at the Aspect Hotel, Nangor Road, Cherry Orchard, Dublin 12. The proposed development will comprise/comprises: Permission for a 7 storey

extension of 3,704sq.m to the existing hotel. Existing hotel (6,837sq.m) comprises 146 bedrooms. The proposed extension will consist of 78no. bedrooms; a new conference room, kitchen, toilets and all ancillary uses, and accommodation. Retention permission for part of the existing surface car park (permitted under Reg.Ref. 2930/06) and permission for modifications to the existing surface carpark which reduce the existing parking area from 99no. spaces to 85no. spaces and which include an additional 26no. car parking spaces to the north of the hotel bringing the total to 111 spaces. The proposal requires the realignment of the access roads to the north and south of the development and includes landscaping, lighting, bin storage shelter (30.8sq.m) and all associated site and development works.

5.0 Section 5 Pre Application Consultation

- 5.1. A section 5 pre-application consultation took place on the 17 February 2021 and a Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP-308937-20. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, constituted a reasonable basis for an application for strategic housing development.
- 5.2. The prospective applicant was advised that the following specific information was required with any application for permission:
 1. An architectural report and accompanying drawings which outlines the design rationale for the proposed public interface along the railway line along the north of the site, the amount of surface car parking and the impact on the residential amenity of the future occupants of the ground floor units. The report should outline the height design rationale in light of the publication of ‘Sustainable Residential Development in urban Areas’ and the accompanying Urban Design Manual.
 2. A detailed phasing and delivery plan, including timing and delivery of the works to on the site, the surrounding area and the overall Site 6 in the LAP. The phasing and masterplan documentation may include permanent solutions for the hotel carpark, justification and/or compliance with any required commercial/residential mix for the site, phasing and delivery of the infrastructure.

3. A Traffic and Transport Assessment including, inter alia, a rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes, mobility management plan and Residential Travel Plan.
4. A Design Manual for Urban Streets and Roads (DMURS) compliance statement.
5. Sunlight/Daylight analysis showing an acceptable level, inter alia, details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development.
6. Landscape plans delineating the public open space and communal open space and including useable space for play provision necessary to comply with Section 4.13 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.
7. A rationale for the proposed car parking provision, to include details of local census, mobility split, car parking management, car share schemes and a mobility management plan.
8. Part V proposals.
9. Wind micro-climate study, including analysis of balconies.
10. A report that specifically addresses the proposed materials and finishes of the proposed structures including, shopfronts and commercial units, the treatment of landscaped areas, pathways, entrances, and boundary treatment/s. The treatment/screening of exposed areas of basement ramps and any podiums as well as the underside of the proposed highline structures should also be addressed. The documents should also have regard to the long term management and maintenance of the proposed development.
11. A drawing detailing all areas proposed for Taking in charge.
12. Response to issues raised in Addendum B of Planning Authority Report, received 28th of January 2021, which includes the internal report of the Transportation Planning Dept.
13. A Community and Social Infrastructure Audit.

14. An analysis of the childcare provision in the vicinity and justification for the absence of any childcare facility on the site.

15. Noise Impact Assessment including the impact of the traffic noise and any mitigation measures necessary to reduce a negative impact on the amenity of future occupants.

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

1. Transport Infrastructure Ireland.
2. Iarnród Éireann.
3. Córas Iompair Éireann
4. Commission for Railway Regulation
5. South Dublin County Council
6. Department of Education
7. Irish Water

5.4. **Applicant's Statement**

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

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

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

- 5.5.2. Building Heights - The Dublin City Development Plan 2016-2022 has a maximum building height limit of 24 metres at Rail Hubs. The Development Plan also makes provision for mid-rise up to 50 metres at “Park West/ Cherry Orchard”. In relation to building height, the heights of the apartment blocks generally range from 2-8 storeys, c. 7 – 28 metres within Blocks A to G, with a 15-storey landmark of c.46 metres within Block A. Blocks A to G exceed the 24m maximum height and are therefore a material contravention of the Development Plan.
- 5.5.3. In addition, the applicant states that the Cherry Orchard Local Area Plan 2019 highlights that building heights shall range “up to 7-8 storeys (24m) in close proximity to Train Station, with the opportunity for place marker landmark building of up to 60m”.
- 5.5.4. The applicant concludes that the proposed landmark element of Block A at a height of c.46m is not a Material Contravention of the Development Plan or LAP on the basis that it is identified as a suitable location for a “mid-rise” (up to 50m) building in the both plans.
- 5.5.5. Unit Mix - The applicant states that the Dublin City Development Plan 2016-2022 limits the number of one bed apartments to a maximum of 25- 30% and the number of three or more bed apartments to a minimum of 15%. The percentage of one bed apartments proposed is 43%; the percentage of three bed apartments is 6%, this contravenes the statutory plan for the area.
- 5.5.6. The applicant concludes that the proposed development is broadly consistent with National, Regional and Local Policy (i.e. the Dublin City Development Plan 2016-2022 and the Cherry Orchard Local Area Plan 2019) and relevant Section 28 Guidelines. Where the proposed development is not consistent with the Dublin City Development Plan 2016-2022 and the Cherry Orchard Local Area Plan 2019, and where a Material Contravention applies, permission can be given because the proposed development accords with national policy.

6.0 Relevant Planning Policy

6.1. National Policy

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

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

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

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

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

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

- to purchase or rent at an affordable price

- built to a high standard and in the right place
- offering a high quality of life

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

National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

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

National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.

Objective 3b seeks to deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprint.

National Policy Objective 13 - In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

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

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

National Policy Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and

cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

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

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

Pillar 4: Improve the Rental Sector. The key objective is to address obstacles to greater private rented sector delivery and improving the supply of units at affordable rents.

6.2. Regional Policy

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

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

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

RPO 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable

Urban Housing; Design Standards for new Apartments Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

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

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

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

6.3. Local Policy

Dublin City Development Plan 2016 – 2022

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

6.3.2. The lands are part of Strategic Development and Regeneration Area (SDRA) 4 and zoned Z14 “To seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the predominant uses.”

6.3.3. SDRA 4 Park West/Cherry Orchard

An urban framework plan was originally prepared for the Park West/Cherry Orchard area in 2002 focusing on lands centred round the now new railway station. This plan identified significant land banks suitable for development. Since the 2002 plan, progress has been made in the development of the Cedar Brook housing estate and Part West Pointe, the residential quarter of Park West. However, since then the slow-down in the economy has resulted in these new developments remaining to be

fully integrated into the surrounding available sites. The following guiding principles shall apply to their future development:

1. To create a vibrant and sustainable new urban area with work, living and recreational opportunities, based around high-quality public transport nodes
2. To create a place with distinctive urban character, based on urban design principles with strong physical and psychological linkages to the city
3. To provide for sufficient densities of development, to sustain public transport and a viable mix of uses
4. To provide for an integrated public transport system, with bus and commuter rail as the main components
5. To provide for the integration of the new community with the established community
6. To provide for a balanced mix of residential tenure
7. To develop a coherent spatial framework, incorporating the following elements:
 - Two axial routes, defined by buildings, providing the main structuring components, linking the proposed new rail station with Ballyfermot Road to the north and Park West Road to the south
 - A Main Street at the intersection of the two axial routes, providing a safe and vibrant mixed-use environment, incorporating provision of a supermarket and associated retail and service facilities
 - A new civic space next to the main street, linking to the civic place adjacent to the rail station, creating a high profile for public transport and a strong sense of place for the local resident and working population.
8. To enhance the new identity of the area by providing for 2-3 mid-rise buildings at nodal spaces in the vicinity of the railway station or adjoining the M50 to act as place-markers
9. That in the creation of the 'new town' in the Park West/Cherry Orchard area as a policy and priority that the key historic and existing deficits with regard to layout, community under-development, policing, anti-social activity, lack of provision for childcare etc. be factored in to be provided for in the new proposed development and

that a new charter for Cherry Orchard be articulated and become an integral part of the overall plans and initiatives for the area

10. To provide for a supermarket and other local shopping.

6.3.4. **Variation 7 Dublin City Development Plan (adopted March 2020):**

The purpose of this Variation is to incorporate the National Planning Framework (NPF) and the Regional Spatial Economic Strategy (RSES) into the City Development Plan 2016 – 2022, in accordance with Section 11 (1) (b) (iii) of the Planning and Development Act, 2000, as amended. This is in order to align national, regional and local policy objectives.

- Dublin city in its entirety lies within the Dublin Metropolitan Area Strategic Plan (MASP) area and the RSES's give direction to Dublin city as the 'global gateway' for high-intensity clusters, brownfield development, urban renewal and regeneration. The RSES settlement strategy for the metropolitan area includes a strong policy emphasis on the need to gain maximum benefit from existing assets, such as public transport and social infrastructure, through the continuation of consolidation and increasing densities within the existing built footprint of the city.
- Assuming an average occupancy rate of two persons per residential unit, the housing requirement for the 2016 – 2022 period is between c.21,000 – 26,500 units over a 6 year period. The Development Plan provides capacity to exceed this figure in the Housing Strategy for the Development Plan period 2016–2022, in order to accommodate longer-term sustainable growth. From the above analysis, and particularly because there is capacity in excess of the required population and housing figures, it is concluded that the policies and objectives of this Dublin City Development Plan remains consistent the high-level national and regional policies.

Park West Cherry Orchard LAP 2019

6.3.5. The site is identified as Site 6 and the key points for consideration are summarised below:

- The site should be developed as a new residential quarter in Park West.

- The height range is 7-8 storeys, increasing for a landmark building near the train station.
- Density 100-125 unit per ha.
- The Department of Education and Skills have identified a need for a new primary school to serve the existing and future development of the Park West area. A suitable location for the provision of a new Primary School has been identified to the south east corner of Site 6 addressing Park West Road.
- A social audit for community infrastructure should be submitted. Consideration should be given to the provision of local health care facilities, a place of worship and a community centre to serve the new and existing residential population.
- Development of this site should provide good quality linkages and connections to the north towards the train station and Cherry Orchard Park, to the west as part of the strategic green network, to the south to facilitate improved pedestrian access to the neighbourhood Plaza, and should also allow for future connections to the east.
- The buildings should address all primary and secondary streets, with active ground floors encouraged.
- Development should provide a continuous active frontage along Park West Avenue and Park West Road.
- Development along the western boundary of this site will be required to address the variance in levels between the site and Park West Avenue to ensure a high-quality streetscape to Park West Avenue.
- Ground floor retail units should be completed to a turn-key standard.
- Improvements to the interface to Park West Avenue and Park West Road should be provided to enhance pedestrian and cycle movement.
- Investigate the potential for the overhead ESB power lines to be relocated underground.
- Archaeological testing required.

- Continuing the water-based theme of Park West and its relationship with the Canal will be encouraged.

7.0 Observer Submissions

- 7.1. There are three submissions, two from local property owners and one legal submission. In detail the submissions can be summarised as follows:
- 7.1.1. Aragon Hospitality Ltd have ownership rights in the hotel and car park at Aspect Hotel, on the subject site. Car and coach parking is an integral part of the hotel business and there is a concern that the proposed replacement (from 112 spaces to 70 spaces) of parking is not adequate. This takes no account of the operational requirements of the hotel and the movement of larger commercial vehicles. The EIAR does not adequately reflect the impacts to the hotel during construction and operational phases of the development.
- 7.1.2. Natasha Alekseeva, a resident of Academy Building, to the west of the subject site, cites long running legal disputes with their management company, a company related to the applicant. Amenities promised have not been delivered at Academy Buildings or the area as a whole. Public open space is not maintained and vandalism is a common feature. The proposed development of taller buildings is not conducive to family living and not enough community space is proposed.
- 7.1.3. John Conway and the Louth Environmental Group (BKC Solicitors), have prepared a submission that references a number of material contraventions of the development plan with respect to density, height, housing mix, public open space, car parking, provision of childcare, architectural conservation area, and masterplan/urban design framework. It is stated that the proposed development is not strategic or of national importance, the correct drawings and documentation have not been submitted, there is no demonstration that sufficient infrastructure (transport, drainage, water services and flood risk) can support the development. If permitted the development could breach the requirements of the SEA Directive. In addition, the submission points out the following:
- The EIAR is deficient, EIA screening has not been correctly applied.

- The AA Screening exercise is flawed in a number of areas and has had regard to mitigation measures.
- Finally, the number of build to rent units in Dublin 8 is becoming saturated. The proposed development will make matters worse and is not in accordance with the development plan for the area.

8.0 Planning Authority Submission

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 23rd February 2022. The report states the nature of the proposed development, the site location and description, planning history, submissions received and details the relevant Development Plan policies and objectives. A summary of the views of elected members as expressed at the South Central Area Committee on 19th January 2022 is appended to the Chief Executive's Report and summarised below.

- In relation to height and density, fears were expressed that residents at Barnville Estate will be affected.
- The design and layout of the scheme should be robust and suitable for families.
- Development in accordance with the LAP is welcomed.
- The development could impact road and public transportation in the area.
- Community services, schools and other facilities are already stretched in the area, plans should be in place to ensure that facilities provided are used and management properly.
- Part V housing is better spread throughout the development, not in one block.
- The impact upon the local communities should be taken into account, in terms of employment, antisocial behaviour and community gain.

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

Compliance with Zoning

The entire site is located within the Park West- Cherry Orchard LAP, and it is zoned Z14 in the Dublin City Development Plan 2016-2022 which is 'To seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses.' Residential use is permissible under the land use zoning site as well as retail uses. The site is identified as SDRA 4 within the current Development Plan. The Development Plan identifies a number of strategic development and regeneration sites across the city that are capable of delivering significant quanta of homes and employment for the city.

The development proposal is acceptable in principle and considered to represent an efficient use of the lands that has been strategically planned at this location, directly adjacent to Park West station.

Mix of Uses on the site

The non-residential uses in the scheme comprise one retail unit (156sqm) , the crèche (410sqm) and a café/bar (91sqm) and community space (48sqm), amounting to an area of 705sqm. Given the zoning objective for the site, a greater mix of uses in the first phase would be preferable. It should also be noted that one of the objectives of the Local Area Plan (see page 41) , ED04 is "to seek the provision of "turn-key" ground floor retail units within Site 2 and along Park West Avenue. ", the proposed development does not address this objective. This should be addressed by condition, to address this corner of the scheme and to provide for a better mix of uses in terms of commercial /enterprise units, especially in blocks A & C.

Plot Ratio, Site Coverage and Density

Plot ratio and site coverage, acceptable. While the proposed density is relatively high, it is considered that the site is considered suitable for high density development given the location within walking distance to Park West train station and a number of bus routes.

Layout and Design

The layout and design is broadly welcomed and accords with LAP brief for site 6. However, the Board is requested to consider conditions that would result in improved frontage of additional retail/ commercial units at blocks A and C.

Residential amenity

In overall terms residential amenity is acceptable, however, the mitigation measures outlined in the EIAR with regard to the proximity of the site to the rail line and noise impacts, should be implemented in full.

Residential standards

The Planning Authority notes 12 different types of 1 bed units, 11 types of 2 bed units, 3 types of 3 bed units, and 2 and 3 bedroom own door apartments that would be suitable for family living. The Housing Quality Assessment document shows that all units meet the minimum floor areas, room sizes, storage areas and private open space standards set out in the Apartment Guidelines. It is noted that larger three bed units have been provided with extensive amenity areas of up to 36sqm.

The mix complies with SPPR1 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoHPLG, (2020).

However, given the location of the site a considerable distance from the city centre, the Planning Authority would prefer to see a higher proportion of 2-3 bed family units.

All other aspects to do with residential amenity standards are broadly acceptable and in line with development plan and national requirements.

In terms of sunlight/daylight, the proposed development meets standards for future residents. An analysis has been prepared to show impacts to residential units north of the site, and no adverse impacts are found. The Wind Microclimate Modelling Study is noted.

Childcare Facilities

The proposed crèche of 410sq.m has capacity for 84 children and will be more than suitable to cater for the future requirements of the proposed development.

Public Open Space

Public open space for this scheme is provided in the form of a linear park, an entrance plaza and also play spaces in the central park. The linear park and promenade act as a central public park, and form the spine upon which the primary buildings are orientated. The scheme provides for a total of 12,686 sqm of public open space, which accounts for 13.5% of the gross site area. This exceeds the 10%

required under the Dublin City Development Plan. The road corridor landscape that is included in the calculations for Public Open Space is not satisfactory.

Communal Open Space

The Planning Authority is satisfied that the scheme complies with the minimum requirements set out in the Apartment Guidelines with regard to communal open space.

Private Open Space

Based on the number of units proposed this would require a standard of 4,698sqm. The scheme notes that for the majority of units, the proposed area of private open space is in excess of the minimum standard. The scheme proposes 6,859sqm of private open space. The Planning Authority is satisfied that the scheme complies with the minimum requirements set out in the Apartment Guidelines.

Phasing and Delivery and Parking for the Aspect Hotel

The development of site 6 is divided into four phases which will be broken down further into construction stages relating to the development of individual or combined blocks depending on the construction programme. The current application relates to Stage 1 of the LAP site 6. Stages 2 and 3 will be subject to separate applications to DCC. The Planning Authority have concerns regarding the operation and phasing of the Aspect Hotel.

As part of this application, the existing car park is proposed to be demolished and the site of the permitted hotel extension landscaped pending the development of the hotel extension. The scheme also provides for 70 car parking spaces for the Aspect Hotel (36 beneath blocks A, B and C and 34 spaces at street level.) The phasing plan did not address the permanent solution for the car parking for the Aspect Hotel. It is not clear whether the 70 spaces proposed beneath Blocks A, B , and C and the 34 at street level are the permanent solution. In any case 75 spaces would be required and these should be the subject of a condition.

Overhead Power Lines

As required by the LAP, the existing overhead power lines that run adjacent to the railway line are proposed to be relocated underground with the removal of the central

pylon structure as part of this application. These works should be completed in phase 1 of the development.

School Site

The overall lands in the ownership of the applicant include the proposed school site in the south eastern portion of the site. The school site does not form part of this current application but will form part of a later phase in the LAP Site 6.

Railway Line

A condition should be attached to ensure that the applicant liaises with Iarnród Eireann in relation to rail infrastructure requirements.

Irish Water

Requirements noted.

Part V – Social housing

The report of the Housing Department (dated Dec 23rd 2021) acknowledges that the applicant has engaged with DCC on Part V provision.

Flood Risk

Noted, no objections.

Transport

It should be noted the matter of the existing road network serving the site not being taken in charge by Dublin City Council is of significance to the implementation of the proposed development, relevant conditions are suggested.

Issues such as recycling, sustainable building design, third party submissions, AA and EIA are noted and no issues raised.

The planning authority conclude that the proposed development is acceptable subject to 25 conditions some recommending modifications outlined above. Most conditions are standard and of a technical nature and some conditions that refer to bonds and contributions are also recommended.

8.3. DCC Departmental Reports

Transportation Planning: The report from the Transportation Planning Division recommends conditions in the event that permission is granted.

Drainage Division: Report received. No objection subject to conditions.

Parks and Landscaping Report received. The Parks, Biodiversity and Landscape Services have no objection to the proposal and recommends conditions in the event that permission is granted.

Waste Management Report received. No objection subject to conditions.

Environmental Health Report received no objections subject to conditions.

Housing Department Report received, no objections.

9.0 Prescribed Bodies

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

1. Transport Infrastructure Ireland.
2. Iarnród Éireann.
3. Córas Iompair Éireann
4. Commission for Railway Regulation
5. South Dublin County Council
6. Department of Education
7. Irish Water

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 20th December 2021. A summary of those prescribed bodies that made a submission are included as follows:

Irish Water (IW) – There is available capacity in IW networks for the proposed development, technical and standard conditions are recommended if permission is granted. Specifically, a new bulk meter and a new pressure reducing valve at the extreme of the existing 450 mm AC (1980) main would be required and survey a section of the sewer for possible sediments. If sediments are found, they have to be

removed to create the required capacity. Proof of sewer condition before and after will be required prior to connection application stage with IW.

Córas Iompair Éireann (IE) - IE have made a submission that relates to detailed standards and technical requirements for development adjacent to a rail line. More specific requirements relate to the following:

- Construction a 2.4 metre high concrete block boundary wall, location and details to be agreed.
- No buildings to be constructed within 4 metres of the rail line.
- Landscaping in the vicinity of the line should not lead to restrictions in rail service.
- The impact of rail line related noise and vibration should be taken in to consideration and appropriate mitigation measures proposed.

Inland Fisheries Ireland (IFI) – given the proximity of the Camac River catchment and the Grand Canal, all works should accord with the CMP submitted

National Transport Authority (NTA) – the site is suitable for high density development subject to meeting certain criteria. However, the high percentage (94%) of units propose are one and two bed, it is not evident that the proposed development would meet the transport and land use objectives related to the accommodation of a wider demographic profile or social inclusivity.

In terms of cycling, the NTA recommends, that a scheme of improvements to the local cycle network, limited if necessary to the area inside the planning application red line, is agreed with the local authority and the NTA, including the upgrading of the junction between Park West Road and Park West Avenue.

A revised Travel Plan with significantly higher mode share targets for rail, and associated reduction for private car, which is agreed with the local authority prior to commencement of development. This condition should also address the requirement for full implementation of Travel Plan measures and the monitoring of travel patterns from the proposed development on a regular basis.

Transport Infrastructure Ireland (TII) – has no comments to make.

10.0 Assessment

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

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

10.2. Principle of Development

10.2.1. Land Use Zoning - The application site is zoned Z14 'Strategic Development and Regeneration Areas' (SDRA 4 Park West/Cherry Orchard) under the Dublin City Development Plan 2016-2022. The land use objective in Z14 is to "To seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses." Residential, retail, community space, café/bar and crèche are all acceptable uses on this land use zoning.

10.2.2. Observers broadly support the development of this site but wish the completion of other residential developments in the area in terms of amenity uses. I note that the planning authority support the principle of residential development across the subject site and the provision of a crèche is welcomed. However, the planning authority would prefer to see more commercial/retail uses in accordance with the Z14 zoning.

The applicant has prepared a Phasing Management and Delivery Report in which it is stated that a mix of residential and commercial uses are planned for the Phase 3 site of the overall LAP site 6. This will form part of planning applications in the future. During my site visit I observed a large number of commercial units along the ground floor of The Concert apartment buildings and these units were all vacant, with the appearance of never having been occupied. In addition, I note that the Aspect Hotel appears to be in full use and that a number of units at The Plaza to the south also appeared to be in use. I am satisfied that the predominantly residential scheme proposed by the applicant will not adversely impact on the mixed use objectives of the LAP and in fact will support and sustain existing, planned and permitted development. I consider that it is unnecessary to amend the development in order to provide additional commercial space as the planning authority wish. If the commercial or retail environment should change in the future, I am satisfied that the design and scale of ground floor units could undergo a change of use, subject to the relevant consent process. Given the foregoing, I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of the land and permission can be granted.

10.2.3. SDRA 4 Park West/Cherry Orchard, sets out a list of overall guiding principles for the entire area and I have already listed them in section 6.3 of my report, above. In summary these guiding principles equate to; a new urban area in which to live, work and pursue recreational activities, a new distinctive urban environment with strong links to the city, sufficient residential densities to support infrastructure, integrate communities, mix of tenure, a coherent spatial framework, provide 2-3 mid-rise buildings (up to 50 metres) at nodal locations, create a new town and provide local shopping. SDRA 4 acknowledges that this area can accommodate taller buildings and this has been flagged since the adoption of the City Development Plan. In very broad terms, it is apparent that the proposed development meets many of the guiding principles set out for the overall area by the provision of residential accommodation, public parks, a new and active street network, community space and taller buildings.

10.2.4. In terms of residential density, I note that an observer states that the proposed development would materially contravene the statutory plan with respect to density. This is not the case, the planning authority note that while the proposed density is

relatively high, it is considered that the site is considered suitable for higher density development given the location within walking distance to Park West and Cherry Orchard train station and a number of bus routes. This is considered reasonable given that the site is a key site for development as set out in the LAP and current Development Plan. In detail, the proposed development will be accommodated on a large scale site of over 9 hectares. However, a large proportion of the site is the subject of future development, not part of the current proposal. Therefore, the residential density of the site is reckoned across the net site area of 5.4 hectares, that is 750 units across the net site and this amounts to 137 residential units per hectare.

10.2.5. The LAP identifies the locational attributes of the wider area and seeks to accommodate medium to high residential densities. Site 6 (the subject site) is identified in the LAP as being able to accommodate medium to high density development. Higher densities were envisaged to the north west of the site in the vicinity of the Landmark with densities in excess of 100 units (ha) and for the rest of the site as medium density at around 50-100 units (ha). From this I conclude that a variable density figure across the site means that it would be difficult to set a maximum or minimum density for such a large area. What the applicant has done is to front end higher densities towards the railway station, as planned for in the LAP and graduate both building height and residential density down to the south eastern end of the site. I consider this to be a reasonable and rational approach to residential density and certainly not a contravention of the statutory plan. I am satisfied that the residential density of 137 residential units per hectare is entirely appropriate at this location and will do much to support and improve public infrastructure and create sustainable and viable communities.

10.2.6. Park West Cherry Orchard LAP 2019 - The site is identified as Site 6 in this LAP and the key points of development at this location stem from the wide ranging objectives of SDRA 4. Key Development Site 6 is primarily a residential zone and is illustrated in detail under site brief 6 in the LAP. I examine in greater detail the layout and urban design attributes of the proposed development in later sections; however, I am broadly satisfied that the proposed development meets the design parameters set out in the LAP. The planning authority are also satisfied that the proposed development accords with the LAP for the area but raise some detailed aspects with

regard to the provision of turnkey commercial units. However, in broad terms, the principle of residential development at this location is entirely acceptable and the detailed aspects of the development are assessed in the following sections of my report.

10.3. Material Contravention Statement

Introduction

- 10.3.1. The applicant has prepared a material contravention statement that sets out the rationale as to why the development could be permitted even when the proposal would represent a material contravention of the Dublin City Development Plan 2016-2022 and the Park West - Cherry Orchard Local Area Plan 2019 in terms of building heights and unit mix. The applicant has advertised that a material contravention statement has been submitted as part of the application, within their newspaper notice, as required under the legislation.
- 10.3.2. The applicant has advanced a very cautious approach as to what parts of the City Development Plan and LAP the proposed development could potentially contravene. The applicant's material contravention statement addresses two areas of the statutory plan that could be breached. In broad terms, it is Chapter 16 *Development Standards: Design, Layout, Mix of Uses and Sustainable Design* and specifically section 16.10 - *Standards for Residential Accommodation*, that poses the most likely areas where differences lie, according to the applicant. An observer has raised numerous areas of the Development Plan/LAP where they think a material contravention has occurred and they include: density, housing mix, public open space, height, car parking, childcare, Architectural Conservation Area, and the overall LAP masterplan for the area.
- 10.3.3. The Dublin City Development Plan sets out a number of policies and objectives, some of which aim for the achievement of a quality built environment and the application of development standards plays an important role in ensuring successful and sustainable new developments. In this instance, Chapter 16 *Development Standards: Design, Layout, Mix of Uses and Sustainable Design* of the City Development Plan lays out the types of standards that should be applied when assessing development proposals. For example, Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and it is policy that it should

predominantly remain so. Hence, section 16.7 of the development plan sets out standards in relation to building height that would achieve this policy aim. However, the Development Plan acknowledges that there are areas of the city where building height can be increased and this is set out in SDRAs (specifically SDRA 4 Park West/Cherry Orchard) and most recently articulated in the Park West - Cherry Orchard Local Area Plan 2019.

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

Building Height

10.3.5. Firstly, in terms of building heights, it is stated by the applicant that the heights of the apartment blocks generally range from 2-8 storeys, c. 7 – 28 metres within Blocks A to G. According to the applicant, this would exceed the development plan and LAP that cap heights at 24 metres in height. However, the provision of a taller element at

block A of up to 46 metres would comply with both plans in terms of the provision of a place marker building of up to 60 metres. The applicant concludes that it is the exceedance of 24 metre building height cap that will be breached and they have provided a rationale for this action that includes the imperative to increase densities at suitable locations in accordance with the relevant national guidelines. The Planning Authority notes national policy on building height, in particular the publication of the Urban Development and Building Height Guidelines (December 2018). The Planning Authority have no objection to the heights advanced by the applicant, and they are satisfied that the heights proposed are appropriate at this location in close proximity to the Park West and Cherry Orchard train station.

10.3.6. The planning policy context of the site is set by two documents. Firstly, the City Development Plan examines the issue of height in a very broad context and for the city as a whole. In this instance it is recommended that heights would not exceed 24 metres save for 2-3 of mid-rise (up to 50 metres) buildings within the SRDA lands. The SRDA also calls for a local area plan to be produced. The Park West Cherry Orchard LAP 2019, has been published and provides a detailed analysis of the area together with illustrated site briefs. The site briefs further refine the height strategy within the LAP and site 6, heights should range up to 7-8 storeys with the opportunity to provide a landmark building of up to 60 metres close to the train station. The massing diagram in the LAP shows a modulated approach to each block with a variety of heights within each block and banded colours to signify floor height or number of storeys.

10.3.7. The applicant has taken a cautious approach, where the proposed development of blocks greater than 24 metres occurs, they have considered that to be a material contravention of the City Development Plan. The planning authority do not share the opinion that the heights proposed would be a material contravention of the plan and are quite satisfied that the heights are acceptable and welcome at this location. The issue of building height is noted by observers and mention is made of the potential for a material contravention of the development plan, but no specific details are offered why.

10.3.8. In my view the applicant has been extremely cautious in their approach to the heights proposed and whether they contravene the statutory plan for the area. In the first place, I note that the City Development Plan outlines overall building heights in

terms of metres and 24 metres would appear to be the limit here. However, the Development Plan further refines the approach to height in SRDA 4 and states that some mid-rise (up to 50m) would be acceptable. However, more recent and relevant guidance on height has been produced in the shape of the Park West Cherry Orchard LAP 2019 and this document was written in the context of the Urban Development and Building Height Guidelines (December 2018). The LAP is a very useful document, provides good urban design advice and crucially, has been written to take account of up-to-date national guidance on building height. I consider that the most relevant document to guide building heights on this site is the LAP and its development objectives for the area.

10.3.9. The applicant's proposal for the site follows very closely the indicative layout illustrated on page 72 of the LAP. In addition, heights have been modulated within blocks and accord with the heights envisaged by the LAP in terms of the number of storeys proposed but not necessarily in terms of metres in height. This is a technical point and one that requires further examination. Taking each block in turn; block A/B can be defined as the location of the landmark building planned in the LAP. According to the LAP, the landmark building can include 5-10 storeys and a height up to 60 metres as a landmark feature. The applicant has proposed a landmark feature of 15 storeys (44.45 metres) and a combination of 2-9 storeys (6.32 metres to 29.15 metres). In my view the key determinant in the plan, is the number of storeys to be provided and not the height in metres. The applicant has complied with both in the LAP in terms of the number of storeys to be provided at this location, but some parts of the development outside of blocks A/B are greater than 24 metres.

10.3.10. Blocks C, D, E, F and G are all no higher than eight storeys and have been modulated in height in order to provide good levels of amenity for future occupants. The provision of up to eight storeys throughout the site is in accordance with the LAP and so I do not see any contravention of the LAP, material or otherwise with respect to height in terms of the number of floors. The eight storey elements of each block range between 25.78 metres and 26.89 metres and it is this aspect of the development that the applicant considers to be a material contravention of the development plan, I do not and nor does the planning authority. The proposed heights only amount to just under 7% over the 24 metre cap set in the Development Plan, and I do not consider this to be material in a planning context as there is no

increase in the number of floors (as set out in the LAP) to be provided. The reason for the heights in metres arrived at by the applicant could be attributed to floor to ceiling heights of 2.75 metres. Building Regulations Technical Document F deals with Ventilation. It provides guidance on ceiling height in habitable rooms. The suggested minimum floor to ceiling height, consistent with good room design, the use of standard materials and good building practice is generally 2.4 metres. The apartment guidelines seek at least 3 metres at ground floor and at least 2.7 metres for upper floors. The provision of 2.75 metre floor to ceiling heights could well have an impact on the overall height in metres of the apartment block as opposed to the number of storeys that are in any case are entirely compliant with the LAP.

10.3.11. Given, that the planning authority raise no issues in terms of height and that observers have not quantified what aspect of height they find to contravene the plan, I am satisfied that there is no material contravention of the statutory plan for the area. Whilst I acknowledge that some apartment blocks would provide the required number of floors slightly above the Development Plan limit of 24 metres, I find this to be minimal and certainly not material. I am entirely satisfied that the Park West Cherry Orchard LAP 2019 adequately describes the number of storeys that would be acceptable at this location in the plan and that the applicant has followed the site brief almost to the letter. I do not consider that the Development Plan or Local Area Plan for the area have been materially contravened by the development as proposed.

Unit Mix

10.3.12. The applicant states that the Dublin City Development Plan 20016-2022 limits the number of one bed apartments to a maximum of 25- 30% and the number of three or more bed apartments to a minimum of 15%. The percentage of one bed apartments proposed is 43%; the percentage of three bed apartments is 6%, this, according to the applicant contravenes the development plan for the city. The planning authority have concerns that given the location of the site a considerable distance from the city centre, there is a preference for a higher proportion of 2-3 bed family units. There is nothing specific in the LAP that underlines this position in a quantifiable sense and the planning authority do not state in definite terms that a material contravention of the statutory plan will occur if granted permission. For clarity, the housing objectives of the LAP include:

- H03 To create a socially integrated neighbourhood which encourages tenure diversity and creates a good mix of housing typologies integrated into the area.
- H09 To encourage a mix of dwelling types and quality design that will aid legibility and way finding throughout the area.

10.3.13. The LAP does not set out what ratio of housing mix should be provided in any particular scheme at any particular site brief location. In my mind the proposed development meets the objectives made by H03 and H09 to mix housing typologies through good design. I do not see any contravention of the LAP in this instance. I note that a single observer has stated that the development will materially contravene the Development Plan/LAP with respect to housing mix. The operative plan is the City Development Plan and relevant statutory plan for the area is the recently published LAP for Park West and Cherry Orchard, it provides up to date guidance in line with planning policies advanced since the coming into operation of the City Development Plan in 2016. In terms of dwelling mix, Section 16.10.1 of the Development Plan sets out the following: 'Each apartment development shall contain:

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

10.3.14. The proposed development will provide 750 apartments comprising 43% one bed, 51% two bed and 6% three bed apartment units. It is relevant to state that SP1 of the 2020 Apartment Guidelines looks for a greater mix of units particularly studio, one and two bed units; and that specified mixes in statutory plans should only follow a Housing Need and Demand Assessment (HNDA). An HNDA has not been prepared by the planning authority and so the proposed development provides a combination of units it thinks appropriate and in accordance with the 2020 guidelines.

10.3.15. This is all in accordance with national policy, however, the applicant and observer question if it is a material contravention of the plan. The planning authority do not strenuously oppose the residential unit mix proposed but would prefer less one bed units and more three bed units. The planning authority do not state that the unit mix proposed would be a material contravention of the City Development Plan or

LAP. Given the existing character of the area I note the 2020 Apartment Guidelines (in relation to the statutory planning framework) discusses the need to facilitate a mix of apartment types that better reflects household demand and formation, SPPR 1 refers:

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

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

10.3.17. The proposed development exceeds these parameters set out in the plan with respect to residential unit mix, however, I do not consider that the plan has been contravened with respect to a policy or objective and it is simply a standard that has been exceeded. In most other respects the apartment units meet and exceed the standards set on in the Development Plan and the Apartment Guidelines. Moreover, this is acceptable in this instance because in order to protect the residential amenity of future occupants, apartment sizes are generous and communal facilities are well designed and located throughout the scheme. Finally, the proposed development will add greatly to the availability of one bedroom apartments in a quarter of the city characterised by conventional housing stock comprising three bedroom houses. Finally, I note that this cap has been set without an HNDA and this would be contrary to SPPR 1 that states statutory development plans may specify a mix for apartment

and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA).

10.3.18. It should be noted that throughout section 16.10.1 of the Development Plan, repeated reference is made to the Sustainable Urban Housing: Design Standards for New Apartments (2015). These were guidelines issued by the Department of Environment, Community and Local Government at the time the City Development Plan was adopted have been reviewed twice, the planning authority note this. Specifically, the planning authority in their Chief Executive's Report refer to the 2020 Apartment Guidelines and acknowledge that more up to date standards are now in place since the adoption of the City Development Plan and thus, follow the updated advice. In addition, the Park West - Cherry Orchard Local Area Plan was written and adopted in the context of the 2018 Apartment Guidelines and there is no difference between the 2018 and 2020 Apartment Guidelines in relation to dwelling mix. The proposed development is broadly compliant with the apartment standards set by the Development Plan and LAP, and is in accordance with the up-to-date Apartment Guidelines (2020), now in force.

10.3.19. I am satisfied that the proposed development is in line with the advice contained in the Apartment Guidelines and broadly accords with the design standards of the Development Plan and LAP to ensure an acceptable level of dwelling mix. It is my opinion that there is no material contravention of the housing mix standards in the City Development Plan or LAP in relation to the desire for a sustainable mix of house types and tenures. The scheme's proposed dwelling mix would be in accordance with the regional spatial and economic strategy for the area, guidelines under section 28 (specifically SPPR 1 of the Apartment Guidelines and SPPR 4 of the Height Guidelines) and relevant housing policy of the Government and broadly in accordance with the unit mix of the development plan and housing objectives of the LAP.

10.3.20. The applicant has exercised an abundance of caution and advanced two areas of their proposal that they think may materially contravene the City Development Plan and/or LAP. I have examined each in turn and I conclude that no objective of the Dublin City Development Plan or LAP would be materially contravened. The Dublin City Development Plan offers a degree of flexibility in its approach to ensuring high quality residential accommodation. The LAP further

refines these standards in the context of the Apartment Guidelines 2018 and the Height Guidelines 2018, at the time it was published in 2019.

10.3.21. The planning authority are supportive of the proposed development in terms of height and scale but would nevertheless prefer less one bed units. No definitive statement from the planning authority in relation to where their statutory plan is materially contravened is forthcoming. As detailed above, I am satisfied that the proposed development would not materially contravene the Dublin City Development Plan 2016-2022 or the Park West - Cherry Orchard Local Area Plan 2019 in terms of the matters raised by the observer in relation to density, public open space, car parking, childcare, Architectural Conservation Area, and the overall LAP masterplan for the area; and I examine these aspects of the development in detail in the following sections of my report. I am satisfied that the proposed development accords with the LAP for Park West and Cherry Orchard and this is not entirely surprising given that the LAP was drafted with regard to all relevant section 28 guidance available in 2019.

10.4. **Layout, landscape and overall design**

10.4.1. The subject site is located entirely within the Park West - Cherry Orchard Local Area Plan 2019 and specifically it forms Site Brief 6 Park West Avenue/Road Site, a key development site. According to the LAP, the site briefs set out the aspirations for each key site and articulate the proposed land uses, indicative layouts, appropriate densities and appropriate heights. The development has been proposed in the context of the LAP and accordingly the layout, density, height and landscape provision all closely match that set out in Site Brief 6. The planning authority welcome the design and layout of the development as proposed and do not recommend any significant changes that would alter the layout of the scheme. I note that an observer has claimed that the proposal would materially contravene the LAP masterplan/urban design framework (policy SS02a and PM17). However, I have been unable to locate either policy or objective with such a reference number and I note that the only reference in the LAP to an Urban Framework dates back to 2002. In addition, the LAP updates the 2002 Framework Plan, in the context of the current economic climate and new statutory planning frameworks. As a consequence, neither the planning authority nor I consider that the proposed development would contravene the statutory plan for the area in terms of masterplan/urban design

framework and in fact the proposed development follows very closely the layout and urban design principles of the LAP.

- 10.4.2. The proposed development closely aligns with that envisaged by the LAP. In summary, the layout matches that set out in the indicative layout for a new residential quarter in Park West detailed in the LAP. A series of perimeter blocks line up along the railway line to the north and open out onto a central public open space that widens out to form a large central park. The location of the landmark building is as it is situated in the LAP, at the north western corner of the site opposite the railway station. The balance of the site along the southern and eastern end of the lands have been tentatively master-planned subject to future phases of development and this is acceptable. From an urban design perspective, the layout is logically set out and should provide an attractive and safe urban quarter, just as the LAP planned for. The planning authority seek more active frontages to Park West Avenue but I recommend no changes to the overall layout as it generally achieves the aims and objectives set out for Site Brief 6 in the LAP.
- 10.4.3. Specifically, the planning authority have concerns regarding the design of Block A at ground level and its interface with Park West Avenue. More active uses are desired fronting onto Park West Avenue and on secondary streets. On this matter, the planning authority have recommended the omission of some ground floor residential units and the provision of retail/commercial units instead. I am not of the same opinion for a variety of reasons. Firstly, I observed a large number of vacant retail/commercial units, that appeared to have never been occupied, in the general vicinity of the site and the railway station. Secondly, should the market change in the future and economic viability for more retail and commercial units come to pass, then units could change use subject to the relevant statutory consents. I do not recommend that the residential units selected by the planning authority for a change to retail/commercial use should be implemented. Lastly and in any case an active frontage will still be achieved by the presence of own door apartments facing out on to the street.
- 10.4.4. In terms of landscape design, as before, I note that the layout and consequently the landscape masterplan, follow very closely that envisaged in the LAP. The planning authority state that the Public Open Space provision, at 1.3ha (14%) comprising a linear park orientated west to east and functioning as a link to the established

residential areas to the west of Park West Avenue and a public plaza/ square including Multi-Use Games Area (MUGA) is welcomed. The generous provision of public open space complimented by the provision of communal open space (formed as central courtyards) is acceptable. I note that a 38kV overhead powerline is to be removed/undergrounded as part of the development proposal and this will achieve the potential for the overhead ESB power lines to be relocated/undergrounded highlighted in the LAP. The planning authority have requested that this should take place in the initial phases of development, and I agree. A suitable condition to do with phasing can manage the issue.

10.4.5. Finally, in terms of the overall design of the apartment blocks and amenity building, I am informed by the variety of drawings, photomontage images and computer-generated images presented by the applicant. The planning authority welcome the design and building finishes selected by the applicant. I am satisfied that the architectural approach to the design of the apartment blocks achieves the double aim of providing suitable and attractive living for future occupants whilst at the same time adding greatly to the architectural and urban character of the area as a whole. I recommend no changes in terms of design and suggest that an appropriate condition can secure the provision of high-quality materials such as those illustrated in the External Materials and Finishes Report submitted by the applicant.

10.5. Residential Amenity

10.5.1. The residential amenities offered to future occupants and the preservation and protection of existing residential amenities is an important consideration in any planning application. In this context, I firstly assess the proposed development as it refers to future occupants, I apply the relevant standards as outlined in section 28 guidelines, specifically the Sustainable Urban Housing: Design Standards for New Apartments (2020). With respect to the residential amenity for future residents (proposed residential amenity standards), the planning authority raise no issues with regard to the design of the scheme in terms of residential amenity. An observer notes the liveability by families of apartments in taller buildings and references their own experiences. The applicant has submitted a variety of architectural drawings, computer generated images and photomontages. I am satisfied that an appropriate level of information has been submitted to address issues to do with residential amenity.

Future Residents (apartments)

- 10.5.2. The proposed development comprises 750 apartments arranged in seven blocks (Blocks A to G) forming a mix of one, two and three bed apartments between two and fifteen storeys in height. The perimeter block style apartments are arranged around a central courtyard and aligned with the railway to the north and a large central linear open space running east/west. The layout and distribution of the apartment blocks is closely aligned with Site Brief 6 as set out in the LAP for the site. Most blocks are located close or adjacent to public open spaces and all are provided with their own private amenity spaces in the form of terraces and balconies. The Sustainable Urban Housing: Design Standards for New Apartments 2020 has a bearing on design and the minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with.
- 10.5.3. The applicant states that all of the apartments meet or exceed the minimum area standard. The applicant has also submitted a Schedule of Accommodation and Housing Quality Assessment, that outlines a full schedule of apartment sizes, that indicates proposed floor areas and required minima. In summary, it is stated that all apartments exceed the minimum floor area requirement some by more than 10%, most (423 out of 750) units are described as dual aspect and all balcony/patio areas meet minimum requirements. I have interrogated the schedule of floor areas presented by the applicant and found these figures to be accurate. All apartments exceed the minimum floor area by at least 10% and in some duplex apartment cases, units are considerably larger than required.
- 10.5.4. Dwelling Mix - The overall development provides 321 one bed units (43%), 384 two bed units (51%) and 45 three bed units (6%). The amount of one bed units is below the upward amount of 50% allowed for in the guidelines, with 43% of the total proposed development as one bed units. The planning authority have stated that their preference is for more three bedroom units. I have already assessed the dwelling mix in the context of the City Development Plan and concluded that a material contravention of the plan does not take place if the scheme is permitted, section 10.3 refers. The Park West Cherry Orchard LAP sets out some objectives with regard to unit mix, specifically:

- H03 To create a socially integrated neighbourhood which encourages tenure diversity and creates a good mix of housing typologies integrated into the area.
- H09 To encourage a mix of dwelling types and quality design that will aid legibility and way finding throughout the area.

10.5.5. The proposed scheme will assist in the achievement of these LAP objectives. In my opinion the introduction of one, two and three bedroom units will satisfy the desirability of providing for a range of dwelling types/sizes, having regard to the character of and existing mix of dwelling types in the area. Specific Planning Policy Requirement 1 is therefore met.

10.5.6. Apartment Design Standards - Under the Apartment Guidelines, the minimum gross floor area (GFA) for a 1 bedroom apartment is 45 sq.m, the standard for 2 bedroom apartment (3-person) is 63 sq.m, the standard for a 2 bedroom (four-person) apartment is 73 sq.m, while the minimum GFA for a 3 bedroom apartment is 90 sq.m, Appendix 1 *Required Minimum Floor Areas and Standards* of the Apartment Guidelines refer. The applicant states that this has been achieved in all cases and has been demonstrated in the Housing Quality Assessment (HQA) for apartments submitted with the application. Having reviewed the HQA, in terms of the robustness of this assessment and in the context of the Guidelines and associated standards, I note that the apartments are larger than the minimum standards by 10% amount in most of the units provided (66.5% are more than the minimum plus 10% floor area), with all above the minima. I am satisfied that the proposed apartments are therefore in excess of the minimum floor area standards (SPPR 3), with none close to the minimum requirements. Given, that all apartments comprise floor areas in excess of the minimum, I am satisfied that the necessary standards have been achieved and exceeded. I am satisfied that the internal layout and floor areas of the apartments are satisfactory from a residential amenity perspective, SPPR 3 of the guidelines is met.

10.5.7. Dual Aspect Ratios – The applicant points out that more than half of the apartment units are dual aspect. Given the variety of unit design proposed, a combination of mainly one and two bedroom units and duplex units on large floorplans, I can see that it has been possible to provide dual aspect across most dwelling types, SPPR 4

of the guidelines is met. For those units that achieve only a single aspect, they are orientated with either a southerly, easterly or westerly aspect over amenity space. In addition, I note that the City Development Plan looks for 50% of units to be dual aspect and the proposed achieves this standard. I am satisfied that the dual aspect design advanced by the applicant is acceptable and will provide satisfactory apartment units with adequate outlook and private amenity spaces are of a satisfactory size.

10.5.8. Floor to ceiling height – the apartment drawings that accompany the application show that floor to ceiling heights of 2.7 metres are achieved at ground floor level and 2.75 metres at all other levels. This is acceptable and in accordance with SPPR 5 of the guidelines.

10.5.9. Lift and stair cores – no more than 8 units are served by a lift/stair core and this is acceptable, SPPR 6 of the guidelines is met.

10.5.10. Internal storage space is provided for all apartments at a minimum of 3 sqm and up to 9.9 sqm in some cases. Private amenity spaces exceed the minimum area required by the Apartment Guidelines (5 sqm for a one-bed, 7 sqm for a two-bed unit and 9 sqm for a three bed unit). Public open spaces are evenly distributed throughout the scheme with no unit further than a short walk away. The design takes into account security considerations with good levels of passive surveillance and accessibility to amenity space. All of these features have been provided as part of the overall scheme and comply with the advice set out in sections 3 and 4 of the Apartment Guidelines.

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

10.5.12. Overlooking/Privacy - The planning authority have no concerns with regard to issues of privacy and overlooking in the proposed scheme, they note that the Blocks

are well spaced out from each other to avoid overlooking. In instances where edges of blocks are less than 13 metres from each other, the layout and design of the apartments ensures that there are no instances of overlooking opposing habitable rooms. For the most part the proposed development is well spread out and there should be no adverse impacts from potential loss of privacy or overlooking.

10.5.13. Overshadowing/sunlight/daylight – The planning authority note that the Residential Standards for Apartments in the City Development Plan, Section 16.10.1, require that development is guided by the principles of the BRE Guidance: Site Layout Planning for Daylight and Sunlight (2011). In that context it is also noted that a Daylight and Sunlight Analysis Report has been submitted by the applicant. In addition to the assessment of the impact the proposed development would have on the neighbouring properties, an assessment on the level of daylight in the proposed residential units and sunlight in the proposed amenity areas has been carried out.

10.5.14. The proposed development comprises a combination of one, two and three bedroom apartment units accommodated in a number of blocks from two to fifteen storeys in height. Most of the development comprises seven to eight storeys. The site is very large, there are numerous areas of public open space and the overall layout allows for generous separation distances between buildings and more than half of the apartment units are dual aspect and all have large floor plans. The prevailing building heights in the immediate vicinity are between seven and eight storeys with older two storey housing stock to the north across the railway line. I note that section 3.16 of the Apartment Guidelines discusses dual aspect ratios and states dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible. I also note that section 3.2 development management criteria under the Building Height Guidelines (SPPR 3) refers to considerations on daylight and overshadowing. There are no excessively tall buildings proposed in the scheme that were not already envisioned and planned for in the City Development Plan and the Park West - Cherry Orchard Local Area Plan 2019. Of particular relevance is the fact that the heights proposed in the LAP were advanced by the planning authority in the context of the Height Guidelines and full compliance with national objectives have been articulated in the adopted plan. The planning authority support the scale, massing and heights proposed at this location. I have already pointed out under section 10.3 of my report,

that the proposed development is not a material contravention of the statutory plan with regard to building height. It is in that context that I see no requirement to resort to SPPRs to support any argument for the heights proposed, when an LAP for the area has already been adopted by the community at large and that clearly anticipates taller buildings here. Therefore, as the development complies with the heights envisioned by the plan there is no requirement to invoke SPPR3 and the criteria set out in section 3.2 of the Height Guidelines. Specifically with regard to the scale of the site/building where appropriate and reasonable regard should be had to the advice contained in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

- 10.5.15. To be clear the, the proposed development now before the Board accords with an LAP that was drafted with full regard to the height guidelines and have applied all relevant specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended), thus SPPR 1 has clearly been met in the production of the LAP. Accordingly, there are no conflicting, policies and objectives in the local area plan to require any amendments to be made and the LAP sets out a clear path for what form and height development will take at this location.
- 10.5.16. Nevertheless I have had regard to section 3.2 Development Management Criteria of the Height Guidelines and I am satisfied that at the varying scale of the city, neighbourhood, street and site, the generally two to eight storey with a landmark building of fifteen storeys would be acceptable. In addition, I note that the City Development Plan refers to the consideration of sunlight and daylight when preparing planning applications and the applicant has prepared such a study.
- 10.5.17. The applicant has taken a cautious approach to the documents that would accompany the application and in anticipation that the proposed development could materially contravene the statutory plan in terms of height, a sunlight/daylight and shadow assessment has been prepared. I have already concluded that the development would not materially contravene the statutory plan, section 10.3 refers. Irrespective, the applicant has submitted a Sunlight, Daylight & Shadow Assessment, prepared by Chris Shackleton Consulting and examines the impact that the proposed development will have on the existing neighbouring properties in terms

of sunlight, daylight & shadow and how the proposed development performs in terms of light.

- 10.5.18. In terms of the development performance of the proposed scheme Average Daylight Factor – ADF is used as the criteria, the report states that analysis has used the strict BRE minimum values of 1.0% for bedrooms and 2.0% for the Living / Dining / Kitchen room spaces and also the 1.5% relaxed BRE targets for the Living room spaces. The applicant's report notes that for apartment developments the majority of councils in Ireland and the UK accept the lower value of 1.5% assigned to living rooms to also include those with a small food preparation area (kitchen) as part of this space. The higher kitchen figure of 2.0% is more appropriate to a traditional house layout and room usage. The use of a reduced value accepted by Local Authorities is still compliant within the terms of the guidelines.
- 10.5.19. In terms of ADF (average daylight factors), the report tested rooms at the ground (appendix 1) and lower levels of all blocks, nearly all achieved acceptable levels of daylight. According to the figures presented in the report, 97% of rooms comply with the 2.0% guidance set out in the BRE Guidelines and all pass the lesser but still acceptable 1.5% target. Lastly average high ADFs for all tested living rooms are 2.5% and for bedrooms 1.7%, no rooms exhibit poor ADF results. The results for sunlight APSH to living rooms shows that all living rooms receive some sunlight over the course of the year. Specifically, in terms of the percentage pass rate is 56% Annual and 85% Winter WPSH. However, there are other rooms that receive good sunlight and are marginal in terms of the BRE targets. The inclusion of the marginal results 73% pass a relaxed Annual APSH requirements and 91% pass the WPSH which, according to the report, is broadly in line with the guidelines example of "careful" design 80%.
- 10.5.20. Shadow/sunlight to all provided shared amenity spaces pass the BRE requirement relating to the area receiving 2 hours of sunlight on the 21st of March > 50%. In addition, 90% of the Private balconies also receive qualifying sunlight over most of their surface on the test day of the 21st March. I find that the well considered perimeter block and finger block format is carefully modulated so as to maximise access to natural daylight, ventilation and views and minimises any overshadowing and loss of light. The applicant's report clearly details the achievement of all requirements based on the BRE guidance document BR 209 and the referenced BS

8206-2:2008 Lighting for buildings – Part 2: Code of practice for daylighting. It is clear that an apartment scheme at the scale proposed and with adequate separation distances between opposing windows cases would allow good levels of daylight/sunlight to penetrate habitable rooms and amenity spaces and the report demonstrates this.

10.5.21. In one area, between blocks D and E, a three storey amenity block is proposed at the southern end of the central courtyard. The building is located close to apartment units across a number of floors, 7 metres at the closest point. According to the results provided by the applicant this does not appear to impact upon ADF for the rooms concerned and with reference to sunlight/daylight I see no reason to consider any refinement of design at this location.

Existing Residential Amenity

10.5.22. I note that there were no specific concerns raised by observers with reference to the impact the development would have on their own residential amenities, including aspects such as overlooking, overbearing appearance and overshadowing. However, I do note that elected representatives raised some issues at the South Central Area Committee meeting, in which concern at the height of 10-15 storey buildings might have on the residents of two storey dwellings in Barnville Estate on the other side of railway line. The Chief Executive's report noted these concerns, with reference to the sunlight/daylight impacts of the development but no specific issues were raised in terms of the residential amenity impacts to neighbouring residents.

10.5.23. The proposed development conforms to the LAP site brief for the area, both in terms of layout and scale/massing and so the principle of this quantum of development at this location has been well planned for. South of the railway line are to be found a number of apartment blocks of similar design and scale and set quite a distance from the development as proposed. A hotel lies at the centre of the overall lands, but separation distances from the existing building (33 metres) and permitted extension (12 metres) are reasonable. The primary area of concern is located at Barnville Park and Cherry Orchard Court, a conventional estate of two storey terraced houses across the railway line to the north. The separation distance between blocks A to F will be in the order of over 50 metres in most cases and up to

60 metres in terms of the 15 storey landmark building. These types of distances are considerable in urban terms and will ensure that overlooking and overbearing appearance will not be a factor of concern. The applicant's access to light and overshadowing study of the development and adjacent dwellings shows no perceptible levels of impact from the development as proposed. This is to be expected given the separation distances involved and the modulated approach to apartment block height up to eight storeys.

10.5.24. Overall, the applicant's sunlight/daylight and overshadowing report concludes that neighbouring properties will generally not be affected by the proposed development and the impacts on Skylight, Sunlight and Shadow have been tested in accordance with the best practice guidelines (BRE). I have interrogated the analysis prepared by the applicant and found them to be robust. It is not surprising that the two properties tested would return good results in terms of sunlight/daylight and overshadowing because the separation distances are so great, and the proposed apartment blocks are of an acceptable height in accordance with the LAP.

Overall residential amenity conclusion

10.5.25. I find that there will be no adverse impacts in terms of overlooking and loss of privacy to existing residences and this is due to the separation distances involved and the open context of the site and surrounds. Neither does overbearing impact become a concern because the development mirrors existing apartment development at Park West. Site sections and elevations submitted with the application illustrate these points. The proposed layout and design of the development is acceptable without significant amendment.

10.5.26. Given the foregoing, the reports and drawings prepared by the applicant and the views and observations expressed by the planning authority and the observer, I am satisfied that the proposed development will provide an acceptable level of residential amenity for future occupants. In addition, the proposed development has been designed to preserve the residential amenities of nearby properties and will enhance the residential amenities associated with the existing houses in the area.

10.6. **Traffic and Transport**

10.6.1. The subject site is located in an area with very good transport infrastructure, including roads/streets, footpaths, cycleways, bus routes and a commuter/intercity

trainline. The quantum of development planned for this location has been long considered by the planning authority as an area that can sustain and support higher residential densities. The applicant has prepared a Traffic and Transport Assessment (TTA) that determines the impact of the proposed development on the existing road network, in particular through the operational assessment of three key junctions on Park West Avenue and Park West Road. The report also examines the proposed development's vehicular access arrangements, car and bicycle parking provision, layout, public transport accessibility, and facilities for pedestrians and cyclists. Furthermore, an EIAR has been prepared and it finds no adverse environmental impacts will result from the development as proposed.

10.6.2. The planning authority note that the existing road network in the area has not been taken in charge and thus will not be in a position to implement or manage road and traffic management systems and measures on a private road including signalised junctions. In this regard, the connectivity of the roads within the LAP and connectivity in regards to future public transport proposals as well as the school zoning within the site should be noted. However, the planning authority concluded that such matters can be addressed by phasing the development and have advanced a number of technical conditions with respect to the development as proposed. I am satisfied that the quantum of development proposed at this location is entirely appropriate and can be easily accommodated within the confines of existing traffic and transport infrastructure. The TTA submitted by the applicant demonstrates this, the planning authority agree and the TII and NTA do not oppose the development. Subject to standard and technical conditions suggested by the planning authority I am satisfied that the proposed development will not impact on such infrastructure.

10.6.3. However, some very specific concerns have been raised by the Aspect Hotel at the centre of the development lands, in terms of the impact of the development on car parking in general and the operational capacity of the hotel to accommodate patrons in the future. Another observer states that the proposed development contravenes the development plan in terms of car parking. Therefore, in terms of traffic and transport the key issues are car parking and to address the issues raised by the NTA and planning authority with respect to the development if permitted.

10.6.4. Car Parking – At present, the Aspect Hotel occupies a central position within the subject site. The hotel has a vehicular entrance on to Park West Avenue and

includes a large area of surface car parking to its rear. The hotel has a planning permission for an extension on the site of the existing car park, reference number 3436/18 refers. Aragon Hospitality Limited (AHL) have ownership rights (lease) on the hotel and car park and have made a detailed submission on the current application. AHL explain that the hotel provides 100 secure car parking spaces and 12 additional spots to the front of the hotel. The hotel is operating successfully, and the occupancy of the car park is frequently high with over a 100 nights of the year when it is at capacity. Given the location of the hotel, quite often larger commercial vehicles use the car park and at weekends tourist coaches park on site. In this context, the hotel operators explain that they wish this scenario to continue with access to convenient and numerous car parking spaces. AHL are concerned that the partial loss of the car park due to the position of block G and the replacement with only 70 spaces (36 beneath blocks A, B and C) and 34 at street level will limit their current operations and curtail the use of the hotel by larger commercial vehicles unable to avail of DMURS compliant car parking spaces. AHL require 112 car parking spaces and sufficient space for coach and enabled parking, phase 4 of the proposed development should be omitted by condition.

10.6.5. The planning authority have noted these concerns and stated that the redistribution of car parking spaces appears to be a haphazard approach for the operation of the hotel and would cause confusion for hotel guests. The Planning Authority would request that 75 car parking spaces be provided for the sole use of Aspect Hotel and these spaces should not be sold or sublet to other users within this scheme. I note that the transportation planning division of the Council had no specific concerns with regard to the car parking requirements of the Aspect Hotel.

10.6.6. From my observations of the car parking attached to hotel, I can confirm that on a midweek day, in the morning, the car park was more or less half full. I acknowledge that AHL's submission probably provides a more accurate picture of their operational requirements when it comes to car parking and patronage. In terms of the reconfiguration of car parking spaces in general, I note a number of things to consider. Firstly, at present the hotel operates unhindered by car parking restrictions and this is explained well enough by AHL. I note that permission was granted for amongst other things the retention of adjustments made to the hotel car parking for a period of three years, condition 3 of register reference 3436/18 refers. I note that

BMA Planning Consultants and Darmody Architecture were the agents in that case and are the agents in relation to the application now before the Board. I note from the documentation at the time that permission was granted for the hotel extension and car parking adjustment/retention, that it was accepted by the applicant that a total of 75 car parking spaces would be sufficient to suit the hotels planned expansion and current operational needs. It is in that context that I consider that it unreasonable now to seek to retain over 100 car parking spaces when plans in the past were content with the provision of 75 car spaces, albeit at surface level. The planning authority point out that the scattered approach to the future car parking needs are not acceptable and worry about confused hotel guests, but I disagree. I see no issue with the amount and location of surface car parking along the access road to the development to the side of the hotel, these are acceptable. The location of 36 spaces beneath blocks A, B and C are reasonable and if satisfactory wayfinding methods, such as signposting and information to guests when booking is provided, I anticipate no issues. This matter can be addressed with reference to the submission of a Mobility Management Plan (MMP) that takes account of such measures. The Residential Travel Plan submitted with the application does not take into account the hotel or its operational requirements. Given that permission was granted to the hotel in the past for 75 permanent car parking spaces, once the extension is constructed, I am satisfied that in line with the planning authority's recommendation, 75 car parking spaces should be provided in the current scheme. A suitably worded condition can be attached to a permission.

10.6.7. Finally, with reference to car parking, I note that the planning authority have no concerns about the quantum or design of car parking spaces. An observer has called into question the provision of car parking and that is materially contravenes the City Development Plan. I am satisfied that no material contravention of the statutory plan has taken place. The planning authority have stated that the application site is located with Area 2 of the City Councils parking zone areas. The car parking provision has been assessed with respect to the Dublin City Development Plan 2016– 2022, at a car parking ratio of 0.62 for residential parking, it is entirely acceptable. The quantum of car parking also equates acceptably with national guidance and the comments made by the NTA in their submission, that states car parking should be reduced in locations where public transport options are available.

10.6.8. On a technical matter with respect to the relocation of car parking spaces and Strategic Housing Development legislation, the amount of non-residential floorspace allowable under this current application would amount to a maximum of 4,500 square metres gross floor space for such other uses in the development. The other uses in the current application are as follows:

- Retail Unit – 156 sqm
- Crèche – 410 sqm
- Community Space – 48 sqm
- Café/bar – 91 sqm
- 36 Car Parking Spaces (Hotel) beneath blocks A, B and C – 1,034 sqm

10.6.9. The total amount of floorspace, I have included the underground car parking displaced from the hotel, would amount to 1,739 sqm. I am satisfied that the amount of non-residential floorspace is sufficiently below the maximum amount of 4,500 sqm allowable under the definition of strategic housing development as set out in section 3 of the Planning and Development (Housing) And Residential Tenancies Act 2016 (as amended).

10.6.10. Rail Infrastructure - I note that in relation to the development and the location railway infrastructure, Irish Rail made a detailed submission in relation to technical requirements adjacent to the station and rail line. A number of points refer to standard and technical requirements for development close to rail lines such as: boundary treatments, ensuring the safety and security of the rail line during and after construction activity, no restriction of access for Irish Rail staff, preservation of mounds and ditches in the vicinity unless otherwise agreed, that excavations in the track support zone require agreement, crane operations, traffic management and so on. All of these technical requirements are matters that should be agreed between the developer and Irish Rail and so do not impact upon the development as it is proposed. In this respect I suggest that the Construction Management Plan submitted by the applicant includes detailed provisions for works in proximity to the train line. This can be addressed by an appropriate condition in the event of a grant of permission.

Traffic and Transport Conclusion

10.6.11. On balance, the proposed development is located at a well-served urban location close to a variety of amenities and facilities, such as schools, playing pitches and existing commercial/retail centres. Current public transport options are extremely good, with a railway station adjacent and a bus route passing the site. In addition, there are good cycle and pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy to be submitted by the applicant.

10.7. Infrastructure

- 10.7.1. Surface Water Drainage - The Engineering Services Report submitted with the application outlines in detail the surface water management strategy proposed for the site. In summary, there are existing surface water sewers close to the site. The surface water system is to be attenuated prior to discharge into the existing 600mm diameter surface water sewer on Park West Road. Sustainable drainage systems (SuDS) are proposed discharging through a minimum of a two-stage treatment train process prior to discharge by gravity into the surface water sewer on Park West Road, in accordance with section 4.10.1 of the Park West-Cherry Orchard LAP. The planning authority raise no issues with regard to the surface water strategy for the site and recommend technical requirements be agreed prior to the commencement of development. I am satisfied that an appropriate surface water management regime has been designed for the site in accordance with the relevant code of practice for drainage and to the requirements of the planning authority subject to an appropriate condition.
- 10.7.2. Flood Risk – The applicant has prepared a site specific Flood Risk Assessment, the site is located in flood zone C. Flood risk is also referenced and commented on in the EIAR submitted with the application. The FRA concludes that the development is considered to have the required level of flood protection. I note that under the conclusions reached in the SSFRA that the risk of flooding due to ground water ingress to the proposed development is under review. This is because site

investigations including ground water monitoring and infiltration tests have not yet commenced. However, a desk study of planning applications in the vicinity was carried out and it indicates ground water at a metre below ground levels. A review of the groundwater vulnerability data from the Geological Survey Ireland (GSI) website was also carried out and the model indicates high vulnerability. The planning authority note the submission of the SSFRA and recommend the incorporation of flood mitigation measures. Despite the lack of a definitive conclusion reached in the SSFRA concerning groundwater flooding I am satisfied that residual flood risk can be adequately managed by the measures proposed by the applicant such as internal finished floor levels set at a minimum of 150mm above highest external surface levels in the vicinity.

10.7.3. I note the submission made by Inland Fisheries Ireland (IFI) with respect to surface water discharge and the potential for pollution risk to the Camac River system and Grand Canal. In this respect I note the submission by the applicant of an Outline Construction Management Plan and an Outline Construction and Demolition Waste Management Plan that includes standard measures to deal with the construction phase of development. The site is some 500 metres from the river and 300 metres from the canal, the intervening space is taken up by existing urban development with hard surfaces and standard approaches to surface water management. I am satisfied that the measures proposed by the applicant in the documentation that accompanies this application and the EIAR are standard and accepted practice when developing an urban project of this scale and complexity

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

10.7.5. Finally, the site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. IW have stated that the proposed water and wastewater connections for this development to connect to the Irish Water network is via existing infrastructure and is feasible without upgrades. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition.

10.8. Other Matters

- 10.8.1. Childcare facility - I note that an observer claims that the proposal development would materially contravene the statutory plan in terms of childcare provision, but has not explained how. The planning authority note the Childcare Guidelines requirements and Development Plan objectives when it comes to childcare provision. The planning authority conclude that the proposed crèche of 410sq.m (capacity for 84 children) is more than suitable to cater for the future requirements of the proposed development. No mention is made of any contravention of any plan, material or otherwise, and I am satisfied that the proposed childcare facility is in full accordance with the statutory plan.
- 10.8.2. The applicant has prepared a Social Infrastructure Audit and also considered the environmental impact of the crèche in the EIAR submitted with the application. The planning authority welcome the proposal to provide on-site childcare and I concur. The proposed crèche is 410 sqm and will cater for 84 child places. The proposed scheme contains 43% one bed apartment units out of the overall development mix and these can be discounted in the calculation of the requirement for childcare spaces. I note that a submission has not been received from the City Childcare Committee and I am satisfied that the applicant's calculation in relation to childcare spaces is reasoned, acceptable and in accordance with the Childcare Guidelines.
- 10.8.3. Social and Affordable Housing – The applicant has submitted proposals for transfer of 10% of the proposed units to the planning authority, 75 units within block F. The applicant's Part V proposals include:
- 19 - 1 Bedroom Apartments
 - 50 - 2 Bedroom Apartments
 - 6 - 3 Bedroom Apartments
- 10.8.4. With regard to the above I note the Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the planning authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a

condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

10.8.5. Architectural Conservation – An observer has claimed that the proposed development would materially contravene the development plan/LAP with respect to the Architectural Conservation Area (ACA). The closest ACA is 2.4 kilometres to the north east at Chapelizod. Close to the subject site, there are no other notable features of architectural interest other than structures at Cherry Orchard Hospital a kilometre to the north and the bridge and lock infrastructure associated with the Grand Canal to the south. The planning authority have not highlighted any architectural conservation concerns or issues at all and do not mention contravention of any plan. The EIAR submitted with the application, deals with Cultural Heritage under chapter 13 and satisfactorily identifies any impacts to cultural heritage, of which there is little in the area. I am completely satisfied that the proposed development will not impact upon the character or setting of any ACA recorded in the development plan/LAP. There is no possibility that the proposed development would contravene the statutory plan with regard to architectural conservation.

10.8.6. The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities – The recent guidelines are brief and concern the regulation of commercial institutional investment in certain housing developments. The purpose of the guidelines is to set out planning conditions to which planning authorities and An Bord Pleanála must have regard, in granting planning permission for new residential development including houses and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that causes the displacement of individual purchasers and/or social and affordable housing including cost rental housing. The proposed development has been advertised as an apartment development and includes own door units and the guidelines may be applicable in this regard. The Regulation of Commercial Institutional Investment in Housing Guidelines, enables planning authorities and An Bord Pleanála to attach planning conditions that require a legal agreement controlling the occupation of units to individual purchasers, i.e. those not being a corporate entity, and, those eligible for the occupation of social and/or affordable housing, including cost rental housing. In

the context of the current planning application that comprises a mixture of apartment units and duplex units, some with own door access, it may be appropriate to attach the relevant condition advised by the recently published guidelines. The condition if attached, should only apply to duplex units and this should be stated in the wording of same.

10.8.7. Archaeology – The site is large and comprises largely disturbed waste ground. I note the limited archaeological potential of the site as demonstrated in the EIAR submitted by the applicant. However, given the large scale of this urban site, I recommend that an appropriate condition be attached to ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

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

10.8.9. Conditions recommended by the planning authority – the planning authority have recommended a number of conditions to be attached, should permission be granted. For the most part the conditions are of a technical and standard nature, however, condition number 1 advanced by the planning authority requires some changes, as follows:

1) Prior to commencement of development the applicant shall submit a revised set of drawings, for the written agreement of the planning authority to show the following amendments:

a) The number of parking spaces allocated to the Aspect Hotel shall be increased to 75 number (an increase in 5 spaces). Prior to commencement of development, detailed plans shall be submitted indicating the location of these spaces, which should be located in a convenient manner and clearly designated for use of the Hotel Guests only. These car parking spaces should

not be sold or sublet to any other users in the scheme and shall be for the sole use of the Aspect Hotel.

b) The existing overhead power lines that run adjacent to the railway line are to be relocated underground with the removal of the central pylon structure as part of Phase 1 of this application. The applicant shall submit a revised Phasing Management and Delivery report, outlining details of works proposed and also to include these specific works as part of Phase 1.

c) In line with the Park West – Cherry Orchard Local Area Plan, 2019, for Site 6, and objective ED04 (LAP), which is “to seek the provision of “turn-key” ground floor retail units within Site 2 and along Park West Avenue” , the applicant shall submit amended drawings for Blocks A and C, which shall provide for a range of commercial/enterprise/non-residential uses. The uses shall address both the street frontage along Park West Avenue and also the north western end of the linear park. The applicant shall submit a detailed set of drawings including sections, floor plans, elevations to show how this is to be done, and to submit photomontages of these revised frontages for the written agreement of the Planning authority. In order to facilitate these amendments, the following 16 apartments shall be omitted and replaced with mixed uses as per above. These include units A-01-08, A-01-07, A-01-06, A-01- 05, A-01-04 , A-01-03, A-01-02, A-01-01, A-00-01, A-00-02, A-00-03, C-00-14, C-00- 13, C-00-12, C-00-11, C-00-10.

Reason: To protect the amenities of the future occupants of the units and to ensure a satisfactory standard of Development.

10.8.10. In relation to item a) car parking, for the most part I agree that a condition should be targeted to any issues that might arise with respect to the Aspect Hotel and car parking, section 10.6 of my report refers.

10.8.11. In terms of item b), it will be important for unsightly powerlines to be undergrounded and as they form part of the applicant's proposal I see no reason not to include it as a phasing requirement, section 10.4 of my report refers.

10.8.12. Finally, in relation to item c), section 10.4 of my report discusses why it would not be appropriate to require the omission of 16 ground floor apartments and their redesignation for mixed uses. In short, the provision of ground floor apartment units

with own door access, is sufficient to ensure an active frontage, should the commercial/retail climate change in future, then a change of use subject to the proper consent process can be applied for.

11.0 Environmental Impact Assessment

11.1. Environmental Impact Assessment Report

- 11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and should be read in conjunction with the planning assessment above. The development provides for 750 residential units, a childcare facility and some commercial units on a total site area of 9.4 hectares. The site is located within the area of Dublin City Council. A number of the topics and issues raised by observers that concern environmentally related matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.
- 11.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- i) Construction of more than 500 dwelling units*
 - iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*
- 11.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and within the scale of development (more than 500 units) to require an environmental impact assessment and so an EIAR has been submitted with this application.
- 11.1.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. A summary of the mitigation measures and monitoring described throughout the EIAR has been prepared and is presented at Chapter 15 Summary of Significant Effects, Interactions and Mitigation/Monitoring Measures. Table 1.1 and

the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.

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

11.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that there are some concerns from an observer regarding the nearly all aspects of the EIAR, including EIA screening. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

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

11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR addresses this issue under section 1.5 Risk of Major Accidents and/or Disasters. The EIAR states that the scheme design has considered the potential for flooding, road accidents or fire within the design methodology. The vulnerability of the proposed development to major

accidents and/or disasters is not considered significant. Given the urban nature of the receiving environment and the proposed Project, it is considered that there is no linkage factor of a hazard which could trigger what would constitute major accidents and disasters. There are no Seveso Sites within close proximity or within statutory consultation distances of the Project Site.

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

11.3. Alternatives

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

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

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

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

11.3.2. Chapter 3 of volume I of the EIAR provides a description of the main levels of alternatives (do nothing, location, layout/designs). If nothing were done, the housing crisis in Dublin would continue, the lands would remain private and this scenario is regarded as socially suboptimal, with an opportunity cost of a loss of 750 proposed residential units. The location of the project has been determined by the designation of the area as a Strategic Development Regeneration Area (SDRA) which supports

the development of a new residential community in Park West. As the development of this site for the land uses proposed has been identified at a local / national scale in the CDP / LAP / Planning Scheme, no alternative sites were considered in the EIAR.

- 11.3.3. Considering that the lands in question are zoned for such a use that includes residential, and the fact that the environmental sensitivities of the site are not such as to preclude development per se, this category of alternative is not considered relevant. Alternative designs for the different parts of the site were considered and developed by the architects during the design process, with input from the overall project team. This involved an evolving design whereby different solutions were tested to establish the optimum design solution. The variables included basement design/minimisation, height strategy, street layout, open space, car parking/existing hotel, daylight/sunlight analysis. All of the alternatives are synopsised in table 3.1 of the EIAR.
- 11.3.4. The EIAR states that given that the proposal is an urban residential development and therefore the consideration of alternative processes relates to the methods of construction to be used in the development. The alternatives have been considered and the Outline Construction Management Plan (OCMP) details the construction processes likely to be employed and which have been assumed for the purposes of this EIAR.
- 11.3.5. Finally, the EIAR concludes that all reasonable alternatives to the project are considered and no alternatives have been overlooked which would significantly reduce or further minimise environmental effects. Having considered all alternatives, the final design chosen by the developer, i.e. the project as now submitted for consideration, is deemed to be the most suitable project for the site.
- 11.3.6. The permissible and open for consideration uses on the site are prescribed by its zoning under the development plan. I am satisfied that the alternatives that were considered were therefore largely restricted to variations in height, layout and building design. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the directive in this regard have been met.

11.4. Consultations

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

11.5. Likely Significant Direct and Indirect Effects

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

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

11.6. Population and human health

11.6.1. Population and Human Health is addressed in Chapter 4 of the EIAR. The methodology for assessment is described as well as the receiving environment. The assessment considers attributes and characteristics associated with the social and economic environment arising from the development such as impacts on population change, demographic trends, employment and economic activity, implications for land use patterns and, impacts on social and community infrastructure.

11.6.2. Recent economic and demographic trends are examined. The principal findings are that in 2016, the population of the Dublin City Administrative area was recorded as being 554,554 persons, an increase of 5.1% between 2011 to 2016. The 2016 Census results indicate that the total population of the Cherry Orchard ED was 4,545 in 2016. This represents a 0.13% decrease in population between 2011 and 2016. Since 2006, the population has increased by 18%. This population increase reflects the completion and occupation of the existing residential communities to the west of the current application site and Park West Avenue. The population trends suggest that Park West is an area that is has stabilised in terms of population growth with low

levels of growth to a slight reduction in population relative to wider County administrative area which continues to experience population growth.

- 11.6.3. The EIAR states that the residential population of the proposed housing units will be approximately 1,800 people. The impact on the population is considered to be a long term significant positive effect insofar as it reflects the emerging trend in the wider area. New residential units will contribute to the delivery of a critical mass of population which will support a wide range of additional local businesses, services, transport infrastructure and employment opportunities.
- 11.6.4. In terms of human health, the most likely impact will be the construction phase of the development and observers have concerns around construction phase traffic. However, given the control of activity on site by the developer, these can be avoided through the use of management measures as set out in the EIAR and in the outline construction management plan submitted with the application, it outlines how the proposed works will be delivered safely and in a manner which minimises risk to human health. The imposition of limits by conditions on any grant of permission will reinforce preservation of public health. Subject to these measures the main significant direct and indirect effects of the proposed development on the environment are addressed, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.
- 11.6.5. Other aspects of the development such as soil and land, water, air quality, noise/vibration, transportation and waste may lead to effects on the local population. In terms of noise/vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a residential scheme that formed part of the built-up area of the emerging city. The impact of additional traffic on the noise levels and character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the very marginal increase that would occur as a result of the proposed development. This is demonstrated by the Traffic and Transportation Assessment and Mobility Management Plan devised for the scheme that encourages the use of more sustainable forms of transport such as train, walking and cycling.

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

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

11.7.1. Chapter 5 of the EIAR addresses biodiversity. The biodiversity chapter details the survey methodology of the assessment and fieldwork dates include the first ecological walkover survey on 10 September and 5 December 2021. It is noted that an Appropriate Assessment Screening Report was prepared as a standalone document. As assessed in section 12 of my report, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

11.7.2. The habitat character of the site consists of an area of Recolonising Bare Ground. The site has been an area of significant disturbance which included stockpiling of soil and rubble (primarily on the eastern portion of the site) since 2003 until approximately 2017. The western portion of the site consists of rubble and spoil heaps that have become recolonised while the western portion of the site is primarily recolonising bare ground that has previously been cleared. On the south western portion of the site a section of Dry Meadows and Grassy Verges are located. A thin line of scrub is located on the northern, western and north eastern boundary of the site. No plant species that are rare or are of conservation value were noted during the field assessment on in biodiversity records. Japanese knotweed (*Reynoutria japonica*) was noted on site (Plate 1). This stand has become well established. This invasive species is listed on the third Schedule of regulation 49 & 50 in the European Communities (Birds and Natural Habitats) Regulations 2011.

11.7.3. The common frog (*Rana temporaria*) was not observed on site. The common lizard (*Zootoca vivipara*) or smooth newt (*Lissotriton vulgaris*) were not recorded on site. There are small pond features on site that could be of importance of frogs during the breeding season. Badgers have been noted within the 10km² grid by the NPWS. No badgers or badger activity was noted on site. No protected terrestrial mammals of

conservation importance were noted on site or in the immediate vicinity of the site. Rabbits (*Oryctolagus cuniculus*) and a fox (*Vulpes vulpes*) activity were noted on site. A bat survey was carried out, there are no bat roosts or potential bat roosts on site. A single soprano pipistrelle (*Pipistrellus pygmaeus*) was noted briefly foraging on site.

11.7.4. Section 5.4 of the EIAR describes the potential impact of the proposed development and table 5.7(a)(b) provides a summary of construction impacts. Measures to minimise the impact of the development on habitats and biodiversity, includes the preparation of an Outline Construction and Demolition Waste Management Plan, and a project ecologist will oversee works on site during the construction phase of development. In addition, I note the submission made by Inland Fisheries Ireland and their recommendations with regard to the Camac catchment and proximity to the Grand Canal.

11.7.5. The proposed development would introduce areas of new planting, and the landscaping and planting proposals submitted with the proposed application are satisfactory in that context. Having regard to the foregoing, including the concerns raised by the observers, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity. I am generally satisfied with regards the level of information before me.

11.7.6. Given the present condition of the site, a large area of waste ground, I am satisfied that the development of the site and planned amenity planting provides far greater benefits in terms of human health. I draw the Boards attention to the AA section of my report (section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

11.8. **Land and Soils (Geology)**

11.8.1. Chapter 6 of the EIAR deals with land, soils and geology. In terms of geology the EIAR states that made ground comprising reworked sandy gravelly clay fill is present across the site. In places Construction and Demolition (C&D) waste is present within the fill material. While mostly confined to the upper metre the Made Ground appears to deepen within the eastern portion of the site to depths of up to 1.7 m BGL. Within

the southern portion of the site infiltration test pits terminated within Made Ground at a depth of 1.5 m BGL thereby implying that the fill could be deeper.

- 11.8.2. The underlying natural soils comprise predominately stiff (high strength) grey/brown sandy gravelly CLAY. This material strengthens with depth, becoming very stiff (very high strength) within the upper 2 metres (deepening to 3.5 metres at the eastern end of the proposed structural development).
- 11.8.3. The upper grey/brown and lower dark grey/brown and black gravelly clays represent glacial till, which is often referred to as the "Dublin Boulder Clay". The difference in coloration and consistency between the upper grey/brown and lower very stiff dark brown/grey deposits are usually attributed to weathering of the upper till.
- 11.8.4. Rotary drilling below the refusal depths of the boreholes produced returns of very high strength gravelly clay (glacial till) overlying bedrock at depths in the range (49.5 to 51.6 mOD) across much of the site dipping to 6.3 m BGL. The underlying limestone bedrock is in a medium strong to strong condition and this has been proven to a maximum depth of 11.3 m BGL.
- 11.8.5. The hydrology and groundwater scenario is examine and the EIAR states that no basements to the scheme are proposed and the potential to intercept groundwater for this scheme is therefore highly unlikely.
- 11.8.6. The soil classification of the site is summarised from 11 samples of excavated soil material from various locations across the site. The samples were tested for, metals (arsenic, barium, cadmium, chromium, copper, mercury, molybdenum, nickel, lead, antimony, selenium and zinc, total organic carbon (TOC), BTEX (benzene, toluene, ethylbenzene and xylene) aliphatic and aromatic hydrocarbons, polychlorinated biphenyls (PCB), mineral oil, polyaromatic hydrocarbons (PAH) and asbestos. Leachate generated from the samples was tested for arsenic, barium, cadmium, chromium, copper, mercury, molybdenum, nickel, lead, antimony, selenium and zinc, chloride, fluoride, soluble sulphate, phenols, dissolved organic carbon (DOC), total dissolved solids (TDS). All results of samples can be found in the Waste Classification Report appended to the EIAR. Asbestos was not detected in any of the samples and all samples are classified as non-hazardous.
- 11.8.7. The construction phase of development will require the export c. 31,208m³ of soils from the site to facilitate the development. Approximately 16% of cut soils will be

maintained on site. The designed road levels and finished floor levels follow the natural topography of the site, therefore, minimising the need for cut / fill operations to enable development. Most excavated material will not be required on site and will be exported for use elsewhere. Importation of structural fill will be required beneath buildings and roadways. Observers have raised issues with regard to the construction phase of the development, however, I am satisfied that an appropriate traffic management plan can address issues that would arise from the export and importation of such quantities of material. The proposed development would result in the loss of more than 9.4 Hectares of un-productive ground, zoned for uses that include residential purposes. Given the extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site. It is therefore unlikely that the proposed development would have significant effects with respect to soil.

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

11.9. **Water**

11.9.1. Chapter 7 of the EIAR deals with Water. The proposed surface water drainage network is designed in accordance with SuDS (Sustainable Drainage Systems) principles, and will be attenuated prior to discharge into the existing 600mm diameter surface water sewer on Park West Road.

11.9.2. In terms of potable water, there is a 450mm watermain and a 150mm watermain on Park West Avenue, west of the proposed development. A 250mm watermain is located on Park West Road, south of the proposed development. The existing 450mm asbestos cement public main enters the subject site and is capped north of the existing hotel. All the noted existing water infrastructure is in the public control of Irish Water. As required a Pre-Connection Enquiry was lodged with Irish Water to allow an assessment of the local & regional infrastructure to accommodate the

proposed development. Irish Water confirmed feasibility to connect without upgrades and noted that a formal connection agreement will be required to be entered into the services to be made available.

- 11.9.3. An existing 225mm foul sewer on Park West Road, south of the subject site location, which discharges in easterly direction and connects to the 300mm diameter foul sewer on Heaney Avenue. This existing sewerage network in the vicinity of the site eventually discharges into the municipal wastewater treatment at Ringsend. Irish Water confirmed feasibility to connect without upgrades and noted that a formal connection agreement.
- 11.9.4. The site of the proposed development is in Flood Zone C, based on Dublin City Council's Strategic Flood Risk Assessment from the current Development Plan. The primary risk of flooding to the site is by Pluvial flooding. It is noted that the applicant has also submitted a Site Specific Flood Risk Assessment, the conclusions of which support development.
- 11.9.5. It can be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.
- 11.9.6. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted, any issues of a technical nature can be addressed by condition as necessary.

11.10. Air and Climate

- 11.10.1. Air Quality and Climate are outlined in chapter 8, noise and vibration are outlined in chapter 9 of the EIAR. Microclimatic factors such as wind are set out in a separate report entitled Wind Micro-Climate Assessment. The proposed apartment units and open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality, noise or vibration. The construction phase of the development will be the time when impacts may result.

11.10.2. There is a potential for dust emissions to occur during construction, but standard means are proposed to mitigate this potential as set out in section 8.5 of the EIAR. They are likely to be effective. The EIAR accounts for the construction phase of the development and recommended measures to ensure air quality is protected. During the operational phase of the development, traffic volumes are modelled and no significant impact is envisaged. However, the development includes a crèche that may include air handling units. I do not anticipate that any significant impacts would arise from these uses because standard conditions concerning noise and odour could be attached in the event of a grant of permission. It is therefore concluded that the proposed development is unlikely to have significant effects on air.

11.10.3. In terms of noise and vibration, this is most likely during the construction phase of development and the likelihood of noise and nuisance from this phase of activity. Impacts to the receiving environment during the construction phase will be mitigated by standard practices and it is not anticipated that the operational phase will result in any noise or vibration issues. I note that the EIAR addresses vibration standards in relation to two aspects: those dealing with cosmetic or structural damage to buildings and those dealing with human comfort. The main potential source of vibration during the construction programme is associated with piling activities and what methodology is to be used, foundations that do not require piling, or bored piles. Considering the low vibration levels at very close distances to augured piling rigs, vibration levels at the adjoining buildings are not expected to pose any significance in terms of cosmetic or structural damage to any of the protected structures in proximity to the development works or any of the other adjacent buildings. All of these scenarios can be managed by an appropriate condition to ensure construction activity is operated within required noise and vibration standards. Once operational, the proposed residential development may impact on local air quality as a result of the requirements of new buildings to be heated and with the increased traffic movements associated with the development. The impact will be long-term, localised, neutral and imperceptible.

11.10.4. In terms of climate generally, the overall site area of the development lands is c. 9.4 hectares will include open space, and landscaped areas and includes the construction of buildings and roadways which may have the potential effect of

marginally raising localised air temperatures, especially in summer. Motor vehicles are a major source of atmospheric emissions which contribute to climate change and vehicle exhaust emissions may have a potential to impact the macro-climate. Climate change has the potential to alter weather patterns and increase the frequency of rainfall. The subject site is located within flood Zone C which details the probability of flooding occurring at less than 0.1% and there is no history of flooding on site. I note that adequate attenuation and drainage have been provided for to account for increased rainfall in future years associated with Climate Change as part of the design of this development. I note that the impact will be long-term, localised, neutral and imperceptible.

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

11.11. Landscape

11.11.1. Chapter 14 outlines landscape and the visual impacts that would arise from the development and includes verified photomontages contained in Appendix 14A of the EIAR. The environmental impacts in terms of townscape sensitivity visual effects from the proposed development are detailed in the EIAR. The existing character of the site and area in general is presented as a townscape that will remain incomplete, until the subject site is developed. According to the EIAR this will enlarge and strengthen the urban structure of Park West and Park West Avenue as an urban centre. In addition to the drawings, photomontage and cgi images, the EIAR presents a number of diagrams that illustrate layout, height and massing. The impacts are grouped into the construction phase and the operational phase of the development.

11.11.2. In terms of the construction phase it is envisaged that the effects would be temporary, the 5 – 7 year estimated duration of the construction programme. The impacts during this phase will be moderate to significant in the immediate vicinity and less so further away from the site.

- 11.11.3. Over the operational phase of the development, the magnitude of townscape change will be high, but positive. Overall, the residential townscape effects will be positive as the development will deliver new public realm and an attractive new urban quarter.
- 11.11.4. The site does not include any protected structures. Nor is it covered by any Conservation Area (CA) or Architectural Conservation Area (ACA) designation and there are no sensitive architectural features in the area as a whole. Section 14.5 sets out the potential impacts of the proposed development, some of which occur during the construction phase, but the longer lasting impacts will endure. In my view, while the development would result in a moderately significant townscape impact, its potential effects on townscape character can be considered positive. Section 14.5.4 of the EIAR sets out in detail the various design measures used to ensure that the proposed development minimises or avoids potential adverse landscape and visual impacts upon the site and neighbouring residential areas.
- 11.11.5. The proposed development would change the site from an area of waste ground to a higher density apartment scheme with buildings of up to 15 storeys. This would significantly alter its character. The site will change from under used urban infill lands of a poor visual quality to a new urban quarter with all of the improvements to public realm that would be expected. The context of the area has not undergone change in the recent past, but apartment blocks have been constructed along Park West Avenue to the west and the Aspect Hotel on site. The broad changes that would arise from the proposed development would not have a negative effect on the townscape such as it is. There will be some long range views from surrounding roads and streets. The taller elements will have a limited visual prominence when combined with overall massing, however, the landmark building will help to signpost the location of the railway station. Views from the centre of the development, taller elements will be seen as a consolidating features on what is otherwise an area with other buildings of similar height and this impact is seen as positive. The context is already urban. The broad changes that would arise from the proposed development would not have a negative effect on the townscape such as it is.
- 11.11.6. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking

aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. That is to say the position of taller elements in an urban setting close to the railway station and away from neighbouring low scale residential property. I am therefore satisfied that the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

11.12. Material assets

- 11.12.1. The material assets chapters of the EIAR primarily addresses the impact of the development on the construction phase and local infrastructure, chapters 10 and 12 refer. Material assets such as traffic and transportation are dealt with in chapter 11, and this chapter analyses the local road network and public transport infrastructure.
- 11.12.2. Observers have raised broad concerns in relation to the probable increase in traffic, car parking problems and the oversubscribed existing public transport networks (bus and rail). From an environmental perspective the EIAR addresses these issues individually and I have addressed similar issues under the Traffic and Transport section of my report. The proposed development would not impact upon the operational capacity of road junctions, however, the construction phase would bring additional traffic into the area, this can be managed. Occupiers of the development would place additional demands on public transport and road infrastructure. But this should lead to increased investment in improvement and further provision. No significant impacts are anticipated.
- 11.12.3. In terms of the Aspect Hotel, the EIAR states that it currently generates approximately 45 PCU of vehicular traffic in the AM peak hour period (arrivals and departures combined) and approximately 18 PCU in the PM peak hour period. All of this travels via the hotel's existing access junction on Park West Avenue (traffic survey site J3), that will also serve as the western vehicular access to the proposed development. While the proposed development entails some changes to the car parking arrangements for the Aspect Hotel, as described in section 11.4.4 of the EIAR, the hotel itself does not form part of the development application and no

changes are proposed to its operation. The EIAR makes the assumption that there will be no significant change to the vehicular trip generation of the hotel, nor to the distribution of this traffic across the surrounding road network, and that this traffic has been included as part of the existing background traffic under all assessment scenarios.

11.12.4. In terms of waste management, the construction and operational phases have been considered, during construction a project specific Outline Construction and Demolition Waste Management Plan and Outline Construction Management Plan has been prepared and for the operational phase of development a project specific Outline Operational Waste Management Plan has been prepared. In terms of material assets and built services, impacts are considered in relation to water supply, foul and surface water drainage, gas and telecommunications and the electrical network. The EIAR states that demand from the proposed development during the operational phase is not predicted to impact on the existing power, gas and telecoms networks.

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

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

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

11.13. Cultural Heritage (Archaeology and Architectural Heritage)

- 11.13.1. Chapter 13 of the EIAR describes and assesses Archaeology and Cultural Heritage, and Architectural Heritage.
- 11.13.2. In terms of archaeological potential, desk-based study was supported by several field-based surveys that investigated the potential of the site to contain unrecorded archaeological material. Visual inspection of the site was undertaken on, this involved a systematic, non-intrusive walkover survey. This survey assessed current land-use patterns, site topography, site access and the presence of any previously unrecorded sites of archaeological and cultural heritage interest. The site is currently occupied by a hotel car park as well as disturbed greenfield and demolished access roads. There are no recorded monuments located within the development area. The closest consists of a burial ground (DU017-083), c. 128m to the west. On site, nothing of archaeological potential has been identified by previous examinations. The field inspection confirms the site has been subject to extensive disturbance. No previously unrecorded sites or areas of archaeological or cultural heritage potential were noted. Given the high level of disturbance within the site, the overall archaeological potential is considered to be very low.
- 11.13.3. The EIAR does not identify any architectural heritage items of interest on the site or in the vicinity. This is not surprising given the disturbed character of the site and the lack of protected structures and architectural conservation areas in the immediate or wider vicinity. Chapter 14 assesses the townscape impacts of the proposed development and here, emerging architectural issues are raised. I am satisfied that the EIAR has adequately assessed cultural heritage, given the lack of any features of architectural features on site or in the immediate vicinity.
- 11.13.4. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme. I therefore consider that the proposed development would have an acceptable level of direct or indirect impacts on architectural and cultural heritage.

11.14. The interaction between the above factors

- 11.14.1. Chapter 15 of the EIAR comprises a matrix (table 15.1) of significant interactions between each of the disciplines. All interactions between the various

elements of the project were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects will arise as a result of the interaction of the various elements of the development with one another.

11.14.2. For example; the potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact of the development on material assets interacts with that on the population due to the provision of a substantial amount of housing for the population. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified. The various interactions were properly described in the EIAR, table 15.1 provides a summary of interactions, and have been considered in the course of this EIA.

11.15. Cumulative Impacts

11.15.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area, including the completion of development in the vicinity, such are considered in the relevant Chapters of this EIAR and summarised in Chapter 15. Such development would be unlikely to differ from that envisaged under the city development plan and the local area plan which have already been subject to Strategic Environment Assessment. The proposed development's scale may be limited by the provisions of those plans and its form and character would be similar to the development proposed in this application. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

11.16. Reasoned Conclusion on the Significant Effects

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

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

11.16.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by

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

12.0 Appropriate Assessment

12.1. Introduction

12.1.1. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The applicant has submitted an 'Screening for Appropriate Assessment' report, dated December 2021 and prepared by Bryan Deegan of Altemar Ltd. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained within this report is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

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

12.2. The Project and Its Characteristics

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

12.3. Submissions and Observations

12.3.1. The submissions and observations from the Local Authority, Prescribed Bodies, and observers are summarised in sections 8, 9 and 10 above. An observer has criticised

the methodology behind the AA documentation submitted by the applicant and raised very general legal questions.

12.3.2. The planning authority have made no specific references to AA concerns. With specific reference to appropriate assessment matters, I note that Inland Fisheries Ireland have highlighted concerns about the completion time for upgrades to the Ringsend WWTP and the ecological integrity of any receiving environment.

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

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

12.4.2. Natura 2000 sites were searched both within a 15km range of the proposed development. The Natura 2000 sites within the range are listed in Table 1 and their locations are shown in Figure 8 and 9 of the applicant’s report. These are listed below with approximate distances to the application site:

Natura 2000 sites within 15 km of the proposed site

| Natura 2000 site | Approximate distance from site (km) |
|--|-------------------------------------|
| Glenasmole Valley SAC | 8 |
| Rye Water Valley/Carton SAC | 8.1 |
| South Dublin Bay SAC | 10.3 |
| Wicklow Mountains SAC | 10.4 |
| North Dublin Bay SAC | 12.7 |
| South Dublin Bay and River Tolka Estuary SPA | 9.7 |
| Wicklow Mountains SPA | 11.3 |
| North Bull Island SPA | 12.8 |

12.4.3. The site is not located within or directly adjacent to any Natura 2000 area (SAC or SPA), the site is located in an urban context and connected to the municipal waste and surface water system. There are no species or habitats of conservation significance within or in the immediate environs of the site and the site has a moderate biodiversity value comprising artificial surfaces, buildings and disturbed ground. The development has a potential impact pathway to European Sites within Dublin Bay via the combined surface water and foul water network. I consider that the water demand of the scheme is not significant and that impacts on any upstream water bodies (e.g. Glenasmole Valley SPA) can be excluded at the preliminary stage. The applicant's screening assessment concludes that having taken into consideration the effluent discharge from the proposed development works, the distance between the proposed development site to designated conservation sites, lack of direct hydrological pathway or biodiversity corridor link to conservation sites and the dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of features of interest of Natura 2000 sites.

12.4.4. However, I note that the following Natura 2000 sites could be indirectly linked or via a link to the Ringsend WWTP and could potentially be impacted by the proposed project:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)

12.4.5. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the

information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.

Table of European Sites/Location and Qualifying Interests

| Site (site code) and Conservation Objectives | Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS) |
|--|--|
| <p>North Dublin Bay SAC (0206)</p> <p>To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p> |
| <p>North Bull Island SPA (4006)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p> | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> |

| | |
|---|--|
| | <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>South Dublin Bay and River Tolka Estuary SPA (4024)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p> | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p> |
| <p>South Dublin Bay SAC (0210)</p> <p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.</p> | <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> |

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

Overview

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

Construction Phase

- There are substantial distances between the site and European sites and there is no direct pathway between the site and the European sites.
- Significant dilution and mixing of surface and sea water would occur with any contaminated waters and any pollutants would be further diluted upon reaching Dublin Bay.

Operational Phase

- Surface water flows would be restricted in accordance with the requirements of the Greater Dublin Strategic Drainage Strategy.
- The site is within Flood Zone C and the development would not increase flood risk elsewhere.
- The foul drainage system would connect to the established public system and proposed arrangements are acceptable to Irish Water.
- Foul wastewater would be treated at Ringsend treatment plant prior to discharge to Dublin Bay, which operates under licence and has permission for upgrade works that are expected to be completed within five years.
- The peak discharge of foul waste is not significant in the context of the existing capacity at the treatment plant.
- There is no possibility of any direct, indirect or secondary impacts on any European site.

12.4.7. Surface water from the proposed development will pass through a range of SuDS including green roofs. Waters from green roofs and all other surface water will be

attenuated in underground attenuation tanks across the site. All surface waters will pass through a hydrocarbon interceptor before discharge to the public surface water network on onwards to the municipal surface water drainage system. These waters will ultimately drain to Dublin Bay. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any urban site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. I consider that, even if the aforementioned best practice construction management measures were not in place, the possibility of significant effects on designated sites is unlikely given the nature and scale of the development, the intervening distance between the development and the designated sites and the resultant dilution factor with regard to the conservation objectives of the relevant designated sites and habitats and species involved. I therefore do not include these measures as 'mitigation measures' for the purposes of protecting Natura sites.

12.4.8. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would be not be likely to have a significant effect on the following sites:

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)

The applicant concludes that Stage II AA is not required.

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

- During the construction stage surface water will be attenuated and part treated within the site and the nature of any discharges is temporary.
- Should a pollution event occur during the construction phase due to the accidental spillage or release of contaminants this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.
- There will be a reduction in surface water run-off during the operational phase, relative to the existing situation, as surface water will be attenuated and part treated within the site.
- Foul waters will discharge to the existing foul water network and will travel to Ringsend WWTP for treatment prior to discharge to Dublin Bay; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards, further upgrade is planned and the foul discharge from the proposed development would equate to a very small percentage of the overall licenced discharge at
- Ringsend WWTP, and thus would not impact on the overall water quality within Dublin Bay.
- I would also note that the EPA in 2018 classified water quality in Dublin Bay as 'unpolluted'.

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

- Coastal waters in Dublin Bay are classed as 'Unpolluted' by the EPA;
- Sustainable development including SUDS for all new development is inherent in objectives of all development plans within the catchment of Ringsend WWTP;

- The Ringsend WWTP extension is likely to be completed in the short – medium term to ensure statutory compliance with the WFD. This is likely to maintain the ‘Unpolluted’ water quality status of coastal waters despite potential pressures from future development;

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

12.4.11. The expansion of the Dublin city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2016-2022 and Park West - Cherry Orchard Local Area Plan 2019 covering the location of the application site. These documents have been subjected to AA by the planning authority, which concluded that their implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. While this project will marginally add to the loadings of the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising. With reference to the submission made by IFI, I note upgrade works have commenced on the Ringsend Wastewater Treatment Plant (works extension permitted under ABP – PL.29N.YA0010) and the facility is currently operating under EPA licencing which was subject to AA Screening. Similarly, I note the planning authority did not raise AA concerns in relation to the proposed development.

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

12.5. AA Screening Conclusion:

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

- South Dublin Bay and River Tolka Estuary SPA (004024)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- North Dublin Bay SAC (000206)

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

14.0 Recommendation

14.1. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2016 be applied and that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

15.0 Reasons and Considerations

Having regard to the:

(a) the location of the site in the established urban area of Dublin City in an area zoned for residential development – Z14 To seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses and Strategic Development and Regeneration Area 4 Park West/Cherry Orchard;

(b) The policies and objectives contained in the Dublin City Council Development Plan 2016-2022 and the Park West - Cherry Orchard Local Area Plan 2019;

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) the submissions and observations received;

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

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

17.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2020

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars lodged with An Bord Pleanála on the 21st day of December 2021 by Greenseed Limited, 18 – 19 Harcourt Street, Dublin 2.

Proposed Development

The proposed development on a total site of 9.4 hectares will consist of 750 residential units in 7 separate blocks, ranging in height from 2 to 15 storeys, the detail is as follows:

| Parameter | Site Proposal |
|-------------------------------|---|
| Application Site | 9.4 hectares (gross) 5.5 (net) |
| Number of Units | 750 apartment units |
| Density | 137 units per hectare (net) 80 units per hectare (gross) |
| Dual Aspect | 423 apartment units (56.4%) |
| Other Uses | Retail Unit – 156 sqm Block A Crèche – 410 sqm 84 child spaces) Block G Community Space – 48 sqm Block G Café/bar – 91 sqm Block G |
| Public Open Space | 1.3Hectares – 14% of the site |
| Communal Amenity Space | 6,175 sq.m at podium level within each of the proposed Blocks A to F and at roof levels within Block G. |

| | |
|-------------------------|--|
| Height | 2-15 storeys – 7 to 46 metres |
| Parking | 522 car parking spaces 1,676 bicycle spaces |
| Vehicular Access | Park West Road and Park West Avenue. |
| Part V | 75 (all in Block F) |

Housing Mix

| Unit Type | 1 bed | 2 bed | 3 bed | Total |
|-------------------|--------------|--------------|--------------|--------------|
| Apartments | 321 | 384 | 45 | 750 |
| % of Total | 43% | 51% | 6% | 100% |

- Vehicular, cycle and pedestrian access to the proposed development will be provided from Park West Road and Park West Avenue
- Parking - 552 car parking spaces in total, 314 undercroft car parking spaces beneath Blocks A, B, C, D, E and F and 238 on-street car parking spaces. The development includes 70 car parking spaces related to the existing Aspect Hotel (36 spaces beneath Blocks A, B, C and 34 spaces and at street level) which are being to be relocated from the existing surface car park to facilitate the development of Block G. The existing Aspect Hotel car park is also the site of a permitted extension to the hotel (Reg. Ref. 3436/18). The existing car park is proposed to be demolished and the site of the permitted hotel extension landscaped pending the development of the hotel extension.
- 1,676 cycle parking spaces at under-croft (1,276 spaces) and on-street (400 spaces)
- Other works -- Bin storage areas and a glass bottle recycling bank, ESB substations, undergrounding of the existing 38kV powerlines and central and western pylons along the northern boundary of the site, plant and public lighting, boundary treatments, surface water drainage infrastructure,

- Public open spaces (c.1.3ha) including hard and soft landscaping and a multi-use games area/ play space.

Matters considered

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

Reasons and Considerations

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

- (a) the location of the site in the established urban area of Dublin City in an area zoned for residential development – Z14 To seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the predominant uses and Strategic Development and Regeneration Area 4 Park West/Cherry Orchard;
- (b) The policies and objectives contained in the Dublin City Council Development Plan 2016-2022 and the Park West - Cherry Orchard Local Area Plan 2019;
- (c) The provisions of Housing for All, A New Housing Plan for Ireland (September 2021),
- (d) objectives 3a, 3b, 11, 13 and 35 of the National Planning Framework;
- (e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);

- (h) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (j) ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ prepared by the Department of Housing, Planning and Local Government 2020;
- (k) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (l) the nature, scale and design of the proposed development;
- (m) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (n) the pattern of existing and permitted development in the area,
- (o) The Report of the Chief Executive of Dublin City Council received from the planning authority;
- (p) the submissions and observations received;
- (q) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

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

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and lack of a direct hydrological pathway, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

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

- (a) The nature, scale and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the applicant, planning authority, the observers, and the prescribed bodies in the course of the application; and
- (d) The Planning Inspector's report.

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

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

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

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

- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

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

Conclusion on Proper Planning and Sustainable Development

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

18.0 Conditions

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

development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in Chapter 15 of the Environmental Impact Assessment Report (EIAR) submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

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

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

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

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. Specifically, the existing overhead power lines that run adjacent to the railway line are to be relocated underground with the removal of the central pylon structure as part of Phase 1 of this permission. The applicant shall submit a revised Phasing Management and Delivery report, outlining details of works proposed and also to include these specific works as part of Phase 1.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

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

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

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

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

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

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

8. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of

development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

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

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual amenity.

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

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

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

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

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

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

c) The number and arrangement of car parking spaces assigned to the Aspect Hotel shall amount to 75 car spaces and shall be clearly set on a layout drawing that also indicates a clear and simple waymarking strategy for patrons of the hotel, these items shall be submitted to the planning authority for written approval prior to the commencement of development.

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

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

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

16. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

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

Reason: In the interest of residential and visual amenity.

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

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

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

20 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

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

Reason: In the interest of sustainable waste management.

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

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- o) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Park West and Cherry Orchard Railway Station at all times;

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

22. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details and schedule of works adjacent to the railway line that address the matters referred to by Irish Rail in their submission on this application dated 24th January 2022. Any works associated with the proposed development including boundary treatments and landscaping shall ensure that the integrity of the railway line is maintained.

Reason: To protect the railway and in the interests of public safety.

23. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1300 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be

allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

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

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

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

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

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

Reason: In the interest of public health.

28. Prior to the commencement of any duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

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

payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Reason: To ensure the satisfactory completion of the development.

Stephen Rhys Thomas
Senior Planning Inspector

26 May 2022