



An
Bord
Pleanála

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

Inspector's Report ABP-312352-21

Strategic Housing Development

Demolition of existing buildings,
construction of 183 no. Build to Rent
apartments, and associated site
works.

Location

No. 146A and 148-148A Richmond
Road, Dublin 3.
(www.richmondroadshd.ie)

Planning Authority

Dublin City Council North

Applicant

Birkey Limited.

Prescribed Bodies

1. Irish Water.
2. Inland Fisheries Ireland.
3. Department of Housing, Local Government and Heritage.

Observer(s)

1. Anne Delahoy.
2. Donal Carroll.
3. Cllr. Donna Cooney.
4. Rado Durina.
5. Shane Clarke.

Date of Site Inspection

26th August 2022

Inspector

Daire McDevitt

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Appendix 1 Documentation submitted with the application.

Appendix 2 EIA Screening Determination Form

1.0 Introduction

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.

2.0 Site Location and Description

The application site is located on the southern side of Richmond Road, c.540m from the junction with Drumcondra Road Lower to the west and c.570m from the junction with the Ballybough Road / Fairview Strand. The Tolka River runs along the southern / southwestern boundary of the site and the riverbank comprises mature vegetation and trees. The site is currently occupied by two dwellings with frontage to Richmond Road. To the rear is a commercial complex containing a number of warehouse buildings and external storage yard/area. There is also a telecoms mast on the southwestern boundary.

The site with a stated area of c.0.69hectares has limited frontage to Richmond Road which forms its northeastern boundary along with Leydon's Wholesalers & Distributor Site which comprises industrial / warehouse structures and open yard, and by Deakin Court a 4-storey apartment development, to the north-west. Development to the southeast of the site within former industrial buildings, The Distillery, comprises commercial / office and residential accommodation in a number of 4/5-storey buildings (Distillery Lofts), including protected structures and to the south-west by the Tolka River

Owing to the irregular shape of the subject site, only a small portion of the northern boundary has frontage onto Richmond Road. The Tolka River runs predominantly along the southern boundary of the subject site. Tolka River Conservation area takes in a portion of the application site. A section of Richmond Road is included within the application site boundaries to facilitate works to same (letter of consent from DCC included).

3.0 Proposed Strategic Housing Development

Permission is sought for a strategic housing development on a c.0.61 hectare (c. 6,067 sq m) site comprised of:

The demolition of all existing structures on site (c. 2,346 sq m) including warehouses and 2 No. dwellings; and the construction of a part 6 to part 10 storey over basement development (with roof level telecommunications infrastructure over), comprising 1 No. café/retail unit (157 sq m) at ground floor level and 183 no. Build-to-Rent apartments (104 no. one bedroom units and 79 no. two bedroom units). The proposed development has a gross floor area of c.16,366 sqm over a basement of c.2,729 sqm. The proposed development has a gross floor space of c.15,689 sqm).

The development also provides ancillary residential amenities and facilities; 71 no. car parking spaces including 8 no. electric vehicle spaces, 4 No. mobility impaired spaces and 1 no. car share space; 5 no. motorcycle parking spaces; bicycle parking; electric scooter storage; a drop off space;

The development also includes the construction of a new c.126 metre long section of flood wall to the River Tolka along the site's southern boundary. The new flood wall is positioned at the top of the existing river bank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The top of the wall will be set at the required flood defence level resulting in typical wall heights of c.1.2 to 2 metres above existing ground levels. The development will also include the repair and maintenance of the existing river wall on site adjacent to the River Tolka.

Improvement works to Richmond Road are also proposed including carriageway widening and a new signal controlled pedestrian crossing facility on an area of c. 0.08 hectares (c. 762 sq m). The development site area and road works area will provide a total application site area of c. 0.69 hectares (c. 6,829 sq m).

The decommissioning of the existing telecommunications mast at ground level and provision of new telecommunications infrastructure at roof level including shrouds, antennas and microwave link dishes; balconies facing all directions; public and communal open space; a pedestrian/bicycle connection along the north-western boundary of the site from Richmond Road to the proposed pedestrian/bicycle route to the south-west of the site adjoining the River Tolka; roof gardens; hard and soft landscaping; boundary treatments; green roofs; ESB Substation; switchroom; comms rooms; generator; lift overruns; stores; plant; and all associated works above and below ground.

Main Parameters:

Site Area: TOTAL 0.69ha. Developable Site area (c.0.61ha), Road works to Richmond Road (c.0.08ha).

Proposed Development: 183 no. BTR Apartments and Café (c.157sq.m)

Demolition: All existing structures (2 no. dwellings and a number of warehouses) (c.2346sq.m).

Height: 6 to 10 storeys

- Top of roof (c.33.5m)
- Top of parapet (c.34.6m)
- Top of lift overrun (c.34.8m)
- Top of equipment cabinet (c.35.9m)
- Top of dishes (c.36.5m)
- Top of antenna ballast mount (c.37.5m)

Density: 300uph

Plot Ratio: 2.7

Site coverage: 32%

Dual Aspect: 92 units (50%)

Public Open Space: c.1501sq.m (25%)

External Communal Amenity Space: c.2074sq.m plus c.209sq.m of roof gardens.

Internal Communal Amenity Space: c. 545sq.m (c.2.98sq.m per unit) comprised of gym, lounges, kitchen space, co-working hub/office and meeting rooms.

Access: Via Richmond Road

Parking: Car: 71 no. spaces at a ratio of 0.39 per unit. Includes 4 no. mobility impaired spaces, no. EV spaces and 1 no. car share.

Bicycle: 388 no. spaces. 2 no cargo bike spaces, 10 no. electric bicycle storage spaces.

Motorcycle: 5 no. spaces

1 no. drop off space

Unit Mix:

- 104 No. 1 Bed units (57%).
- 79 No. 2 bed units (43%).

4.0 Planning History

Site:

PA ref. 0312/98: Permission granted for new site access, demolition of houses no's. 146 and 148, construction of 2 new houses and replacement of existing builders providers warehouse with new building.

PA ref. 1859/99 ABP ref. PL20N.118004: Permission granted for 4 No. warehouse units on the site.

PA ref. 3390/00: Permission granted for revisions to 2 no. previously approved houses.

PA ref. 0946/02: Permission refused for change of use of Unit 2 from warehouse to retail warehouse.

PA ref. 3591/10: Permission granted for a 20-metre monopole with associated equipment and fencing as part of a 3G broadband network, previously granted under planning reference 1800/04.

PA ref. 2213/16: Permission granted to retain existing 20 metre monopole (granted permission under 3591/10) carrying antennas and associated development.

Adjoining lands:

PA ref. 2945/15: Permission granted to NABCO for the adjacent Deakins Court apartment development to the northwest, consisting of 39 No. apartments and 2 No. commercial units over basement car parking, new hard and soft landscaping to the front (Richmond Road) and rear (River Tolka).

Lands at The Distillery, to the southeast of the site along Richmond Road have been subject to a number of applications for redevelopment, which included a 7-storey block immediately adjacent to the subject site under DCC reg. ref. 5224/05, which was not constructed.

ABP Ref. ABP-310860-21 Refers to a 2021 grant of permission for a SHD application on lands at Holy Cross College, Clonliffe Road, and Drumcondra Road Lower to the west of the subject site. The proposed development comprises the construction of 1,614 no. Build to Rent apartments, and associated site works in a series of new and retained buildings. The 12 no. new residential buildings range in height from 2 storeys to 18 storeys.

5.0 Section 5 Pre Application Consultation

A section 5 pre-application consultation with the applicants and the planning authority took place online under ABP 310653-21 (on the 5th October 2021) in respect of a proposed development of 183 BTR apartments and associated works.

Notification of Opinion

Following consideration of the issues raised during the consultation process and, having regard to the opinion of the planning authority, An Bord Pleanála issued an opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

The following issues needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Further consideration, and a robust planning and design rationale for the height and massing of buildings proposed for the site, and possible amendment to achieve greater articulation and visual relief. The design response should reflect the specific characteristics of the site and its context, demonstrating how it achieves an appropriate relationship with surrounding development. Further assessment of the development in views from the north and south should be undertaken in this regard, including views from Grace Park Road and from Richmond Road in proximity to the development site, and from residential roads to the south of the site. This may require possible amendment to the documents and/or design proposals submitted.

2. Further consideration of, and possible amendment to the documents and/or design proposals submitted, having regard to the development potential of adjoining lands to the northeast (Leydens), which are understood to be in the control / ownership of the prospective applicant. In this regard, an indicative masterplan should be submitted which should demonstrate how the development of the overall lands can be achieved having regard to the protection of residential amenity, potential for shared communal and/or public open space, and access arrangements. Such masterplan may have also regard to the matters raised under item no. 1 above.
3. The application should provide full and detailed design proposals in respect of access arrangements from Richmond Road. Such proposals should provide for safe vehicular, pedestrian and cycle access to the site and demonstrate that conflicting movements do not arise. An operational service management plan for the site should also be submitted in this regard. The design proposals should demonstrate how satisfactory access and egress to the site will be provided in both the current scenario and following completion of proposed future widening and improvement works on Richmond Road.
4. Further consideration and clarification in relation to the nature and extent of works required to address flood risk arising on the site. Application documentation should identify and assess alternative options for the design of such works, and provide a robust rationale for the solution proposed, having regard to the location of the site within an area identified as a Conservation Area in the Dublin City Development Plan 2016-2022 and potential impacts on existing trees and vegetation on the site. Details to be provided should include detailed plan, section and elevation drawings describing all works and structures proposed along the riverbank and identifying existing and proposed ground levels. The interaction between these works and delivery of the pedestrian / cycle greenway route along the River Tolka should be clearly described. The works proposed in this regard should be included within the scope of other assessments undertaken in respect of this application including, but not limited to:
 - Site Specific Flood Risk Assessment
 - Landscape and Visual Impact Assessment
 - Appropriate Assessment Screening Report
 - Natura Impact Statement

- Ecological Impact Assessment Report
- Environmental Impact Assessment Report
- Archaeological, Architectural and Cultural Heritage Impact Assessment
- Construction and Environmental Management Plan

Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that the following specific information should be submitted with any application for permission:

1. Clarity with regard to ownership of the site and where the applicant is not the legal owner of the land concerned, the written consent of the owner to make the application should be provided.
2. Application documentation should demonstrate how the proposed development and the mix of uses therein, complies with the Z10 land use zoning objective for the site under the current Dublin City Development Plan 2016-2022.
3. Demonstrate how consideration has been given to the issues of residential amenity raised in the report of the planning authority dated 26th July 2021 particularly in respect of privacy and overlooking between proposed dwelling units and the quality of private residential amenity spaces.
4. The application should clearly demonstrate how the development will limit the potential for overlooking of adjoining residential properties. Additional cross section and contextual elevation drawings should be provided to demonstrate the relationship with adjoining properties, particularly Deakins Court to the west.
5. The Microclimate assessment accompanying the application should address the safety and comfort of communal residential amenity spaces, including roof terraces and upper floor balconies, both within the site and on adjoining lands. Any required mitigation or other design measures arising from such assessment should be clearly detailed in the application.
6. Further clarification and justification for the type and level of communal residential facilities to be provided on the site having regard to the Build to Rent nature of the proposed development, in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) and SPPR 7 contained therein.

7. Detail regarding the provision of public open space and accessible, secure and usable communal residential open space within the development. Areas required for vehicular access and circulation space such as public footpaths, should not be included within defined amenity spaces. The treatment and landscaping of the site to define and delineate such spaces appropriate to their function, should be clearly set out and illustrated with appropriate plan and sections drawings.
8. Proposals for the management and operation of the proposed development as a 'Build to-Rent' scheme in accordance with Specific Planning Policy Requirement No. 7 of the Guidelines on Design Standards for New Apartments, including detailed proposals for the provision and management of support facilities, services and amenities for residents. A Building Lifecycle Report in accordance with section 6.13 of the guidelines should also be submitted and shall detail the appropriate use of external materials on all elevations. The plan shall also address the management and maintenance of public spaces and access to the development.
9. Further details of the proposed materials and finishes to the scheme. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details, which have due regard to the context of the site. The details to be provided should also include the treatment of roof terraces, courtyards, landscaped areas and the public realm.
10. The application should be accompanied by the following:
 - i. A Traffic Impact Assessment, a preliminary Construction Traffic Management Plan and a Mobility Management Plan.
 - ii. A quality audit in accordance with Annex 4 of DMURS.
 - iii. A rationale for the quantum of car parking proposed on the site having regard to the provisions of the SPPR8 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, in respect of Build-to-Rent developments. A Car Park Management Strategy Plan should be provided in in this regard.
 - iv. A rationale for the proposed fire / emergency vehicle access arrangements having regard to the comments of the Dublin City Council Transportation planning section with regard to use of the proposed pedestrian / cycle greenway in this regard.
11. A Construction and Demolition Management Plan and an Operational Waste Management Plan should be provided having regard to the inner urban nature of the site. The Construction and Demolition Management Plan should consider the potential for the presence of hazardous materials within existing structures or contaminated soils within the site.
12. The application should clearly identify the areas intended to be taken in charge by the Local Authority and / or the National Transport Authority, where appropriate.
13. Address the issues and recommendations set out in the internal departmental reports of Dublin City Council, including, inter alia,

- The report of the Archaeology Section dated 19th July 2021.
- The Engineering Department – Drainage Division, dated 22nd July 2021.

Applicant's Statement

A statement of response to the Pre-Application Consultation Opinion ABP 310653-21) was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement also provides a response to each of the specific items raised in the opinion.

Item No 1:

- Refer to 'Response to ABP and DCC Pre Application Consultation Opinions'
- It is submitted that the height of the subject scheme modulates throughout the site with a lower scale street edge created by the proposed part 6 No. storey element presenting a human scale element having regard to the receiving context of Richmond Road. Elsewhere the height rises to part 10 No. storeys towards the middle of the site, where the capacity to absorb increased height is greatest with large frontage onto the River Tolka. The height is modulated throughout the site and a variety of materials are utilised, which provides varied and interesting facades.

Item No 2:

- Refer to 'Response to ABP and DCC Pre Application Consultation Opinions'
- The Leyden lands are under the control of the applicant and the future application on these lands will be subject to a detailed design process and will have to ensure it has no material impact on the Phase 1 development or any surrounding properties.

Item No 3:

- Refer to Section 9.3.2 of the Traffic and Transport Assessment (TTA).
- A Delivery and Service Management Plan is included in Section 5.5 of the TTA.
- Operational waste is dealt with in the Operational Waste Management Plan enclosed.
- Dwg No. 210027-DBFL-TR-SP-DR-C-1001 shows design proposals in both the current scenario and potential future scenario following Richmond Road improvement works.

Item No 4:

Refer to:

- Site Specific Flood Risk Assessment
- Landscape and Visual Impact Assessment
- Appropriate Assessment Screening Report
- Natura Impact Statement
- Ecological Impact Assessment Report
- Archaeological, Architectural and Cultural Heritage Impact Assessment
- Construction and Environmental Management Plan.
- An Environmental Impact Assessment Report is not required for the proposed development. Please see Environmental Impact Assessment Screening Report.
- The flood wall works will involve: Construction of a new c.126m long section of flood wall to the River Tolka along the site's southern boundary. The flood wall is required to complete a missing section of the Tolka River Flood Defence Scheme and is required by Dublin City Council. The new flood wall is positioned at the top of the existing riverbank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The form of construction will comprise a stone wall over sheet pile construction. The top of the wall will be set at the required flood defence level resulting in typical wall heights of approximately 1.2 to 2m above existing ground levels. Existing trees along the riverbank will be removed to facilitate the flood wall construction and repair of existing riverbanks and river walls. Replacement planting will be provided as outlined on the landscaping plan.
- The applicant owns the river wall and contains a number of trees growing out of it.
- In the context of the requirement to provide a flood wall and the general development of the site, constraints and rationale are outlined which informed the design and location of the floodwall which resulted in the loss of the existing trees along the River Tolka to the south of the development.
 1. The demolition of the existing warehouses will disturb the trees. The Sycamores are restricted to a particularly narrow strip between the shed footings and the flood wall and will suffer exposure, shelter-loss and disturbance as the structures are removed. Additionally, the young age and small current stature of the trees cannot be ignored. Already, substantial damage and dislodgement of flood wall masonry has occurred. Therefore and appreciating that being the subject species, Sycamore, has the capacity to increase in size more than five-fold times, then it is inevitable that the wall will suffer far greater damage if the trees are retained.

2. The existing river wall is in poor condition. Extensive repairs and removal of existing trees (which are currently destabilising it and causing damage) is proposed. Depending on the extent of the damage, it may be necessary to replace parts of the existing river wall. The existing river wall is proposed to be repaired and retained, which will result in the loss of trees.
 3. DCC Drainage Department require completion of this missing section of the Tolka flood defence scheme to provide for the proper level of protection of the Richmond Road area. The proposed wall position at the river edge is consistent with the DCC / RPS flood defence position as extracted on the adjacent figure.
- An 8 metre wide public corridor is designated on the site in the Richmond Road Area Action Plan, which states: *'In all redevelopment, there will be the provision of a public corridor, including walkway on the banks of the river, it shall not be provided in the form of a boardwalk. The boardwalk will be 8m wide and be contained within the boundaries of the sites'*. The cycle and pedestrian walkway land on top of the existing trees and therefore in order to comply with the requirements set out in the Richmond Road Area Action Plan 2007, the trees will need to be removed.
 - Map 13 of the Richmond Road Area Action Plan 2007 indicating the proposed corridor within the subject site outlined in red. Thus, it is submitted that even if there was no development on the site and only the required cycle/pedestrian route was to be provided, the trees growing on and out of the wall could not be retained.
 - It is noted that the flood wall is set back further into the site on the adjoining Deakin Court development. However, the tight constraints of the site as outlined above compared to the adjacent site to the north-west mean that a flood wall is more suitable at the river edge rather setback from the river edge. This allows the river route corridor to be incorporated within the landscape design and the flood protection zone. The adjacent site to the southeast (Distillery Buildings) is more comparable to the applicant's development site as it has similar restricted access and street frontage. The existing flood defence wall to the southeast is set at the river edge and continues northwest partly into the applicant's site.

- The provision of the cycle/pedestrian link in isolation or the demolition of the existing warehouses will result in the loss of the trees even without any development on the site, it is not possible to retain the existing trees growing out of the wall. Although the trees are category “C” trees, the loss in relation to biodiversity along the River Tolka is acknowledged and in mitigation, we are seeking to implement a native hedge along the new flood wall complemented with native tree planting and riparian type planting structures and species as part of the semi-private planting strategy and approach, therefore mitigating and reducing the immediate loss and impact but in return providing for a long term solution that would restore and enhance the river’s biodiversity whilst allowing the implementation of the Richmond Road Area Action Plan. It is also our opinion that the proposed development will have a positive impact on the Conservation Area, by providing a high-quality development with an 8 No. metre river corridor / walkway along the River Tolka, which will animate and enliven the surrounding environment.
- Refer to Dwg No. 210027-DBFL-XX-SP-DR-C-1020 to demonstrate the works proposed in relation to the flood wall.

The applicant has submitted a response to items no. 1 to 13 of the detailed Specific Information required in an attempt to address these matters:

No 1:

The total red line application site boundary is c. 0.69 Ha (c. 6,829 sq m) and is broken down as follows:

1. The developable site of c. 0.61 Ha (c.6,067 sq m);
2. Road works to Richmond Road: c. 0.08 Ha (c. 762 sq m).

The applicant owns c.0.63ha of the site area which includes the developable lands and a small area of land towards Richmond Road that is included in the road works area above. The remaining land on Richmond Road within the red line boundary is Dublin City Council land (c.0.06 Ha) and a letter of consent has been received to include the lands in the application site boundary.

Refer to RKD Drawing No. 20199-RKD-ZZ-ZZ-DR-A-1004 which demonstrates site ownership. In addition, it is stated that the applicant has recently secured control of the neighbouring Leyden’s site adjacent to the subject site to the north-east. These lands are identified on blue on the OS Map enclosed (lands in blue outside of the application site boundary).

No 2:

The subject lands are zoned Objective Z10 'Inner Suburban and Inner City Sustainable Mixed Uses' in the Dublin City Development Plan 2016-2022, where the stated aim is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant uses in inner city areas'. A narrow sliver of land along the south-west boundary adjacent to the River Tolka is zoned Objective Z9 'Amenity/Open Space Lands/Green Network', where the stated aim is 'to preserve, provide and improve recreational amenity and open space and green networks.

Part of the subject site is located within a Conservation Area and there are protected structures within the neighbouring site to the east/south-east and opposite the site to the north-east.

It is stated that Dublin City Council clarified by email on 24th September 2020 that the warehouse fronting Richmond Road (within the neighbouring Leyden's site) is not a Protected Structure and is marked on the zoning map in error. Refer to correspondence attached as Appendix A to the Planning Report & Statement of Consistency.

Further details in relation to these protected structures is set out in the Architectural Heritage Impact Assessment.

The subject scheme proposes 183 No. residential units and 1 No. café/retail unit on these predominately Z10 zoned lands. The scheme also includes public and communal open spaces and internal communal amenity space for the future residents. The narrow sliver of Z9 zoned land adjacent to the River Tolka is provided with public open space associated with the proposed development in accordance with the zoning objective with the majority of the proposed public open space provided on the Z10 portion of lands. This public open space will incorporate a greenway once the remainder of the neighbouring sites are developed and opened up. The scheme allows for future connections to the neighbouring sites at both ends of the public open space.

Residential development, café and retail are permissible uses under the Z10 zoning objective. The Applicant is applying for both to give greater flexibility in finding a future occupant for the unit.

It is acknowledged by Dublin City Council, commercial units have historically struggled to find a tenant or remain open and it is considered that any commercial unit that does not have street frontage will result in vacant units. If the unit is deemed unviable in the future, the unit could potentially be adapted to provide an internal resident amenity use or residential accommodation (subject to a planning application).

It is also noted that the applicant has recently secured control of the neighbouring Leyden's site adjacent to the subject site to the north-east, which will provide a greater opportunity to provide increased commercial development as it will have a larger frontage along Richmond Road.

It is submitted that having regard to the zoning objective of the subject site, the planning history of Deakin Court adjacent to the subject lands, which was granted permission for the change of use of 2 No. commercial units to residential accommodation at ground floor as the commercial units were deemed unviable in this location, and having regard to the planning history precedents outlined on Cork Street and at the Brewery Block, that the subject scheme will fulfill the mixed use objective for the subject Z10 zoned lands (and the Z9 zoning objective).

The inclusion of the café/retail unit will not only satisfy the stated Z10 zoning objective, which is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses, with residential the predominant use in suburban locations, and office/retail/residential the predominant uses in inner city areas', but will also reinvigorate the street frontage along the Richmond Road with the added benefit of passive surveillance along the street. Further commercial development will be provided through the development of the adjacent Leyden's site, which is under the control of the Applicant with an application expected to be lodged in 2022.

No 3: Refer to 'Response to ABP and DCC Pre-Application Consultation Opinions' submitted.

No 4: Refer to 'Response to ABP and DCC Pre-Application Consultation Opinions' submitted.

No 5: Refer to 'Microclimate Assessment' submitted.

No 6: Refer to 'Response to ABP and DCC Pre-Application Consultation Opinions' submitted.

No 7: Refer to response form Landscape Architects.

No 8: Refer to 'Property Management Strategy Report' submitted.

No 9: Refer to 'Response to ABP and DCC Pre-Application Consultation Opinions' submitted.

No 10:

10 (i): Refer to Traffic Impact Assessment (TTA), Mobility Management Plan, Construction and Demolition Plan, Outline Construction environmental Management Plan Incorporating a Construction Management Plan) submitted.

10 (ii): Refer to 'Quality Audit' submitted.

10 (iii): Refer to section 5.2.1 of TTA and Preliminary Car Park Management Strategy Plan submitted.

10 (iv): Refer to Figures 4.2 and 4.3 in the TTA and Dwg no. 210027-DBFL-RD-SP-DR-C-1011.

No 11: Refer to 'Construction and Demolition Management Plan', 'Operational Waste Management Plan and section 3.3 (potential hazardous waste arising) of the Construction and Demolition Waste management Plan.

No 12: Refer to Dwg. No. 20199-RKD-ZZ-ZZ-DR-A-1003.

No 13: Refer to:

- 'Response to ABP and DCC Pre Application Consultation Opinions' submitted.
- Comments in relation to the Z10 zoning have been addressed in Section 3.2 of the 'Response to ABP Opinion'
- Comments in relation to the neighbouring Leyden's site has been included in the 'Response to ABP and DCC Pre Application Consultation Opinions' and as detailed under Section 2.21 and 3.1.1 of the 'Response to ABP Opinion'
- Rationale for the building height have been provided in Section 2.1.1 of 'Response to ABP Opinion' and has been addressed in the 'Response to ABP and DCC Pre Application Consultation Opinions'.
- The comments of the Archaeology Department are addressed in Section 5.0 of the Archaeological, Architectural and Cultural Heritage Impact Assessment.
- The comments of the Engineering Department – Drainage Department are addressed in Section 5.0 of the Infrastructure Design Report.
- The comments of the Transportation Planning Department are addressed in Section 9.0 of the Traffic and Transport Assessment Report.
- The comments of the Parks Department are summarised and addressed below.
 - Tree removal and natural habitat – See response in relation to tree removal outlined in Section 2.4.1 of 'Response to ABP Opinion'
 - Open space provision under application: Public Open Space : 1,501 (25%), Communal Open Space 2,283 sq m (1,073 sq m required) and Private open space (In line or exceeding the minimum requirements)
 - Invasive Species: Report.
- Requirements of EHO:
 - Will be supplied post planning on appointment of construction contractor & waste contractor prior to works beginning onsite.
 - Refer to the Construction & Demolition Waste Management Plan
 - It is not envisaged the crushing of concrete will occur onsite as outlined in the attached Construction and Demolition Waste Management Plan. If crushing of concrete is to occur the appropriate mobile waste facility permit will be obtained and forwarded on to DCC prior to the waste activity occurring.
 - Site investigations reports and environmental soil testing results will be supplied post demolition phase and prior to any material being removed from site.

- An Invasive Alien Plant Species Site Management Assessment Report & Management Plan has been included with this planning application.
- An asbestos refurbishment / demolition surveys were undertaken by the Iota Group in December 2020 and is included within the planning documentation submitted in Appendix A of the Construction and Demolition Waste Management Plan.
- Digital waste logs will be provided to DCC when requested as outlined in the Construction and Demolition Waste Management Plan.

6.0 Relevant Planning Policy

6.1 National

National Planning Framework 2018-2040

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.

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 4 to ensure the creation of attractive, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and wellbeing

Objective 13 is that, in urban areas, planning and related standards including in particular building height and car parking will be based on performance criteria to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objective 27 to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

Objective 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.

Objective 35 promotes increased densities through measures including infill development schemes, area or site-based regeneration and increased building height.

Rebuilding Ireland – Action Plan for Housing and Homelessness 2016

Pillar 4 refers to the Improvement of the Rental Sector. Key objectives include addressing the obstacles to greater private rented sector delivery, to improve the supply of units at affordable rents.

Key actions include encouraging the “build to rent” sector and supporting greater provision of student accommodation. The plan recognises the importance of providing well designed and located student accommodation in order to avoid additional pressures in the private rental sector.

Housing for All – A New Housing Plan for Ireland (2021)

It is 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 government’s 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

The government’s vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social and environmental sustainability built into the system.

The policy has four pathways to achieving housing for all:

- supporting home ownership and increasing affordability
- eradicating homelessness, increasing social housing delivery and supporting social inclusion
- increasing new housing supply
- addressing vacancy and efficient use of existing stock

Housing for All contains 213 actions which will deliver a range of housing options for individuals, couples and families.

Section 28 Ministerial Guidelines:

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority and observers, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual.
- Design Manual for Urban Roads and Streets (DMURS).
- Retail Planning Guidelines for Planning Authorities (2012) and the Retail Design Manual.
- Childcare Facilities – Guidelines for Planning Authorities (2001)
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010)
- The Planning System and Flood Risk Management (including the associated ‘Technical Appendices’) (2009).

6.2 Regional:

Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.

The RSES including the Dublin Metropolitan Area Strategic Plan (MASP) was adopted on the 3rd of May 2019. The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF).

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region.

RPO 3.2: Promote compact urban growth, targets at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3 supports “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.”

The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth. Section 5.3 identifies guiding principles for development of the MASP area including:

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:

Dublin City Development Plan 2016 – 2022

The bulk of the site is zoned Z10 – To consolidate and facilitate the development of inner city and inner suburban sites for mixed uses, with residential the predominant use in suburban locations and office/residential use the predominant use in inner city areas.

The primary uses in this zone are residential, office and retail. An appropriate mix of uses for any given site will be influenced by site location and other planning policies applicable to the associated area. A range of smaller uses will also be facilitated. The concept of mixed-use is central to the development or re-development of these sites and mono uses, either all residential or all employment/office use shall not generally be permitted.

Lands zoned Z10 will cater for a relatively intensive form of development, and the range of uses permitted will be similar to Z5 but not as intensive or wide-ranging, reflecting the location of the sites and interactions with surrounding established land-uses. Accessibility may be an issue in the development of Z10 lands, and where significant numbers of employment and or residents are envisaged, a travel plan will be required.

A silver of land along the southern boundary with the Tolka river is zoned Z9 ‘Amenity, open space/residential the predominant use’ where open space is proposed.

Chapter 5 sets out policies for quality housing.

QH5 promotes residential development through active land management and a coordinated planned approach to developing appropriately zoned lands including regeneration areas, vacant and under-utilised sites.

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

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

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

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

The south eastern part of the site is identified as part of a Conservation Area associated with the River Tolka. Policy CHC seeks to protect the special interest and character of all Dublin's Conservation Areas.

Chapter 10 Green Infrastructure, Open Space & Recreation

Policy GI3: To develop linear parks, particularly along waterways, and to link existing parks and open spaces in order to provide green chains throughout the city. Where lands along the waterways are in private ownership, it shall be policy in any development proposal to secure public access along the waterway. Objective GIO4: To improve pedestrian and cycle access routes to strategic level amenities while ensuring that ecosystem functions and existing amenity uses are not compromised and existing biodiversity and heritage is protected and enhanced. Rivers, Canals and the Coastline

Policy GI16: To protect and improve the unique natural character and ecological value of all rivers within and forming boundaries to the administrative area of Dublin City Council, in accordance with the Eastern River Basin District management plan

Objective GIO18: To protect and improve the natural character of watercourses, including the Dodder, and to promote access, walkways, cycleways and other compatible recreational uses along them, having regard to environmental sensitivities.

Section 4.5.2 of the Development Plan addressing 'Inner Suburbs and Outer City as Part of the Metropolitan Area' states that amongst other issues the overall challenge is to develop the suburbs as building blocks to strengthen the urban structure of the city and for these areas to comprise the full range of district centres.

Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed above.

Policy SC13: Promotes sustainable densities with due consideration for surrounding residential amenities.

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

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

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

Chapter 16 deals with Development Standards: Design, Layout, Mix of Uses and Sustainable Design. The indicative plot ratio for Z10 lands is 2.0 – 3.0, while the indicative site coverage is 50%. Section 16.7.2 identifies a general building height limit of 16m for residential/commercial in this area of the city.

Section 16.7 Building Height

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

All proposals for mid-rise and taller buildings must have regard to the assessment criteria for high buildings as set out in section 16.7.2

Section 16.10 deals with Standards for Residential Accommodation. Proposed developments shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment Report).

Map J - Strategic Transport and Parking Areas

Other relevant sections and policies of the Development Plan include the following:

Section 4.5.3 - Making a More Compact Sustainable City;

Section 4.5.9 – Urban Form & Architecture;

Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);

Section 16.2 – Design, Principles & Standards;

Section 16.10 - Standards for Residential Accommodation.

6.4 Applicants Statement of Consistency

The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with National, Regional and local policy and requirements of section 28 guidelines.

6.5 Applicants Statement of Material Contravention

The applicant has submitted a Material Contravention Statement, as provided for under Section 8(1)(iv)(II) of the Act of 2016. It is submitted that the Material Contravention Statement submitted has adopted a conservative approach and has treated any breach of any such conflicting provisions of the Development Plan, even where disapplied by the provisions of the relevant SPPR, as material contravention issues. The statement sets out the justification for the proposed residential development, in particular the proposed:

- Building Height.
- Dwelling Mix
- Requirement of units to exceed floor area by 10%
- Location of BTR units/legal covenant
- Number of units per core
- Daylight/sunlight
- Apartment room sizes (studios)
- Ratio of glazing
- Children's Play Space.

Justification for Material Contravention

Building Height.

Section 16.7.2 of the current Dublin City Development Plan 2016-2022 permits a building height of up to 16m within 'low rise rest of city' areas, such as where the subject site is located.

The height of the proposed development ranges in height from part 6 No. to part 10 No. storeys, exploring the potential for increased height whilst being cognisant of the surrounding context of the subject site. The maximum overall heights is set out below:

- Top of Roof c.33.5m.
- Top of Parapet c.34.6m.

- Top of Lift Overrun c.34.8m.
- Top of Equipment Cabinet c.35.9m.
- Top of Dishes c.36.5m.
- Top of Antenna Ballast Mount c.37.5m.

The Development Plan was made before these Building Height Guidelines were published. It is submitted that as the Development Plan was made before the NPF and Building Height Guidelines were published, the pre-existing policies in relation to height in the Development Plan do not fully align. There is no doubt, therefore, that the Specific Planning Policy Requirements ("SPPR") in the Building Height Guidelines are relevant to the assessment of this proposed development. In particular, where there is a conflict between the provisions of the Development Plan which provide for a maximum height of 16m, and SPPR 3A must be applied instead.

It is submitted that the inclusion of heights principally ranging from part 6 to part 10 No. storeys in height over basement at the subject site can be readily absorbed without any undue impact on the character of the area or the amenity of neighbouring properties, particularly having regard to the site's frontage onto the Tolka River and noting the grant of permission for heights of up to 18 No. storeys on the Holy Cross site opposite (ABP Ref: ABP-310860-21).

It is submitted that the heights provided in the subject development are appropriate having regard to the express requirement in National level policy to achieve compact growth, in addition to the careful modulation of height throughout the site.

Dwelling Mix, Requirement of units to exceed floor area by 10%, Location of BTR units/legal covenant

Potential Material Contravention in Relation to Dwelling Mix, Requirement of Units to Exceed Floor Area by 10%, Location of Built to-Rent Units and Legal Covenant Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act) In relation to dwelling mix, Section 16.10.1 of the Development Plan sets out the following:

'Each apartment shall contain:

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

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

This section of the Development Plan further states that:

'The above mix of units will not apply to managed 'build-to-let' apartment schemes for mobile workers where 42-50% of the total units may be in the form of one-bed or studio units'.

In addition, this section of the Development Plan notes:

'It is a requirement that the majority of all apartments in a proposed scheme of 100 units or more must exceed the minimum floor area standard by at least 10% (studio apartments must be included in the total but are not calculable as units that exceed the minimum). In schemes of 10-99 units the same approach is applied but it is acceptable to redistribute part of the minimum 10% additional floor space throughout the scheme.'

The proposed residential element of the development will provide 183 No. Build-to-Rent apartments including 104 No. one bedroom units (57%) and 79 No. two bedroom units (43%). Therefore, the development exceeds the maximum standards for 1 No. bedroom units set out in the Development Plan (42-50%), which could be considered to materially contravene this Development Plan policy. Some 33% of the proposed apartments exceed the minimum floor areas by 10% (i.e. not a majority), which could be considered to materially contravene this Development Plan policy.

As SPPR 8 of the Apartment Guidelines, 2020 applies to the proposed Build-to-Rent apartments, no restrictions on dwelling mix apply and the conflicting provisions of the Development Plan in relation to housing mix do not apply. In addition, the requirement for the majority of all apartments to exceed minimum floor areas by 10% do not apply.

The Development Plan must be read in conjunction with SPPR8(i) of the Apartment Guidelines, 2020. Therefore, the proposed development is consistent with the Apartment Guidelines, 2020 and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act.

The site is located in a 'Intermediate Urban Location' as defined by the Apartment Guidelines, 2020, in proximity to public transport, employment, services and facilities and is located close to the 500 No. metre walking distance of centres of employment shown above, and thus we consider that the subject Build-to-Rent units proposed are acceptable at the subject site.

Furthermore, the Apartment Guidelines, 2020 requires a Built-to-Rent Covenant/Legal Agreement be submitted to confirm that proposed Build-to-Rent units will remain owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 No. years and that similarly no individual residential units are sold or rented separately for that period. The Development Plan requires an agreement for 20 No. years.

It is considered that the development is in accordance with the Apartment Guidelines, 2020 which requires a 15 No. year covenant, and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan. The Apartment Guidelines, 2020 post-date the Development Plan and the Development Plan must be read in light of the changes introduced by the Apartment Guidelines, 2020. This item has been included on a precautionary basis

Number of units per core

Section 16.10 of the Dublin City Development Plan 2016-2022 sets out that there shall be a maximum of 8 No. units per core per floor.

The proposed development provides a range of 6 No. to 12 No. units per core at the upper levels, which could be considered to materially contravene this specific requirement of the Development Plan.

The Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, 2020 (“Apartment Guidelines, 2020”) post-date the Development Plan and the Development Plan must be read in light of the changes introduced by the Apartment Guidelines, 2020.

The Apartment Guidelines, 2020 set out the following in relation to units per core under Specific Planning Policy Requirement 6: *‘A maximum of 12 apartments per floor per core may be provided in apartment schemes. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.’*

Furthermore, SPPR8(v) of the Apartment Guidelines, 2020 states that: *‘The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations’*

SPPR8(v) sets out that the requirement for the maximum of 12 No. units per core does not apply to Build-to-Rent. We note that the scheme does not exceed 12 No. units per core.

Therefore, it is submitted that although the proposed development could be considered to materially contravene the specific policy of the Development Plan in relation to the units per core, the Development Plan should be read in conjunction with SPPR6 and SPPR8(v) of the Apartment Guidelines, 2020 and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

Daylight/sunlight

Potential Material Contravention in Relation to Daylight/Sunlight Facilitated Through the Section 28 Guidelines (Section 37 (2)(b)(iii) of the Act)

Section 16.10.1 of the Development Plan sets out the following: *‘Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)’*.

The Apartment Guidelines, 2020 state *‘Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide ‘Site Layout Planning for Daylight and Sunlight’ (2nd edition) or BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’ when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision’.*

Therefore, the Apartment Guidelines, 2020 notes that any shortfalls in daylight provisions must be identified. The daylight/sunlight report demonstrates a very small number of units that do not fully meet the daylight targets. As part of a compensatory design solution for the rooms that do not meet the recommended minimum average daylight factor, the proposed development includes communal amenity areas, all of which have been assessed and will have adequate levels of daylight. Some 1 No. meeting room will not meet the ADF but this is provided in addition to the co-working space which is well-lit. The meeting room has no external window but will only be used occasionally on for short periods of time. Furthermore, the scheme has incorporated a number of localised compensatory design measures. The majority of the rooms that do not meet the ADF target have been provided with either some or all of the following compensatory measures:

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

the Apartment Guidelines, 2020 allow alternative, compensatory design solutions to be provided where some units do not fully meet the ADF requirements. In this instance the scheme will achieve wider planning objectives such as sustainably densifying lands in an intermediate urban location and the development will secure comprehensive urban regeneration and will provide an effective urban design and streetscape solution at the site, by providing a large quantum of public and communal open space and internal communal amenity space and a permeable link through the site, which will benefit both the future residents and the community.

Apartment room sizes

Section 16.10 of the Development Plan sets out the floor areas for apartments, for living/kitchen/dining rooms and for bedrooms.

The Apartment Guidelines, 2020 allows a variation of up to 5% to be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas. This 5% variation in aggregate floor space and/or room widths has been applied to the following units only, which all meet the overall minimum floor area requirements of the Apartment Guidelines, 2020, as per the Housing Quality Assessment submitted with the application. For these 8 No units, the area required under the Development Plan and Apartment Guidelines, 2020 for living/kitchen/dining rooms is 30 sq m. Therefore, a 5% variation would require a floor area of 28.5 sq m. The area provided for these 8 No. living/kitchen/dining rooms is 29.2 sq m and thus is well above the minimum required under the 5% variation. Therefore, as a result, these units within the scheme will not meet the Development Plan standards in relation to living/kitchen/dining rooms areas in some cases, however this flexibility is allowed under the Apartment Guidelines, 2020.

It is considered that the proposed aggregate areas are accordance with the Apartment Guidelines, 2020 and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

Ratio of glazing

Section 16.10.1 of the Development Plan sets out that: *‘Glazing to all habitable rooms should not be less than 20% of the floor area of the room.’*

In relation to the proposed development, c.70% (128 No.) of the units are provided with 20% (or more) glazing, therefore 30% (55 No.) of the units are below the 20% target. It is submitted that the level of non-compliance should not be considered a material contravention and it is clear that the vast majority of the proposed units have met the target of 20% glazing.

All rooms that do not meet the 20% glazing target relate to bedrooms and therefore all living/kitchen/dining rooms are provided with glazing of 20%+ of the floor area of the room. The majority of the rooms that don't meet the 20% glazing ratio have been provided with pop out windows with views towards the River Tolka (38 No.), which will ensure a high quality outlook is provided from these bedrooms.

The small number of units that don't meet the 20% glazing ratio have been predominately provided with 13.2%-17.5% glazing with a small number of units provided with 11.7% glazing (these have angled box windows facing the river). These units represent a small portion of the units in the scheme, however we have included detail on the remaining units that do not meet the 20% target here on a precautionary basis.

It is submitted that this slight deviation from the 20% glazing target is a minor deviation in nature and it is submitted that it should not be considered a material contravention of the Development Plan. The development is in accordance with the wider planning objectives of the Apartment Guidelines, 2020 the Building Height Guidelines and the National Planning Framework, and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

Children's Play Space.

Section 16.10.1 of the Development Plan requires the following: 'In schemes of 25 or more units small play spaces of 85-100 sq m are considered suitable for toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. For larger schemes of 100 or more apartments, play areas of 200-400 sq. m for older children and young teenagers should be provided.'

The Apartment Guidelines, 2020 provide slight variation of this policy as follows:

'The recreational needs of children must be considered as part of communal amenity space within apartment schemes. Experience in Ireland and elsewhere has shown that children will play everywhere. Therefore, as far as possible, their safety needs to be taken into consideration and protected throughout the entire site, particularly in terms of safe access to larger communal play spaces. Children's play needs around the apartment building should be catered for:

- within the private open space associated with individual apartments (see chapter 3)
- within small play spaces (about 85 – 100 sq. metres) for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building, in a scheme that includes 25 or more units with two or more bedrooms; and
- within play areas (200–400 sq. metres) for older children and young teenagers, in a scheme that includes 100 or more apartments with two or more bedrooms.

The subject scheme comprises 183 No. Build-to-Rent Units (104 No. 1 bedroom units and 79 No. 2 bedrooms units). The scheme does not provide more than 100 No. units with two or more bedrooms and thus in accordance with the Apartment Guidelines, 2020, a larger 200- 400 sq m play space is not required. The proposed development comprises a children's play space of 89 sq m which meets the requirements of the Apartment Guidelines, 2020.

It is considered that the proposed children's play space is in accordance with the Apartment Guidelines, 2020 and is therefore acceptable in line with Section 37 (2)(b)(iii) of the Act of 2000 as National Policy has progressed (guidelines under Section 28) since the adoption of the Development Plan.

Material Contravention Statement Conclusion:

According to Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, An Bord Pleanála may grant permission for a development, which materially contravenes the policies and objectives of a Development Plan, having regard to the adoption of Section 28 Guidelines or where the pattern of development or permissions granted in the area since the making of the development plan are considered, as prescribed in Section 37 (2)(b) of the Planning and Development Act (as amended).

The Statement relates to:

- Building Height with reference to Chapter 16 of the Development Plan;
- Dwelling Mix, Requirement of Units to Exceed Floor Area by 10%, Location of the Proposed Build-to-Rent Units and Build-to-Rent Legal Covenant Dwelling Mix with reference to Section 16.10.1 of the Development Plan;
- Number of units provided per core with reference to Section 16.10 of the Development Plan;
- Daylight/Sunlight with reference to Section 16.10.1 of the Development Plan;
- Apartment Room Sizes with reference to Section 16.10 of the Development Plan;
- Ratio of Glazing with reference to Section 16.10.1 of the Development Plan; and
- Children's Play Space with reference to Section 16.10.1 of the Development Plan.

As set out in Section 37(2)(b) and Section 28(1)(c) of the Planning and Development Act 2018 (as amended), An Bord Pleanála may materially contravene a development plan where national planning policy objectives take precedence. In particular, Section 9(3)(b) of the 2016 Act, as amended, provides that to the extent that they differ from the provisions of the Development Plan, the provisions of SPPRs must be applied instead.

The applicant is of the view that there is sufficient justification for An Bord Pleanála to grant permission for the proposed development, notwithstanding any material contravention of the Dublin City Development Plan 2016-2022, by reference to subparagraphs (iii) and (iv) of Section 37(2)(b) of the 2000 Act, as amended, for the reasons set out above.

Having regard to the justification set out within the submitted Material Contravention statement, it is respectfully submitted that this is an appropriate case for the Board to grant permission for the proposed development in accordance with national planning policy and statutory guidelines.

6.6 Designated Sites

The proposed development is not in or adjacent to any Natura 2000 site. Refer to section 12 of this report where I have identified designated site relevant for the purposes of appropriate assessment.

7.0 Observer Submissions

The Board received 8 valid submissions, these included 3 from Prescribed Bodies (refer to section 9 of this report) and 5 observer submissions which I propose to summarise in this section.

- 3 submissions are from local residents of 2 from Richmond Road and 1 from Fairview Upper.
- 1 submission is from an Elected Representative, Cllr Donna Cooney.
- 1 submission is from a firm of solicitors representing Mr Donal Carroll who has submitted his lands are included within the application boundaries without his consent.

There is a degree of overlap in the issues raised which I propose to summarise by topic. With the exception of the submission pertaining to landownership. I set out a summary of the main point below which I address later in my assessment.

Material Contravention of the Dublin City Development Plan 2016-2022:

- Materially contravenes the development relating to height, scale and density.
- Lack of childcare is not in compliance with the Development Plan. This is not address in the Material Contravention Statement

Height & Design:

- Welcome many aspects pf the proposed development with the exception of the height, this should be reduced to 6-8 storeys.
- Oppose the excessive height proposed.
- Height is out of character.
- Negative impact on visual amenities and skyline.

- Proposed development should match the height of Deakin Court (4 storeys).
- The development is unsuitable for the site and will ruin the character of Richmond Road as it is excessive in scale and BTR which contributes little to the local community.
- Generally welcomed and the opening up of a recreational space to the general public is welcomed.
- Accommodation is small and poorly designed.
- Open spaces are small for the expected residential population.

Density:

- Proposed density is excessive for the area.

Tenure:

- Opposed to the Build to Rent model.
- Over proliferation of BTR in the area.
- BTR does not cater for families (no 3 bed units).
- Reference to the Dublin City Draft Development Plan and requirement for at least 40% build to sell units in any development over 100 units.
- BTR units will not solve the housing crisis.

Unit Mix:

- Development is comprised only of 1 and 2 bed units. 3 bed units are required to cater for families.
- Excessive amount of BTR developments in the area. The area is becoming saturated with this type of development.
- Transient population who contribute little to the local community.

- 1 bed apartments are not sustainable, the pandemic showed that they are not suitable for occupants who work from home.

Residential Amenities:

- Overlooking of Deakin Court
- Overshadowing of Deakin Court and properties along Richmond Road..
- Lack of accessible access points to the adjoining Deakin Court, none provided as part of the current proposal.
- Noise pollution
- Light pollution from cranes at night time.
- Overbearing impact on 22 Fairview Avenue Upper.
- Devaluation of property.

Transportation:

- Richmond Road is too narrow to cater for additional traffic associated with the proposed development.
- Traffic survey need to be undertaken on Richmond Road.
- Concern only 8 EV parking and 1 car share are provided.
- Reduced number of car parking spaces is welcomed given its location close to city centre and public transport.
- The new proposed cycleway in the Greater Dublin Transportation Plan needs to be considered and that this development does not adversely impact these plans.
- Entrance proposed along a dangerous section of Richmond Road due to inadequate sightlines.
- Richmond Road is an emergency service route, additional traffic from the development would impact this.

- Lack of appropriate footpaths along Richmond Road.
- No traffic lights at Grace Park Road.
- Richmond Road is a state is disrepair.

Construction Traffic Management Plan and Local Community:

- Very concerned regarding the management of construction traffic.
- A condition should be attached that no construction traffic should come from the Drumcondra end of Richmond Road.
- Concerns that any potential one way system would necessitate trucks turning left towards Drumcondra and potentially up Gracepark Road.
- Overflow parking during construction phase.
- Dust, noise, air quality.

Tolka Greenway

- Proposal for a public walkway/cycle way along the Tolka River is welcomed.
- Concerns raised regarding the proposal for a very high flood defence wall (2m in height) along the Tolka Greenway by the bank of the river which would negatively impact on the amenity and enjoyment of same.

Tolka River and Flood Risk Assessment

- Concerns regarding the hard engineering option proposed in relation to flood defence on the Tolka River compared to using an alternative green infrastructure solution (reference to the Santry River and Greenway Plan) which are becoming the preferred option and also have a lesser impact on biodiversity.
- Flood defences at this location should consider the impact of flooding on other locations along the Tolka river as it displaces food waters.

Natura Impact Statement (NIS)

- The NIS is an inadequate assessment of the flora and fauna of the Tolka River by the development and particularly the flood defences on the river bank and the height of the 10 storey on the possible flight path of migratory Brent Geese that graze on the banks of the Tolka River.

Land Ownership

- Inclusion of third party lands in the application site boundaries without the consent of the landowner.
- Consent submitted from DCC for the inclusion of part of the roadway within the application site boundaries is inaccurate as DCC do not own the road.
- Reference to Item a) included in the Opinion issued under ABP 310653-21 referring to clarification with regard ownership if the site and requirement for written consents if not the legal owner of the land concerned.

Other:

- A number of factual and error in the Childcare Demand Assessment submitted.

8.0 Planning Authority Submission

In compliance with section 8(5)(a) of the 2016 Act the planning authority for the area in which the proposed development is located, Dublin City Council, submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 25th February 2022. The report may be summarised as follows:

8.1 Information Submitted by the Planning Authority

The submission from the Chief Executive includes details in relation site location and description of proposal, zoning, planning history, interdepartmental reports, summary of submissions/observations, summary of views of elected members, policy context and assessment.

8.2 Summary of views of Elected Representatives - Meeting of the North Central Area Committee (31st January 2022). (8 no. Cllr recorded in attendance).

Members broadly welcomed the development of the site but expressed their opposition to the excessive height proposed and stated that 6 to 8 storeys would be more acceptable. They were also opposed to having an entirely build-to-rent scheme and were also concerned that there were no three bed units for larger families. There were many concerns expressed about the negative impact on traffic and parking in the area both during and following construction and in consideration of further proposed development along Richmond Road which is quite narrow. Members welcomed the opening up of a new recreational access route along the Tolka River but some members were critical of high flood defence wall proposed along Tolka River which they stated would negatively impact the amenity and enjoyment of same. Concern was expressed that there are only 8 EV parking spaces and 1 car share space being provided. There were also concerns about the risk of flooding along Tolka River.

A summary of the comments/questions/concerns which were raised by members is set out in detail in Appendix B of the CE Report and relate to:

- Height and Density and Development Plan
- Design and Layout
- Mix of Unit Sizes
- Build-to-Rent model.
- Transportation Planning
- Construction Traffic Management Plan and Local Community
- Tolka Greenway

8.3 Planning Assessment

Principle of Development

Residential is a permissible use and café/restaurant is open for consideration in areas zoned 'Z10'. On the basis of the zoning objective and the nature of the proposed development it is considered that the development complies with the zoning objective and is acceptable in principle.

Material Contravention

The planning authority considers the applicant makes a reasonable argument for contravening each of the identified policies in the Material Contravention Statement with regard to national policy which supersedes the Development Plan.

Schedule of Accommodation

- 50% of units are dual aspect.
- There are no single aspect north facing units while the remaining 50% of units have aspects to west/northwest, south and northeast.
- The unit mix and aspect ratio are both in accordance with national guidelines including 'Sustainable Urban Housing: Design Standards for New Apartments, 2020'.
- While single aspect units are facing northwest and northeast no unit is within 45 degrees of north and the angle of the facades of the block and its relationship to the site boundaries is such that while the face of the windows is to northwest or northeast they would receive unrestricted light on an angle from the west and east.

Height, Scale and Design

- The development proposed would be 34.6m in height at its parapet, 34.8m at the top of lift overrun while the telecom antenna would top out at 37.5m and the development would therefore materially contravene the height policy of the current Development Plan.
- The site is located immediately adjacent to the Tolka River and presently has a low rise commercial character.
- The Material Contravention Statement and Statement of Consistency both make a reasoned case for permitting extra height at this location on the basis of national and regional guidance and where the Development Plan allows leeway.
- The planning authority considers the subject site to have potential to accommodate a building of a height greater than that provided for in the Development Plan subject to other considerations such as protecting the residential amenities of existing and future residents, visual amenities and urban placemaking.

- The site location with frontage onto the visual and recreational amenity of the Tolka River, the relative proximity to the village centres of both Drumcondra and Fairview and the availability of high capacity public transport at those centres and access to employment centres is such that a building taller than its immediate context is not just appropriate but strongly encouraged in national policy.
- The subject site is relatively modest in area, flanked by residential buildings at much lower height, largely set back from the street and is not a landmark location.
- The City Conservation Architect (CCA) noted that the block should be reduced in height to be no taller than the Distillery building, a protected structure, adjacent. The Distillery is 6/7 storeys in height. Reducing the height is also seen as important for setting a datum for further development along the river. Following the opinion of the CCA and reducing the block to seven storeys would reduce the number of apartments from 183 to 130 units with a density of 214uph.
- Given that the density is particularly high and that the site is not considered to be able to set its own scale and height, in addition to concerns over the scale relative to adjacent properties, in particular Deakin Court, it is considered that a more graduated scale and height is more appropriate on this site. While the opinion of the City Conservation Officer is noted it is considered that reducing the scheme to a uniform seven storeys would form a block with excessive bulk and somewhat monotonous uniformity, lack of differentiation in scale and would result in a building with significantly lower density.
- Apart from the form of the building the Planning Authority is satisfied with the overall quality of materials including brick, metal balconies and metal cladding and the street frontage would have a presence of high quality in design and finishes.

- The planning authority consider that within sub block A1 the ten storey portion of the block north of the eight storey section should be dropped to six storeys to match the street frontage element facing Richmond Road. This would then reduce the overbearing impact of the block on Deakin Court. The eight storey portion would remain as such before stepping up to ten storeys at the southern element. Finally the angled end portion of sub block A2 at its southern end would drop back down to eight storeys. It is considered that this graduated increase in height, moving away from the street, would reduce the bulk and massing of the block and would position the block as an integrated element on the streetscape coupled with the use of varying brick colours, textures and patterns.
- The above amendment would involve the omission of 31 units (– 22 no. one bed and 9 no. two bed units.) The total number of units would then be 152 providing for a revised density of 250 units per hectare. As discussed in the section below, the quoted density of 301uph is considered excessive in this instance and so reducing the height brings that density down to a more appropriate level for a small site not directly adjacent to high capacity public transport.

Site Development Standards – Density, Site Coverage and Plot Ratio

- The plot ratio for the proposed development is within the indicative plot ratio for such development while the site coverage as stated by the applicant falls comfortably within the range set out in the current Development Plan standards.
- The site coverage and plot ratio would be reasonable. The density would be very high and comparable to inner city sites within walking distance of amenities, employment opportunities and high capacity public transport and close to the city centre.
- The planning authority considers that the site is served by high capacity public transport as required by the Guidelines while not being immediately proximate. With regard to services the site is located in reasonable distance of the villages of Drumcondra and Fairview with a range of retail and recreational activities.

- At a density of 301uph and a height of up to ten storeys the proposed development is substantial. In height terms the scheme is comparable to the approved scheme at the Holy Cross College lands to the south and southwest as detailed by the applicant. The difference in this instance is that the subject site is considerably smaller than those lands south of the river, with relatively narrow street frontage, a somewhat backland character and at a further remove from public transport and amenities while being closer to existing properties.
- Given the plot ratio and site coverage are appropriate for its location the density is a reflection of the height of the block. As the density is considered excessive this indicates the height is therefore excessive.
- For this location the planning authority consider a density of 250 uph appropriate.

Justification for Build to Rent

- While the planning authority would consider the site to not be contiguous to public transport this is within an achievable walking distance and a dogmatic approach to Build-To-Rent of recommending only locations close to employment risks discouraging any form of residential development outside these zones. It is also noted that the Holy Cross College lands are outside the same 500m zone but were approved by An Bord Pleanála.

Residential Amenity and Residential quality Standards

- The Housing Quality Assessment submitted indicates that all units would exceed minimum requirements. In some instances by a significant margin while others by more modest amounts. The planning authority is generally satisfied with the layout and dimensions of the majority of the apartments, there is a satisfactory quantum of dual aspect units while all of the single aspect units would have favourable aspects to west, south and east with no single aspect unit being within 45 degrees of north.
- With regard to aspect the Planning Authority is satisfied with having 50% of units being dual aspect and this figure appears to identify true dual aspect with no pop-out or angled windows..
- Overall the layout and floor areas of the majority of units is satisfactory and residential amenity related to accommodation would be acceptable

Residential Facilities

- The Planning Authority requests that a condition is attached to any grant which requires that these resident facilities shall be occupied as part of the development and shall not be occupied as separate, commercial facilities. A further condition should govern the management and accessibility of these facilities for residents.
- The proposed café would be located at the front of the site addressing Richmond Road. It would also benefit from the public plaza to front. Retail/commercial uses have struggled on Richmond Road as a result of the lack of scale with regard to residential development which would support active uses. It is considered that the proposed development is at a scale of residential accommodation as to make a small café viable, particularly with the presence of the co-working hub, in addition to the fact that there is to be public access to the riverside which may draw locals to the site.

Open Space

Private Open Space

It is proposed to provide private open space by way of terraces / balconies at or above minimum standards. At first floor it is proposed to provide larger terraces to units facing west toward Deakin Court. The other units at first floor would have balconies facing northeast, south and southwest. At second floor the west facing units would have typical balconies, however they would be screened to a height of 1.8m by perforated privacy screens which would be repeated at 3rd, 4th, 5th and 6th floors. These screens are to reduce direct overlooking of the communal open space to Deakin Court. Balconies to other units would follow the same layout as first floor for the height of the block.

Communal Open Space

- The overall layout of the communal space is reasonable with adequate planting and proportions to the spaces. The two spaces are overlooked adequately by the proposed block. The bicycle parking would be required to be well lit and a public lighting plan has been submitted. The children's play space should not impact on the amenities of Distillery Lofts as the grounds of that scheme abutting the shared boundary is to the internal roadway.

- The one area which requires particular attention is the interface between the site and the Leydens site. The applicant has indicated that this site is now in their possession and will be the subject of a later Large scale Residential Development (LRD). It is crucial that should a scheme progress on that site that there is not a common boundary between the two sites with the communal open space on the east linking to any similar space on the Leydens site to form a single communal “street”. Should a grant of permission be considered then a condition would be required that any boundary enclosure between the site and the Leydens site as-is is temporary and shall be removed when a scheme is completed at Leydens with a unified landscaping plan provided for this shared space.

Public Open Space

- The public open space for the scheme would comprise the public plaza at Richmond Road, which would be mainly used by customers of the café and would be of visual benefit to road users and local residents as a formally laid out ‘pause’ space on what is an intensely used and chaotic streetscape with narrow pavements. In addition to the plaza the principal public open space is the pedestrian walking route along the north west boundary leading to the riverside where a formal pedestrian and cycle path would be laid out running the length of the site parallel to the river with planting between the path and the river edge and further planting between the path and the communal open space.
- While the provision of the public route is welcome it would be in isolation until such time as Deakin Court and Distillery Lofts can be linked. There is a degree of concern with regard to the public access being along the side of the site running adjacent to the ramp to the basement with this space not actively overlooked. The area of the riverside path would have good levels of surveillance from the communal internal facilities, particularly the gym, while the first floor and over units would also overlook this area. In the case of the side passage there may be some passive surveillance from the first floor terraces facing northwest, however, these terraces have 1.8m high screens. There may also be a need to provide gates to secure this area outside daylight hours. The public pedestrian route is therefore less than satisfactory.
- Reference to comments from the Parks, Biodiversity and Landscape Services Section who object to this application due to the unacceptable level of adverse impact to the River Tolka conservation area’s character together with the significant proposed loss of riverside habitat and trees and resulting impact on biodiversity, which is contrary to Development Plan policies on protecting watercourses.

- While Parks, Biodiversity & Landscape Services Division objects to the landscaping layout it does also provide a set of recommended conditions should a grant of permission be considered. The central issue for Parks with regard to the proposed building is the western most portion of the west-east section of the block as well as the most southerly portion of the north-south section which angles to the southwest and closer to the river. Parks also state that they will not be taking either the public access or the riverside walk in change and requires the applicant to maintain and manage this space.
- It is considered, on the content of the Parks report and the suggested conditions that the planning authority would have a substantial degree of control over the landscaping of the site and the interface with the river through the use of the suggested conditions and so the layout is not considered unacceptable.
- With regard to the proposed new 126m long riverside retaining wall, the planning authority note that it is not intruding on the riverside walkway and there would not be any impact on views of the river from this walkway.

Visual Impact

- The existing structures on site have a poor visual appearance being utilitarian and finished in industrial materials. The site is reflective of the former predominant visual and spatial character of this section of Richmond Road where light industrial/warehousing and storage yards was the dominant land use. The proposed scheme is consistent with the evolving pattern of development in the area where generally low level poor quality buildings are replaced by taller residential apartment blocks.
- An assessment of the CGI Views indicates that the height is not particularly an issue in terms of visual impact at medium and long distance views and it is more the bulk and massing which makes the block prominent. The lack of modulation of the roof form and block heights creates a monolithic tendency and given the block is over 45m in length when viewed from the west and over 80m in length when viewed from north and south this is a substantial block. With regard to height and density there are solutions to this issue through providing a more graduated height and form.

- The planning authority considers, notwithstanding the fact the development contravenes the City Development Plan in terms of height, that the site is robust enough, with a post-industrial context of poor quality buildings, to accommodate the building at a scale considerably taller than its context. Regard is paid, however, to the potential precedent set if the majority of the block is ten storeys and how this would cumulatively impact on the skyline were there to be further, later blocks of similar height and bulk along the street.

Operational Management and Long Term Maintenance

- The planning authority notes that a Building Lifecycle Report and a Property Management Strategy Report have been submitted.
- The planning authority requests that a condition is attached to any grant of permission which requires that an Operation Management Plan should be submitted prior to occupation of the development and following appointment of a management services provider.

Part V

- The Housing and Community Services section of Dublin City Council has stated that the applicant has not contacted that section with regard to obligations under Part V. It is recommended that a condition be attached to any grant that requires the applicant to agree Part V compliance prior to occupation of the development.
- The applicant has indicated units for use under Part V on the floor plans. The planning authority points out that location and type of unit is not agreed until a permission has been granted.

Overshadowing, Daylight and Sunlight

Impact on proposed units:

- The planning authority is of the opinion that 2% ADF should be used in most cases.
- It is considered that overall the apartment units would score well on ADF with some units failing but in the overall this is limited.

- In addition the ground floor communal resident facilities would all - bar a Co-working space - have good levels of ADF. L0.47 is an internalised meeting room off the main co-working hub and has no external window. This is not considered an issue given the nature of the use (non-residential)
- Overall the level of daylight access for residents is acceptable.
- In terms of sunlight the assessment indicates the open spaces to the west and east of the block would receive good levels of sunlight of at least two hours at the equinox.

Impact on neighbouring dwellings:

- The assessment of VSC indicates that no dwelling would experience impacts beyond what has been established as reasonable levels of reduction as set out in the BRE Guidelines.
- The study finds that no windows would experience a reduction in APSH beyond imperceptible as set out in the BRE Guidelines.
- The study shows there is imperceptible reductions in the lighting of existing gardens.
- Considering the impact of the scheme on daylight and sunlight to existing properties it can be seen that there would be an imperceptible reduction in daylight and sunlight, being marginal and the impact on residential amenity would not be significant or unacceptable. It is considered that the proposed development will not result in appreciable loss of daylight or sunlight for neighbouring properties.
- A Shadow Study has also been provided examining shadowing on March 21st, Jun June 21st and December 21st. This assesses the existing and proposed conditions as well as with a hypothetical development on the Leydens site. The assessment of the proposed scheme and overshadowing indicates the block would overshadow the communal open space to the rear of Deakin Court in March and June in the early to mid-morning before this space is then out of shadow through afternoon and early evening before it then casts its own shadow over its outdoor space.

- In terms of the block impact on Leydens to the east the block would cause overshadowing from early to mid-afternoon but no shadows in the morning. The overshadowing would be mainly over the existing yard of the site rather than the warehouse. A hypothetical scheme has been laid out on the Leydens site, no details on height, but it would appear that such a scheme would experience considerable overshadowing but this would be for the design team of that site to address. The applicant has indicated they have ownership over that site as confirmed by the submitted Urban Site Location Map.
- While the new build is shown as having an overshadowing impact on existing properties this is not so sustained through the year and day as to be unacceptable. It is also acknowledged that the existing site context is one of low lying buildings with modest footprints. Erecting any form of building of substantial footprint and height would produce an overshadowing impact. The location of the site in an inner suburban context adjacent to a river amenity and with established residential apartment blocks in the vicinity is such that a building of relative height is appropriate and therefore some impact must be expected given the developing urban character of Richmond Road.

Overlooking and Separation Distances to Neighbouring Properties

- With the block being largely set in from Richmond Road the main area where overlooking may occur at relatively close proximity is in the six storey block east elevation which is a stated 20.4m distance from the dwellings immediately opposite. In the context of an urban road and considering the height of six storeys is not unreasonable it is considered that while the houses opposite on Richmond Road would experience a significant change in their outlook there would not be an unacceptable impact in terms of overlooking. In terms of the main west-east axis of the block this would be some 71m from the elevations of buildings on the opposite side of Richmond Road. This distance is accounted for by the presence of the Leydens site in between. The block would not be considered to have any undue overlooking impact on these houses as a result.
- The north elevation of the block is c. 12m at its closest and c.16m at its furthest from the northern boundary with Leydens. Any redevelopment of that site would be likely to require a similar setback to protect the future amenities of residents of both schemes and 24m total is a satisfactory separation distance to prevent undue overlooking.

- To the south the block would be c.30m at its closest point from the Distillery Lofts building and this is considered adequate to prevent undue overlooking. Further the space to the north of the Distillery is an internal road and so the block would not overlook communal open space.
- The planning authority's main area of concern is the relationship between the block and Deakin Court. Where the block is arranged along the northern boundary it presents a ten storey bulk at 11.6m from the boundary. While the block does not directly overlook the windows of the units in Deakin Court and makes every attempt to avoid doing so by the angling of bedroom windows toward the river it is the case that the block would significantly overlook the communal open space of Deakin Court. To overcome issues of overlooking it is proposed to erect 1.8m high screens to the front edge of each balcony up to sixth floor with the balconies being. Above sixth floor the balconies would have standard height balustrades as they would be well above the height of Deakin Court and looking downward rather than across. Regardless of the use of the screens the combined overlooking of the semi-private communal space by ten floors of apartments would create a significant perceived overlooking impact. This would also have an overbearing effect as the block would loom over the far smaller four storey block. It is considered that the amenities of Deakin Court would be adversely impacted by the scale of the block adjacent.
- The northern portion of the block should be reduced in height to six storeys. This would also reduce the scale impact on Deakin Court with the new block being only two storeys taller. The theory of use of perforated metal screens is acceptable but this would require a significant level of detail by way of condition with a strong emphasis on use of a finer mesh and some means to prevent downward views so that the occupants gaze is directed outward not towards ground level. There would also need to be evidence that the mesh screens do not impact on daylight levels

Heritage, Environmental and Habitat Impacts

- Parks, Biodiversity and Landscape Services Division of Dublin City Council also objects to this application due to the unacceptable level of adverse impact to the River Tolka conservation area's character together with the significant proposed loss of riverside habitat and trees and resulting impact on biodiversity, which is contrary to Development Plan policies on protecting watercourses. However, a set of conditions are provided which seek to mitigate any impact from the development on the river and its bank.

Childcare Facilities

- It is considered, given the site location and the expected low number of children that might be resident, the non-provision of a childcare facility on site is reasonable.

Social Audit

- The planning authority noted that the submitted Social Infrastructure Audit indicates the location is well served by health services and facilities, education facilities, community services and facilities and sports and recreational facilities.

Waste Management

- A Construction, Demolition and Environmental Waste Management Plan has been provided which has a construction methodology to obviate potential impacts on the integrity of the Tolka in addition to general site controls including appointment of a Construction Waste Manager. The planning authority considers this report to be satisfactory subject to appropriate conditions to ensure compliance.
- An Operational Waste Management Plan has been provided which covers separation, storage and collection from the apartments and café proposed. The planning authority considers this report to be satisfactory subject to appropriate conditions to ensure compliance.

Transportation

Refer to the Transportation Planning Division report. Noted no objection raised subject to conditions.

Appropriate Assessment

- The planning authority notes that an Appropriate Assessment Screening Report has been submitted as part of the application. This is a matter for An Bord Pleanála to consider, as the competent authority for this application.

Environmental Impact Assessment

- The planning authority notes that an Environmental Impact Assessment Screening Report has been submitted as part of the application. This is a matter for An Bord Pleanála to consider, as the competent authority for this application.

Mobile Telecommunication Infrastructure

- The rationale for removing the existing mast and replacing it with new equipment is accepted as is the reason for not collocating with existing masts in the vicinity.
- The level of detail with regard to the appearance, colour and texture of the shrouds is 33 lacking. Depending on materials the shrouds could be interpreted as chimney-like features on the roofscape if they are fitted at regular positions and it is considered that the new telecom infrastructure is acceptable subject to further detail by way of a compliance condition and with the requirement that any such shroud material is of the highest quality.

Appendix C: Letter to An Bord Pleanála regarding Development Contributions and Bond Contributions set out that the Planning Department would request that if permission is granted that the following conditions be applied

- A bond condition in respect of a development for two units or more.
- A Section 48 development contribution

8.4 Inter-departmental Reports

Transportation Planning Section. No objection subject to conditions relating to: a) final detailed design of the works to the public roads including the installation of a signalised pedestrian crossing and interface between the site entrances and plaza area, including physical boundary materials, b) Implementation of Mobility Management Framework/Plan, c) Carparking Management Strategy, d) Servicing Management Plan, e) Construction Management Plan, f) materials for public areas, g) costs regarding repairs to public road and services, h) Code of Practice.

Housing. No record of a Part V Validation letter being issued to the applicant. They need to make contact for a Part V file to be set up.

Parks, Biodiversity & Landscape Services

Points of note include:

- The tree population is generally in fair condition and generally of sycamore and Monterey cypress. The majority are located along the river corridor boundary. The proposals are to remove all (purple) site trees as indicated on the tree impact plan below and the riverside vegetation. This is regarded as an unacceptable approach to development on this site and ignores the conservation designation.
- The development building's layout approach is not satisfactory and effectively pushes development towards the river corridor and results in the impact along the river edge. The Deacon Court development adjacent to the site sets a precedent in appropriate development layout, which also achieves flood protection and conserves the vegetated bank of the Tolka River.
- The River Tolka is an important habitat for protected species within Dublin. The ecological impact assessment indicates otter activity along the river corridor as well as considerable activity by bats. The proposed removal of existing vegetation along the river as well as the introduction of public access will negatively impact on fauna habitat and is not considered acceptable.

Parks, Biodiversity and Landscape Services object to this application due to the unacceptable level of adverse impact to the River Tolka conservation area's character together with the significant proposed loss of riverside habitat and trees and resulting impact on biodiversity, which is contrary to Development Plan policies on protecting watercourses.

A list of 7 conditions are included subject to a grant of permission and relate to a) open space management, b) implementation of landscape scheme, c) invasive species, d) protection of river corridor, e) tree protection and f) tree bond.

Archaeology Section.

The site is located adjacent to, but not within, the zone of archaeological potential for Recorded Monument and Place (RMP) DU018-030 (water mill-unclassified), which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994.

The submitted documentation was reviewed by Dublin City Council Archaeology Section. This included an archaeological desktop report. This report states that subsurface archaeological remains associated with a 19th-century millrace and weir, as depicted on historical cartographic sources, may be impacted upon by the proposed groundworks and basement construction associated with proposed development. Earlier phases of mill fabric may also survive within the subject site. This report concludes the site is an area of high archaeological potential and recommends it be archaeologically tested prior to development.

The section concurs with the mitigation recommended in the submitted report, i.e. archaeological test excavation. This process will ascertain the nature and extent of any archaeological deposits within the site boundary and determine a strategy for its protection or mitigation. In the event of a Grant of Permission, it is the recommendation of Dublin City Council Archaeology Section that the following conditions are applied:

Conservation Officer.

The CO has highlighted a number of concerns and has set out a number of recommendations in their report

- The proposal is reduced significantly in height so as to fit more appropriately with its surrounding context. The CO recommends that the proposal is reduced in height such that its highest storey is the same height as the Distillery Lofts Building – a Protected Structure - in order to fit more comfortably in the extant historic context and to set a more appropriate datum for future development along the Tolka Valley river corridor – a designated Conservation Area in the Dublin City Council Development Plan 2016-2022.
- In order to ensure that the materials, coursing, joint details and method of repair will be sympathetic to the character and respect the curtilage of the Protected Structure, a full drawing survey including photographic record of existing boundary walls and quay walls and detailed schedules of any repair and reinstatement works to the original walls should be fully detailed and submitted for review by the CO. A method statement for the raking out and re-pointing of all stonework and associated repair details are shall be provided. Details of the historic stone coursing, sizes of stone as well as mortar composition and colour shall be provided. Full details of any proposed new element, such as toothing-in and repair work that shall be required shall be submitted. All new elements will match the historic walls. The CO recommends that samples of all new proposed repair work to the historic walls and features are agreed in writing with the CO in advance of any construction work commencing on site.

- The CO recommends that the design of the new walls be revised such that the stone quay walls are extended vertically upwards and form part of one holistic stone wall in lieu of the construction of a new concrete wall above. The coursing, materials, size and mortar joint of the extension shall match the historic wall to protect their special architectural character. Should railings be required, the design of all new elements in close proximity to the historic quay walls shall be agreed in writing with the Conservation Officer in advance of any construction work commencing on site. The CO recommends that samples of all new proposed elements and features are agreed in writing with the CO in advance of any construction work commencing on site.
- In accordance with the Dublin City Council Development Plan 2016-2022, the historic paving / granite kerbs and antique cobbled setts along Richmond Road are “to be protected and conserved” in the course of construction. The loss of any cobbled setts that line Richmond Road, granite kerbing or historic paving is not supported by the Conservation Section. A methodology for the careful protection of all historic surfaces in the public realm in the course of construction work shall be agreed with the CO in writing in advance of work commencing on site. Any damage to historic paving shall be repaired in accordance with best conservation practice and the Guidelines on the Conservation of Historic Ground Surfaces by the Department of Heritage. Any loss of historic cobbled setts, granite kerbs or historic paving shall be replaced on a like for like basis and in line with best conservation practice.

Drainage. No objection subject to conditions relating to a) compliance with GDA Code of Practice for Drainage Works, b) submission of a surface water management plan, c) separate foul and surface water systems, d) compliance with Building Regulations (private drainage system), e) internal basement drainage, f) attenuation, g) surface water management strategy, h) upgrade of footpaths/carriageways/gullies for drainage works, i) flood mitigation measures contained in the SSFRA.

Environmental Health Officer. Requirement for a CMP.

Waste Regulation & Enforcement Unit (Environment & Transportation Department). Sets out waste regulation requirements.

8.5 Chief Executive Report Conclusion

- The proposed development contravenes the height policy of the current Dublin City Development Plan 2016-2022 but is broadly consistent with national guidance set out in the National Planning Framework, Urban Development and Building Heights 2018 and Sustainable Urban Housing: Design Standards for New Apartments 2018 with regard to increasing density in urban areas.
- The residential amenity quality of the majority of apartments is good. The scheme is considered to take all reasonable efforts to reduce undue overlooking, however, it is considered that amendments are required concerning height while the scheme is shown to have no or modest impacts on existing access to daylight and sunlight.
- Should An Bord Pleanála be minded to grant permission for the development the Planning Authority has attached a set of recommended conditions.

The recommended conditions are broadly standard in nature. Conditions of note include:

4. *Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by, the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings:*

a) The height of the block shall be modified as follows:

i. The 10-storey element within sub Block A1 (to the rear of the 6-storey Richmond Road facing element and to the north of the eight storey element) shall be reduced to 6 no.storeys and shall horizontally align with the aforementioned 6- storey street facing element.

ii. The 10-storey element within the angled southern section of sub Block A2 shall be reduced in height to 8 no. storeys. (This portion contains units L8.13, L8.14, L8.15, L9.13 and L9.14.) Unit L9.12 shall be amended to a one bed unit.

- b) The 1.8m high perforated screens to the balconies on the northwest elevation from first to fifth floors shall be composed of a fine mesh sufficient to allow a high level of light penetration while preventing views downward toward the communal outdoor space of Deakin Court. These screens may require further measure that restrict downward views. Details of these screens or other suitable alternatives shall be provided as part of Condition 9 below and shall also demonstrate that such measures do not reduce daylighting of the relevant units to below best practice standards.*
- c) A window shall be inserted to the kitchen of unit L9.09 so as to overlook the eighth floor terrace.*

Reason: To provide a development of appropriate scale and finishes for this location in accordance with Development Plan and national policy in the interest of the residential amenities of both existing and future residents and the proper planning and sustainable development of the area.

- 5. As a result of Condition 4 the total number of apartments (183 no. proposed) hereby approved shall be 152 units – 83 no. one bed and 69 no. two bed.*

Reason: To clarify the scope of this permission.

- 6. The boundary between the subject site and the Leydens site shall be in place only so long as there is no approved permission for redevelopment of the adjacent Leydens site for residential/mixed use and such a boundary enclosure shall be removed upon completion of any development at the adjacent site with the agreement of both land owners and a shared landscaped area shall be provided between the subject building and the new build on the Leydens site to a landscape design subject to the written agreement of the Planning Authority.*

Reason: To ensure a permeable character to the area in the interest of both visual and residential amenities.

- 29. All the measures to minimise the impact of the proposed development on bats detailed in the Bat Survey Report and the EcIA submitted in support of this application, including safeguards during tree felling, the erection of bat boxes and the installation of bat friendly lighting, shall be implemented in full; a bat specialist in addition to sign off on the final lighting design for the scheme to be submitted to the planning authority for its written agreement before the commencement of any works on the development site, which scheme shall include measures to prevent light pollution originating from both the external and internal lighting of the scheme.*

Reason: To conserve bat species which are afforded a regime of special protection by the Habitats Directive (92/43/EEC).

30. *That a Construction Environment Management Plan (CEMP) shall be submitted to the planning authority for its written agreement before the commencement of development work on site incorporating all the measures set out in the Preliminary CEMP and NIS supporting the present application to prevent pollution arising during site clearance and the construction phase of the proposed development being transported by ground water or surface water flows or otherwise into the River Tolka or downstream to Dublin Bay; this plan to be implemented in full.*

Reason: To prevent pollution arising from the development site having detrimental effects on the biota of the River Tolka and the Dublin Bay Natura 2000 sites protected under the Habitats Directive (92/43/EEC) and Birds Directive (09/147/EC).

31. *Requirements of In land Fisheries Ireland.*

34. *Balustrading to balconies should be safe for children. Balconies and terraces shall have unrestricted width of a minimum of 1.5 m in one useable length. Vertical privacy screens should be provided between adjoining balconies, and the floors of balconies should be solid and self-draining.*

Reason: in the interest of safety, privacy and residential amenity.

9.0 Prescribed Bodies

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was informed at Pre-Application Consultation stage that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016: Irish Water, National Transport Authority, Childcare Committee, Inland Fisheries Ireland, Waterways Ireland, Heritage Council, An Taisce and Minister for Housing, Local Government and Heritage.

The following Prescribed Bodies have made a submission on the application:

Irish Water

Water: A new connection to the existing network is feasible without a network upgrade.

Wastewater: A new connection to the existing network is feasible without a network upgrade.

Separate storm and foul water connection services should be provided for the development. Current storm water discharge must be removed from the wastewater network.

The stormwater from the site must be discharged only into the existing storm water network that is not connected to the Irish Water network. The connection agreement should be agreed with the LA Drainage Division.

The submission includes a number of recommended conditions that should be attached to any grant of permission.

Inland Fisheries Ireland:

Submission is summarised as follows:

The proposed development is adjacent to the Tolka River which supports Atlantic salmon, Lamprey (Habitats Directive Annex II species) and Brown trout populations in addition to other fish species. Adult Salmon were recorded in the Glasnevin area in 2011. Thus, it is vital to note that salmonid waters constraints apply to any development in this area.

The disturbance of riparian habitats should be minimised. An undisturbed buffer zone between the planned flood walls and river bank should be maximised. The destruction of riparian areas along river banks results in fragmentation of riparian habitat within the river corridor, loss of cover for fish and aquatic animals and can further reduce the value of waterways as amenity areas.

If permission is granted, all works will be completed in line with the Construction Management Plan (CMP) which ensures that good construction practices are adopted throughout the works period and contains mitigation measures to deal with potential adverse impacts identified in advance of the scheme.

Works on the flood walls must be subject to an agreed method statement with IFI. The open season for instream construction works in salmonid river systems runs from July 1st to September 30th each year.

There can be no direct pumping of contaminated water from the works to a watercourse at any time. Any dewatering of ground water during excavation of basement area must be pumped into an attenuation area before being discharged to offsite. A discharge license may be required from Dublin City Council.

Mitigation measures such as silt traps and oil interceptors should be regularly maintained during the construction and operational phase. If permission is granted we suggest a condition to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor.

Surface water outfalls to the Tolka river must have detail design and subsequent method statements submitted to IFI for approval. Precautions must be taken to ensure there is no entry of solids, during the connection or stripping of old pipework to the surface water system.

It is essential that local infrastructural capacity is available to cope with increased surface and foul water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. It is noted that Ringsend WWTP is currently working at or beyond its design capacity and won't be fully upgraded until 2023. Also, a High Court judge has ruled planning permission must be quashed for a proposed €500 million wastewater treatment plant at Clonshaugh, intended by Irish Water to supplement the Ringsend waste water treatment plant.

All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

Submission refers to IFI guidance: Revised "Planning for watercourses in the urban environment" and "River Restoration Works - Science based Guidance centred on Hydromorphological Principles in an Era of Climate Change – 2020"

A list of best practice riparian and instream measures are also presented alongside measures to address channel connectivity and invasive species that are compliant with the EU Water Framework Directive (WFD), other EU Directives and State regulations

Development Applications Unit (Department of Housing, Local Government and Heritage)

Archaeology:

The Department has examined the archaeological component of the Archaeological, Architectural and Cultural Heritage Impact Assessment report submitted with the planning application. On the basis of the information in the report and the proposed archaeological mitigation (Section 5, page 23) it is recommended that the proposed archaeological mitigation measures for archaeological testing and monitoring are carried out in advance of any construction works as a condition of any grant of planning permission.

Nature Conservation:

In order to repair the river wall and construct the flood wall, the scrub area on the outside of the river wall and the sycamore section of the treeline inside the wall will be lost. The laying out of the greenway will also require the removal of the downstream white willows and Monterey cypresses.

The loss of scrub and particularly the tree line is to be regretted because a May 2021 survey identified goldcrest as nesting in the vegetation along the river and nine other bird species as possibly nesting there, though all are common species. The preservation of the riparian tree line could in addition function to screen wildlife using the river itself from the increased disturbance and especially the higher nocturnal light levels which it can be expected will result from the proposed development. Bat surveys in June and September 2021 recorded bats of the three commonest species occurring in Dublin (and Ireland as a whole), common and soprano pipistrelles, and Leisler's bat foraging over the Tolka. Though these bat species are not very light sensitive, preserving a dark corridor along the Tolka would probably be to their overall advantage and would definitely benefit the light sensitive Daubenton's bat. The potential for light pollution from the proposed development impacting on bats is recognised in the Ecological Impact Assessment (EclA) and the Bat Survey Report supporting this application, where recommendations are made concerning features to be incorporated in the designs of both the external and internal lighting of the scheme to make them more 'bat friendly'.

Another mammal species which could benefit from the screening of the Tolka as much as possible from the proposed development is the otter. Footprints found upstream and just downstream of the development site in a 2019 otter survey carried out for Dublin City Council by Macklin et al suggest this species must regularly occur in the adjacent stretch of river. The otter as well as all bat species is afforded a regime of special protection under the Habitats Directive.

The supporting EclA also recognises that because of the development site's location the potential exists for pollutants transported into the river by ground water and surface water runoff during the development's construction phase, such as silt, hydrocarbons and cementitious materials, to have detrimental impacts on the biota including the fish fauna of the Tolka. The Appropriate Assessment (AA) Screening Report submitted in support of this application further identifies the possibility that the Tolka could act as a hydrological pathway to transport such pollutants mobilised from the development into Dublin Bay which the river enters circa 1.6 km downstream, with could potentially have detrimental effects on the Natura 2000 sites present there. A suite of measures to be employed to avoid pollutants entering the Tolka as a result of works during the construction phase of the development proposed, including the demolition of existing buildings, excavation of basement areas apartment block construction is set out in the Preliminary Construction Environment Management Plan (CEMP) supporting this application as well as in the EclA and Natura Impact Statement (NIS). The EclA considers that if these measures are implemented, no detrimental impacts should result to the Tolka fish fauna or other river biota. Similarly the NIS considers that the implementation of the of the methodologies and mitigation measures proposed should avoid any detrimental effects on the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA), the North Bull Island SPA, the South Dublin Bay Special Area of Conservation (SAC) and the North Dublin Bay SAC. It concludes "that the Proposed Development will not have any significant adverse impact on the above European Sites." This Department of Housing, Local Government accepts this conclusion.

The Department recommends that Bord Pleanála should consider requesting the applicant to submit a modified landscaping plan for the proposed development to the planning authority for its agreement before the commencement of on-site development works, the modified landscaping plan to include the retention of the white willow and Monterey cypress trees currently growing near the site's river wall so that they can continue to form a screen between the proposed development and the and wildlife utilising the River Tolka. Alternatively the landscaping plan could include modification of the planting currently proposed for along the greenway route to form a more effective screen, possibly by replacing the hawthorn hedgerow at present proposed for the greenway's river side with willows or even poplars, and certainly by increasing the number of extra heavy standard trees to be incorporated in the riparian planting.

The Department also recommended a condition relating to clearance of vegetation and implementation of measures contained in the EclA and Bat Survey Report. In addition the following condition was recommended:

3. That a Construction Environment Management Plan (CEMP) shall be submitted to the planning authority for its written agreement before the commencement of development work on site incorporating all the measures set out in the Preliminary CEMP and NIS supporting the present application to prevent pollution arising during site clearance and the construction phase of the proposed development being transported by ground water or surface water flows or otherwise into the River Tolka or downstream to Dublin Bay; this plan to be implemented in full.

Reason: To prevent pollution arising from the development site having detrimental effects on the biota of the River Tolka and the Dublin Bay Natura 2000 sites protected under the Habitats Directive (92/43/EEC) and Birds Directive (09/147/EC).

10.0 Planning Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory Development Plan and has full regard to the Chief Executive's report, third party observations and submissions by Prescribed Bodies.

The assessment considers and addresses the following issues:

- Principle of Development, Quantum and Nature of Development
- Design Strategy
- Residential Standard for Future Occupiers.
- Potential Impact on Adjoining Properties/Lands.
- Traffic and Transportation
- Services & Drainage
- Ecology
- Non-Residential Use
- Part V

- Social Infrastructure
- Childcare
- Other Matters
- Material Contravention
- Chief Executive Report

10.1 Principle of Development, Quantum and Nature of Development

10.1.1 Context

Having regard to the nature and scale of development proposed, namely an application for 183 Build to Rent (BTR) apartments located on lands for which residential development is permitted in principle under the zoning objective Z10, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Previous use on the site are associated with the empty offices, warehouses/sheds which are proposed to be demolished.

A common thread across submissions received relate to the principle of the development on this site, in particular the proposal for Build to Rent apartments at this location and the suitability of this type of tenure for the area.

10.1.2 Land Use Zoning.

The site is located on lands which are the subject of Land Use Zoning Objective Z10 Inner Suburban and Inner-City Sustainable Mixed-Uses with a stated objective '*to protect, provide and improve residential amenities*'.

Permissible uses in 'Z10' areas include residential, childcare facility, office and restaurant. There is a requirement for 10% of the 'Z10' lands to be provided as meaningful public open space as part of their development proposals, although this can be addressed via contributions in lieu of a shortfall, if necessary. The indicative plot ratio for 'Z10' lands is stated as 2.0 to 3.0 and a 50% indicative site coverage is also provided for in the Development Plan.

Section 14.8.10 of the Development Plan addressing the 'inner suburban and inner-city sustainable mixed-use zone 10' states that the appropriate mix of uses for a given site should be influenced by the site location and other planning policies applicable to the associated area.

The non-residential element of the development is situated at ground level of the development and addresses Richmond Road where public realm improvement works are proposed. While I would accept that the proportion of non-residential floor space relative to residential floor space is limited, the development would introduce a retail/commercial use to the site, providing a mix of uses on site and the Development Plan does not specifically set out the extent of non-residential floor area to be provided or minimum criteria. Having regard to the foregoing I am satisfied that the mix of uses would be sustainable and acceptable, while being in accordance with the land-use zoning objectives for the site.

Having regard to the zoning objective on the site, those uses which are permitted in principle, I consider the principle of residential development consisting of Build to Rent apartments and a retail/commercial unit on this site is acceptable in principle subject to compliance with the relevant standards and other planning considerations which are addressed in this report.

A silver of land along the boundary with the Tolka River is zoned Z9, open space is proposed here which is acceptable in principle subject to compliance with the relevant standards and other planning considerations which are addressed in this report.

10.1.3 Density

The proposal is for 183 BTR apartments on a site with a nett area of c.0.61 hectares, therefore a density of c.300 units per hectare is proposed.

The current Dublin City Development Plan states the Council will promote sustainable residential densities in accordance with the Guidelines on Sustainable Residential Development in Urban Areas. With regard to plot ratio, I note it is indicated to be 2.7 and site coverage is 32%. The Dublin City Development plan sets out an indicative plot ratio for this site of 2.0-3.0, a higher plot ratio may be considered adjoining major public transport termini and corridors, which is applicable to this site. Site coverage indicated in the Development Plan is 50% for Z10 lands. The current Dublin City Development Plan does not set upper limits on densities and refers to plot ratio and site coverage. The planning authority considered that the plot ratio for the proposed development falls comfortably within the range set out in the Development Plan standards.

The Guidelines on Sustainable Residential Development in Urban Areas (SRDUA) states that for sites located within a public transport corridor, it is recognised that to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities. The guidelines state that minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, ie within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.

Policy at national, regional and local level seeks to encourage higher densities in key locations. It is Government and regional policy to increase compact growth within specified areas and increase residential density. The RSES requires that all future development within the metropolitan area be planned in a manner that facilitates sustainable transport patterns and is focused on increasing modal share of active and public transport modes. The MASP identifies strategic residential and employment corridors along key public transport corridors existing and planned. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), Sustainable Urban Housing: Design Standards for New Apartments (2020) and the Urban Development and Building Heights Guidelines (2018) provide for increased residential density along public transport corridors. The Sustainable Residential Development in Urban Areas Guidelines in particular support consolidated higher density developments within existing or planned public transport corridors (within 500m walking distance of a bus stop and 1km of a light rail stop/station), where higher densities with minimum net densities of 50 dwellings per hectare are supported, subject to appropriate design and amenity standards, in order to maximise the return on public transport investment.

Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO10, RPO34 and RPO35 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR1 and SSPR2 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

Based on the information available and having inspected the site and area I consider that the site is c.550m from Drumcondra Road Upper with its high frequency bus routes and c.1.24km from Drumcondra train station. It is c. 590m to Fairview Strand and the moderate frequency No. 123 while it would be c.880m to Annesley Bridge Road where there are a number of high frequency routes. It would be c.1.86km from Clontarf Road dart station. In terms of proximity to the city centre the site is c.2.27km from O'Connell Street via Fairview (Luke Kelly Bridge). It is c.730m from DCU Saint Patrick's Campus, 1.77km from East Point Business Park and 2.75km from the north docklands. All of which are significant centres of education/employment. None of these distances would be considered unreasonable and even the city centre is an achievable distance for walking (35mins) and easily in range for cycling (10mins). The site is located in reasonable distance of the villages of Drumcondra and Fairview with a range of retail, recreational activities and services.

The Planning Authority considers that the site is served by high capacity public transport as required by the Guidelines while not being immediately proximate. The planning authority consider, given the location and context of the site that a density of 250uph is reasonably considered more appropriate for sites on Richmond Road which cannot form their own character and which accounts for the fact that the road is generally at a remove from public transport.

Having regard to the foregoing, the site is in my opinion a 'Central and/or Accessible Urban Location' as defined under Section 2.4 of the Apartment Guidelines 2020 and is a suitable location for higher density residential development. I am satisfied that the site is well placed to accommodate high density residential development given its proximity to high capacity public transport, within walking distance of significant employment and within short commute (walking, cycling, Luas, bus) of a range of employment options, and within walking distance of a range of services and amenities. I am of the opinion that the delivery of residential development on this prime, underutilised, serviced site, in a compact form comprising higher density units would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b). In terms of local policy, Dublin City Development Plan states the council will promote sustainable residential densities in accordance with the Guidelines on Sustainable Residential Development in Urban Areas (as considered above). The overall acceptability of the proposed density subject to appropriate design and amenity standards, which are addressed in the relevant sections of this report.

Having considered the applicant's submission, observers submissions and those of the planning authority, as well as local, regional and national policy, the site is within the MASP, close to public transport and in line with s.28 guidance on residential density, I am satisfied that the proposed density of development is appropriate in this instance having regard to the proximity to public transport and is not contrary to the provisions of the development plan in respect of density. The planning authority has not raised concerns relating to this matter.

A Material Contravention statement regarding plot ratio and site coverage contained in the Dublin City Development Plan 2016-2022 was submitted. I do not consider it material contravention of the provisions pertaining to plot ratio and site coverage in the current City Development Plan.

10.1.4 Tenure

A common thread in the submission received relates to the BTR model and its suitability to deliver housing and meet the needs of local community. Submissions and Local Elected Representatives noted that the draft Dublin City Plan 2022-2028 includes provisions to address BTR. The Chief Executive report raised no objections to the provision of BTR apartments at this location.

The proposed development includes 183 no. Build to Rent apartments. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on Build-to-Rent (BTR). The guidelines define BTR as "purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord". These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity.

The public notices refer to the scheme that includes 183 no. 'Build-to-Rent' apartments and a draft deed of covenant indicates that the applicant is willing to accept a condition requiring that the BTR residential units remain in use as BTR accommodation, that no individual residential unit within the development be disposed of to any third party for a period of 15 years only from the date of grant of permission. I consider that the matter of the covenant be further dealt with by means of condition if the Board considers granting permission. The Guidelines also specify that no individual residential units may be sold or rented separately, during that period. While submissions consider there is an over saturation of this type of tenure in the area and that it is inappropriate location for Build to Rent.

The site is highly accessible by bus and is within proximate distances of a train station as well as being within walking distance of a range of city centre services and amenities and connected to a large range of employers within a short commuting distance. I am satisfied that a Built to Rent scheme is suitable and justifiable at this location. I have considered the concerns raised in the submissions received, however I am of the opinion that the proposal will provide a viable housing solution to households where home-ownership may not be a priority and in an area where traditionally the main housing provision is traditional family type two storey dwellings.

The proposed residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Housing for All and I am satisfied in this regard. Concerns raised in submissions in relation to the negative impact of Build to Rent developments on established communities is not substantiated and such a scheme will not necessarily attract a transient population. Based on the information submitted I have no reason to believe there will be significant issues with the long-term management of the development. I consider that the proposed Build to Rent accommodation overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as set out in various policy documents, including inter alia Housing for All – A New Plan for Ireland (2021).

I note that the planning authority stated that while it considers the site to not be contiguous to public transport this is within an achievable walking distance and a dogmatic approach to Build-To-Rent of recommending only locations close to employment risks discouraging any form of residential development outside these zones. It is also noted that the Holy Cross College lands are outside the same 500m zone but were approved by An Bord Pleanála.

10.1.5 Unit Mix

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

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

I refer the Board to section 3 of this report where I have set out in detail the proposed units mix.

One bed comprise c.57% of the proposed units. This figure is in excess of the 25% - 30% standard for one-bed units, as set out in operative City Development Plan. I also refer the Board to the percentage of proposed three-bed units. The standard set out in the operative City Development Plan seeks 15% three-bed units in any such development, the current proposal includes 0%. I note that the planning authority noted that the unit mix is in accordance with the 2020 Apartment Guidelines and did not raise the issue of material contravention.

The applicants have addressed this matter within the submitted Material Contravention Statement. I note the non-compliance with this standard of the operative City Development Plan. However, I do not consider this to be a material contravention of the Plan. I have examined the provisions of section 16.10.1 of the operative City Plan and consider these to be standards. I note Policy QH1 of the operative City Development Plan which seeks 'to have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009)'. This policy seeks to have regard to these aforementioned guidelines.

Furthermore, since the adoption of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments (2015) have been updated (December 2020). I note that the planning authority in their Chief Executive Report continually refer to the updated 2020 guidelines. One of the main differences between the two guidance documents relates to, inter alia, build to rent developments and associated "Specific Planning Policy Requirements" (SPPRs). The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020) contains SPPRs in relation to build-to rent developments, namely SPPR7 and SPPR8. Specifically, in relation to dwelling mix requirements for build-to-rent developments, I note SPPR8 (i), which I acknowledge takes precedence over any conflicting policies and objectives of Development Plans. SPPR8 (i) of the Apartment Guidelines (2020) states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise. It is noted that such SPPRs, which allow for flexibility in relation to build to-rent developments, were not included in the 2015 guidelines. However, this form of housing tenure was included for in the City Development Plan. I also note that the planning authority has not raised issue with the unit mix nor material contravention of the Plan relating to this matter.

In my opinion the proposed development will provide increased diversification of housing typology in the area which at present comprises predominately two storey dwelling houses and would in my opinion improve the extent to which it meets the various housing needs of the community. I, therefore, consider it reasonable to apply the updated section 28 guidance in this regard, which allows for flexibility in relation to build-to-rent developments in terms of unit mix.

I also draw the Board attention to the current City Development Plan which allows for some relaxations/flexibility in terms of unit mix in certain circumstances including for BTR schemes and I refer the Board to section 16.10.1 in this regard. In particular, I note the following *'The above mix of unit types will not apply to managed 'build-to-let' apartment schemes for mobile workers where up to 42-50% of the total units may be in the form of one-bed or studio units. Communal facilities such as common rooms, gyms, laundry rooms etc. will be encouraged within such developments. This provision only applies to long-term purpose-built managed schemes of over 50 units, developed under the 'build-to-let' model and located within 500 m (walking distance) of centres of employment or adjoining major employment sites. Centres of employment are identified in Fig W Housing Strategy Appendix 2A.* I note that the site is identified in Figure W. The proposal for a build-to-rent scheme, catering to amongst others, mobile workers. The percentage of studio and one-bed units is above the 42%-50% threshold. The proposed development is a long-term, purpose-built managed scheme of over 50 units (183 residential units in total or 152 as per the planning authority's recommended amendments). It is being developed under the BTR model and this has been advertised in the public notices. The site is close to centres of employment and education. It is proximate to good public transport facilities and good cycle and pedestrian connectivity to the city centre. The site is located within an established area of the inner suburb location, proximate to numerous employment, educational, cultural, ecclesiastical and recreational uses.

The Urban Design Manual, in particular Criteria 03 and 04, 'Inclusivity' and 'Variety', are noted. This puts forward the idea that in larger developments, the overall mix should be selected to create a mixed neighbourhood that can support a variety of people through all stage of their lives. Presently, the wider area could be described as a mixed neighbourhood and I am of the opinion that the proposed development will contribute positively to that. I also fully acknowledge changing household sizes and note that the NPF states that seven out of ten households in the State consist of three people or less and this figure is expected to decline to approximately 2.5 persons per household by 2040. Again, I reiterate that as this is a build-to-rent development, the provisions of SPPR 8(i) of the Apartment Guidelines apply, which state that that no restrictions on dwelling mix shall apply.

Having regard to all of the above, I consider that the proposed unit mix is acceptable in this instance given the locational context of the site, the established nature of the area, together with national guidance in this regard. I fully acknowledge changing household sizes. As stated in the National Planning Framework, seven out of ten households in the State consist of three people or less and this figure is expected to decline to approximately 2.5 persons per household by 2040. The proposed development in terms of unit mix would add greatly to the availability of studio and one bedroom apartments in an area of the city characterised by conventional housing stock comprised of houses, student accommodation and BTR developments.

I have no information before me to believe that the mix of units would lead to the creation of a transient or unsustainable community. While the unit mix may exceed a standard in the operative City Development Plan, I do not consider that this constitutes a material contravention of the Plan. The proposal broadly complies with section 16.10.1 of the Plan and meets the standards of the aforementioned Sustainable Urban Housing: Design Standards for New Apartments (2020). Having regard to the foregoing I consider the proposed unit mix acceptable.

10.2 Design Strategy

10.2.1 Height

The proposed development comprises one block ranging in height from 6 to 10 storeys over basement with a maximum height of 34.6m (parapet). A telecommunications structure is proposed at roof level which brings the overall height to 37.5m

The applicant's height strategy sets out that the proposal seeks to create a street edge at a lower scale to fit within the adjacent context. The lower portion of the scheme at Richmond Road is set at 6 storeys or 21.5m (to top of parapet) in height and seeks to provide a harmonious height with the 4-6 storey buildings on either side (the former whiskey distillery building on the adjacent site is c.19.1m in height). The building steps down in height at Richmond Road to the street edge in order to enhance the urban fabric of the area. Moving towards the middle of the site the building mass steps up to 10 storeys (34.6m to top of parapet) to create variety of form and roofscape along Richmond Road. On the southern side the height steps down towards the river via setbacks and turns at either end to frame views out to the south. A step down to 8 storeys (27.8m to top of parapet) occurs in the centre and helps articulate the West and East blocks as individual elements.

The applicant's documentation outlines that the proposal comprises one residential block with variations in its height of 6 to 10 floors above street level. The block is arranged to allow for setbacks from the neighbouring sites and to allow space for the future development of a cycle & walking route along the River Tolka (southern boundary). The main street connecting to the site is Richmond Road, with public pedestrian access proposed through the scheme down to the river. The block massing is formed to step down towards the lower scale of the street and step up towards the centre of the site and the river. It is submitted that the facade and massing expresses the verticality at the higher parts of the building.

Third parties and elected representatives have raised concerns in relation to suitability of the height, scale and massing of the development relative to the adjoining apartments (Deakin Court) to the west and two storey houses opposite the site in the northern side of Richmond Road. I note that the 'Leyden' site is stated to be in the applicant's ownership and will be the subject of a separate application for its development. Notwithstanding the current proposal need to be assessed in terms of the impact on the development potential of the lands to the south. It is contended that the submitted height does not respect the existing built environment. Concern is also raised in relation to the impact of the proposed height on the Tolka River Conservation area that the development would detract from its amenity value. It is submitted that the proposed development breaches the height guidelines in the Dublin City Development Plan and is a material contravention of same.

Observer submissions also raise concerns with regards the impacts of the proposal on the visual amenity of the area and that it is out of character with the existing built environment. These concerns are interlinked with concerns regarding height, scale and massing of the proposal. There is a general consensus amongst third party observers that the proposal would negatively impact on the visual amenity of the area.

The planning authority noted that notwithstanding the fact the development contravenes the City Development Plan in terms of height, that the site is robust enough, with a post-industrial context of poor quality buildings, to accommodate the building at a scale considerably taller than its context. However consideration should be given to the potential precedent set if the majority of the block is ten storeys and how this would cumulatively impact on the skyline were there to be further, later blocks of similar height and bulk along the street.

The planning authority recommend *“that within sub block A1 the ten storey portion of the block north of the eight storey section should be dropped to six storeys to match the street frontage element facing Richmond Road. This would then reduce the overbearing impact of the block on Deakin Court. The eight storey portion would remain as such before stepping up to ten storeys at the southern element. Finally the angled end portion of sub block A2 at its southern end would drop back down to eight storeys.”* I note that the DCC Conservation Officer in their report recommended that the block be reduced to 7 storeys in height.

Section 16.7 of the Dublin City Development Plan 2016-2022 has regard to ‘Building Height in a Sustainable City’. The Development Plan defines Dublin City as ‘low-rise’, with the exception of those areas specifically designated as ‘mid-rise’ or ‘high-rise’. The application site falls within the ‘low-rise’ area. Table 2.0 sets out heights for ‘low-rise’ in the Outer City as up to maximum height of commercial/residential is 16 metres.

The proposed height of 10 storeys (34.6m to parapet) over basement level exceeds the height set out in section 16.7. A Material Contravention Statement is submitted with the application in which the applicant seeks to justify the material contravention of the provisions of the Dublin City Council Development Plan 2016-2022 in respect of building heights. I address this in section 10.13

The Urban Development and Building Height Guidelines provide clear criteria to be applied when assessing applications for increased height. The Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. Having regard to the Urban Development and Building Heights Guidelines, 2018, I note that specific assessments were undertaken including Townscape and Visual Impact Assessment, CGIs and daylight/sunlight analysis. Applying section 3.2 of the Building Height Guidelines I consider the following:

At the scale of relevant city/town, the proposal will make a positive contribution to place-making introducing new street frontage. I do not consider the height of 10 storeys with telecommunication antenna on the roof appropriate for this location. Furthermore, I do not consider there to be sufficient variety in scale and massing to respond to the scale of adjoining developments. I consider the proposed quantum of residential development, residential density and tenure type (build to rent) acceptable in the context of the location of the site in an area that is undergoing redevelopment, is an area in transition proximate centres of employment and public transport.

At the scale of district/neighbourhood/street, The proposed development would not interfere with significant views in the locality. The site is not located within an Architectural Conservation Area and there are no protected structures onsite or within the immediate vicinity. However, I do not consider that the proposal responds satisfactorily to its built environment in this instance and fails to make a positive contribution to the urban neighbourhood at this location. I am of the opinion that the proposal cannot be accommodated on this site without detriment to the visual amenities of the area given the existing built environment in the immediate vicinity. The use of material and finishes to the elevations does assist (to an extent) in breaking down the overall mass and scale of the proposed development. CGIs of the proposed development have been submitted with the application and have assisted in my assessment of the proposal. I consider the proposed height (10 storeys) excessive for this location and have serious concerns relating the scale and massing of the proposed development which I address below. I acknowledge that development of the site would bring into use a zoned serviced site that is underutilised at present at this prime location, however I do not consider the current proposal is an appropriate solution for this site given its constraints.

At the scale of the site/building: The proposal includes new public realm, active frontages and fenestration that will passively survey the public road and pedestrian linkages to adjoining lands are indicated and would contribute to the legibility of the area. The addition of build to rent apartments will contribute to the unit mix and tenure at the location. Residential Amenities are addressed in section 10.3 and 10.4 Sunlight and daylight consideration are addressed in section 10.3.2 and 10.4.3 Flood Risk Assessment has been carried out and this is addressed in section 10.6.

Having regard to the considerations above, I consider that the proposal for 6 to 10 storey over basement building at this location is not acceptable in terms of height. I do not consider the height proposed to be in keeping with national policy in this regard. I note the policies and objectives within Housing for All – A New Plan for Ireland (2021) and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I do not consider this to be one such site. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development and recognises that a more compact urban form, facilitated through well designed higher density development is required. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. Overall, I am of the view that having regard local and national guidance, the context of the site in an accessible location which is undergoing significant redevelopment, the site can accommodate a taller building than those adjoining the site, However, I consider heights of 8 and 10 storeys excessive at this location and not acceptable as it would have a detrimental impact on the receiving environment. Furthermore, in terms of the cumulative impact of the proposed scale and massing of the proposed block. I am of the view that the proposed development does not satisfy the criteria described in section 3.2 of the Building Height Guidelines in particular when assessed at the scale of district/neighbourhood/street.

I draw the attention of the Bord to the fact that the applicant considers the proposal to represent a material contravention in relation to height and has addressed the matter within the submitted Material Contravention Statement. The planning authority also considers the proposal to present a material contravention of the operative County Development Plan in relation to height. I too consider that the proposal represents a material contravention in relation to height. I address material contravention in section 10.13 of this report. Having regard to all of the above, I am not satisfied in this instance that the applicant has complied with the requirements of section 3.2 of the Building Height Guidelines to justify that the Board grant of permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended.

10.2.2 Scale & Massing

A reoccurring theme raised in the observer submissions highlights concerns that the proposed development is overbearing and would have a significant adverse impact of the visual amenities of the area. I have inspected the site and surrounding area and I agree with observers that the block will be visible to residents in the vicinity. The closest residential properties (Deakin Court apartments to the west) have their communal rear located directly to the west of the proposed 10 storey element, to the east is the Leyden site (stated to be in the ownership of the application and will be the subject of a separate planning application for its redevelopment). Opposite the site are two/three storey units separated from the site by Richmond Road. The development is designed with the higher elements at the ends of the block (ie northern and southern point) as set out in section 10.2 above.

The applicant has submitted that the block massing is formed to step down towards the lower scale of the street and step up towards the centre of the site and the river. And that the facade and massing expresses the verticality at the higher parts of the building.

The planning authority noted that the bulk and massing makes the block prominent and that the lack of modulation of the roof form and block heights creates a monolithic tendency and given the block is over 45m in length when viewed from the west and over 80m in length when viewed from north and south this is a substantial block. The question of mass and impact is not related to materials or architectural finishes but to scale. The planning authority noted no objection to the proposed materials.

The issues of height, form, bulk of the proposal are inter-related and in effect relate to the overall scale and massing of a proposal. It is the sum of all these parts that, amongst other assessments, determines the appropriateness or otherwise of the development before the Board. I have outlined above my concerns regarding the capacity of the application site to accommodate the proposed height. I concur with the planning authority with regard to the proposed scale and massing of the block. Arising from the proposed length of the block of c.80m coupled with the proximity of sections of the block to the boundaries with the adjoining residential properties. I acknowledge that the applicant in an attempt to break up the massing has introduced a pallet of materials which includes 4 different colours of brick, I address the use of materials and finishes in section 10.2.3. I am of the view that the cumulative impact of the proposed height, scale and massing creates an incongruous development that is overbearing and visually dominant when viewed from the adjoining residential properties, in particular Deakin Court and properties opposite the site along Richmond Road (see section 10.4.1).

In terms of visual amenity for surrounding residents, it is my opinion that the elements with the greatest potential to have visual impacts on residential properties are the sections of the building that exceed 7 storeys in height. I consider that it would be excessively visually dominant on the skyline at this location, given their scale and massing; would be overbearing when viewed from neighbouring lands. No attempt has been made at transitioning and on balance the proposed development does not form an appropriate form of development at this location. I consider that the proposal is not in compliance with Criteria 1 'Context' of the Urban Design Manual. I also consider that having regard to the Urban Development and Building Height Guidelines, 2018, at the scale of the site/building, the height, form, massing and scale of the proposed development is not carefully modulated in this instance. In relation to the cumulative impact of the length of the proposed block I am of the opinion that, given its extent at c.80m, when viewed from the north and south, would appear unduly dominant and overbearing when viewed adjacent properties, in particular those located along Richmond Road facing the site and would significantly detract from the visual amenities of the area. Properties to the east and west are addressed by a cumulative length of up to c.45m which is excessive given the limited setbacks from the respective boundaries. Having regard to the Urban Development and Building Heights Guidelines, 2018, I consider that at the scale of district/neighbourhood/street, the proposal does not respond satisfactorily to its overall natural and built environment and in this instance, given its dominance and overbearing impact does not make a positive contribution to the urban neighbourhood at this location. Overall, I consider the cumulative impacts of the development comprising excessive mass of building. My concerns in this regard are such that I recommend a refusal of permission in this instance.

While I consider that the applicants have had regard to improving the public realm, streetscape and connectivity of the area I do not consider that appropriate transitions in scale and massing, coupled with the proximity to the site boundaries, have been put forward in the design notwithstanding that the block is stepped, the increase of height is presented at both extremities of the block, thus not offering any transition in height with the adjoining properties (4 storeys to the west and warehouses to the east) in an attempt to offer a degree of transition with adjoining properties. There is no doubt any development of this site will bring a change to the character and context of the area, I am of the view that this will not be a positive change. I do not consider the proposal to be in compliance Policy SC25 of the Dublin City Development Plan which seeks to promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments

As set out above I have serious concerns relating to the overall scale and massing of the proposed development, the siting of the blocks and the context of the application site. I consider that the proposal before me is excessive in terms of its scale and massing and does not constitute an appropriate form of development at this location

Concerns were raised that the proposed development would have a negative impact on the Tolka River Conservation area and detract from its visual amenity. I have reviewed the Townscape & Visual Assessment Report, images presented in the report and in the submitted CGIs and all other drawings and documents and note that it is inevitable that any higher density development at this site is likely to contrast with surrounding development. The wider visual impacts in my opinion will not detract from the amenities of the Tolka River.

Having regard to the foregoing I have serious reservations that the proposal before me represents overdevelopment of the site and requires amendment to constitute an appropriate form of development. I am of the opinion that the development's lack of appropriate transitions in scale to the adjoining residential properties further exacerbates its visual dominance. It is my opinion that the proposal does not comply with Criteria No. 1 of the Urban Design Manual 'Context'. I do not consider that the development positively contributes to the character and identity of the neighbourhood. I note the recommendation by the planning authority to omit floors by condition, resulting in a development ranging in heights from 6 to 8 storeys. I do not consider that a redesign by condition is appropriate given the extent of the amendments required to address the concerns I have raised. The proposal before the Board is excessive in terms of scale and massing and does not offer an appropriate transition with the existing building environment and should be refused permission on these grounds in my opinion.

10.2.3 Design, Materials and Finishes

The proposed development seeks permission to demolish the existing buildings on site and to construct development comprising one apartment block of 6 to 10 (over basement) storeys in height, following with a portion of the block where the proposed café is located at ground floor framing the entrance and addressing Richmond Road. Vehicular access is off Richmond Road which provides access to the basement car park. Works to public realm are proposed along the Richmond Road frontage.

The applicant is proposing a contemporary intervention in an area predominantly characterised by commercial/industrial developments and traditional two storey houses. Newer apartment development have been brought forward in recent years, including the conversion of a former distillery to apartment to the east and the Deakin Court development (4 storeys) which bounds the site to the west. The proposed design seeks to introduce a new element to this disused site at a prominent location within the inner suburb. The applicant has submitted that the area is one in transition and therefore can accommodate different designs and styles when seeking to introduce new elements to the built environment.

Section 16.2.1 of the Development Plan addressing 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines and the public realm.

An Architectural Design Statement submitted with the application sets out that the proposed material and finishes includes the use of four types of brick (dark brick, pink brick, buff brick and dark brown stone). It is submitted that a sequence of varied façade materials creates a rich and 'unfolding architectural story'. The building form and massing are broken down into smaller entities with the choice of different brick materials. The façade of each part of the building has been considered in detail to deliver an overall visual variety but with façade modules designed with detail, colour and textural variety. The buildings form and façades are designed to create a playful and exciting interface with neighbouring buildings. The choice of materials complements the existing context. Brick clads the majority of levels with dark stone on the two upper setback floors to create emphasis and to 'cap' the building.

The Richmond Road street side of the building is the main entry point with a public realm and café/retail space where the materiality is expressed as lightest to the front and darkest to the back. As the building has a large mass, the façade is broken up into vertical components. These have a variety of different treatments and colours to help emphasise the verticality. The river side of the building uses the same palette of materials and composes them in different ways. From this elevation, the 2 upper setback floors can be seen. These are treated in a brown stone façade, and act as a 'cap' to the building. It is submitted that the rich masonry finish to the façades represents the industrial character of the site and its surrounding area. The choice of brick as a material responds to the immediate context, particular inspiration is taken from The Stables, located in the old Jones Road Dublin Whiskey Distillery built in the 1890's

I have reviewed the information on file, I consider given the scale and massing of the overall development, the cumulative length of block and the context of the site that the proposed materials and finishes do not assist in assimilating the proposed development into its surrounds. I note that the applicant has attempted to breakdown the overall massing and scale through the use of material and finishes. These go some way to soften the visual impact of the proposal which will be visible from all approaches to the site, however, I do not consider the overall design strategy proposed assists in promoting the scale of development at this location. This is further exacerbated by the attempt to develop the site in isolation rather than in tandem with the adjoining 'Leyden' site which is stated to also be in the applicant's ownership.

The Apartment Guidelines 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.

I note the existing brownfield use, industrial and commercial nature of the adjoining lands to the east and the need for efficient land use. However, I am of the view that the development has not been designed to be respectful of the character of the area and while I have no objection to a modern intervention at this location, the current proposal before the Board is not respectful of its surroundings or an appropriate design intervention at this location, in my opinion.

Overall, while it is acknowledged that the subject site can absorb significant development and additional height, and that there is a planning benefit to be gained by the redevelopment of the site including the reinstatement of the streetscape and the connectivity between Richmond Road and the proposed Tolka Greenway. I am not satisfied that the proposed scheme is the most appropriate design response to site and consider that it requires significant redesign to reduce its visual scale and bulk and provide a greater variation in height and its overall reduction in height. Having regard to the level of intervention and redesign required it is recommended that permission be refused.

10.2.4 Layout & Open Space

The proposed development is comprised of one large block, sections of which are referred to as Block A1 and Block A2 in the application documentation. With Block A1 referring to the western section and Block A2 to the southern In this regard I note that Block A1 is setback c. 11.6m from the western boundary with Deakin Court (4 storey apartment block) with its gable facing the site. Block A1 is set back c. 9.6m from the Tolka River to the south, where the proposed riverside path/greenway is located. Block A2 has setbacks ranging from 20.2m to 8.3m from the Tolka River as one moves east along the site. Block A2 is set back between 12m and 14.3m from the boundary with the 'Leyden' site to the which are present contains low rise structures. Block A2 is setback c. 10.9m from the boundary with the Distillery loft lands to the south To the north the proposed block addresses Richmond Road. The development is laid out one block with the cafe (c.157sq.m) is located on the ground floor level that addresses a proposed plaza and provides an active streetscape presence along Richmond Road. I consider this acceptable.

Section 16.10.3 of the current Development Plan states that 'the design and quality of public open space is particularly important in higher density areas'. There is a requirement in the Development Plan for 10% of 'Z10-zoned' lands to be provided as meaningful public open space in development proposals.

Public open space is proposed in the form of a linear riverside space which links to Deakin Court, Richmond Road and Distillery Road. A public Plaza is proposed as the main area of public open space (c.1699sq.m) located off Richmond Road which serves the dual purposes of providing an amenity area for the public, enhancing the streetscape of Richmond Road at this location. Access to the café is also off this plaza. The planning authority have raised no objection to the quantum or quality of the proposed public open space. I consider, given the context of the site, the provision of a linear riverside park that links to a proposed wider greenway, and the provision of public parks in close proximity to the site that I am satisfied with the level of public open space proposed which complies with the Development Plan requirements for Z10 lands.

Central to the proposed design and layout is the provision a pedestrian route linking Richmond Road to the Tolka River along the north west boundary leading to the riverside where a formal pedestrian and cycle path would be laid out running the length of the site parallel to the river with planting between the path and the river edge and further planting between the path and the communal open space. With regard to the proposed new 126m long riverside retaining wall, this has been stated as being up to 2m in height and certain third parties have raised concerns. The stated height of the wall (1.2 to 2m) height is from the base of the riverbank rather than the ground level of the site. I am satisfied that the wall is not intruding on the riverside walkway and there would not be any impact on views of the river from this walkway and is acceptable.

The planning authority has welcomed the provision of the public route, however concerns have been raised that this would be in isolation until such time as Deakin Court and Distillery Lofts can be linked and that the public access along the side of the site running adjacent to the ramp to the basement which is not actively overlooked. I acknowledge the concerns raised by the planning authority, however the provision of linkages outside the applicant's ownership are outside their control and the scope of this application. The provision of a public route within the application site boundaries with indicative links to adjoining lands subject to appropriate consents is standard practice and reasonable in this instance. Issues relating to the provision of gates, CCTV, etc along the pedestrian routes for security purposes are also raised by the planning authority. In this regard I draw the Board's attention to the fact that this is a BTR development and will be managed accordingly.

I note that DCC Parks, Biodiversity and Landscape Services Section raised objections to the proposed development due to the unacceptable level of adverse impact to the River Tolka conservation area's character together with the significant proposed loss of riverside habitat and trees and resulting impact on biodiversity, which is contrary to Development Plan policies on protecting watercourses. I further note the DCC Chief Executive Report submitted which noted the content of the Parks Report and the suggested conditions which ensure that planning authority would have a substantial degree of control over the landscaping of the site and the interface with the river and therefore the layout is not considered unacceptable.

Having reviewed the proposals, I consider that in order to provide for a more appropriate and cohesive future interface with the adjoining lands stated to be in the applicant's ownership, the pedestrian routes should extend to the boundary with the 'Leyden' site to the east providing for the future potential connections and interfaces. I acknowledge that the applicant has stated that they are the owners of the 'Leyden' site, notwithstanding the development of the application site cannot be to the detriment of lands to the south which I address in more detail in section 10.4.

I address provision and quality of communal and private open space in section 10.3 below.

10.3 Residential Standards for future occupiers

10.3.1 Standard of Accommodation

The development is for BTR apartments as such the Sustainable Housing: Design Standards for New Apartments 2020 has a bearing on the design and minimum floor areas associated with the apartments. In this context the Guidelines set out Special Planning Policy Requirements (SPPRs) that must be complied with where relevant. SPPR 7 and SPPR8 refer specifically to BTR developments.

It is stated that 50% of the units are designed to be dual aspect, SPPR 4 requires that a minimum of 50% dual aspect apartments are required in urban areas. But this may be reduced to a minimum of 33% in certain circumstance where it is necessary to ensure good street frontage and subject to high quality design, usually on inner urban sites, near city or town centres. Given the context and location of the site, I am satisfied that percentage of dual aspect is acceptable and exceeds the minimum requirement. Given the location of the site in an inner suburban location and with blocks orientated to maximise easterly and westerly aspects, where the proposed development exceeds the 33% requirement acknowledged by the planning authority as suitable in this instance, I consider the level of dual aspect provided acceptable.

A schedule of compliance with the Apartment Guidelines accompanied the application confirming required apartment sizes, which I note and consider reasonable. SPPR 8 removes restrictions, for BTR proposals, on housing mix and provides lower standards for parking, private amenity space, 10% exceedance for spaces and lower units per core, although I note the proposed scheme complies with the standards.

Section 16.10.1 set out Unit Floor Areas, Table 3.2 of the current City Development Plan sets out minimal overall apartment gross floor areas which includes a minimum floor area of 40 sq.m for studio units. The Plan also requires that the majority of apartments in a proposed scheme of 100 units or more must exceed the minimum floor area standard by at least 10%. The Apartment Guidelines (2020) require minimum floor areas of 37sq.m for a studio and SPPR 8 states that the requirement that a majority of apartments exceed the minimum floor area standards by 10% shall not apply to BTR schemes.

The proposed apartments have been designed to comply with the 2020 Sustainable Urban House: Design Standards for New Apartments. I note that the Planning Authority have not raised the issue of material contravention in this regard. The applicant has address this in the Material Contravention Statement submitted. While a number of the proposed apartments may depart from with the standards set out in the current Dublin City Development, I do not consider the deviation in a limited number of instances with a limited number of standards is a material contravention of the City Development Plan. Overall I consider the proposed apartments acceptable and in accordance with the requirements of the 2020 Apartment Guidelines.

SPPR 7 sets out that BTR must also be accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as: (i) Resident Support Facilities; (ii) Resident Services and Amenities.

The internal communal amenities/shared facilities (c.545 sqm) are provided at ground floor level. These include a reception area, lounge with post room, gym, kitchen/dining space, games room, co-working hub and a co-working office, two bicycle storerooms and a bicycle repair facilities. I consider the level of amenities/facilities acceptable.

A Property Management Strategy Report is submitted with the application. This report that the development will be run by a Management Company to manage the estate and common areas of the development and sets out a structure to ensure the scheme is maintained to a high level. I consider this acceptable.

Private amenity spaces are provided in the form of balconies and terraces. This is acceptable.

Two areas of communal open space are proposed at ground level. One is located along the northeast and east portion of the site between the block and the boundary with Leydens Wholesalers including the entry to the block and external visitor bicycle parking, accesses to the resident bicycle parking and the playground. A second communal open space is provided along the west side of the block between it and the public river walk with this common area being overlooked and accessed from the resident facilities rooms. A c.1.1m high fence separates the communal area from the public open space/riverside path. A c.160sq.m roof terrace is proposed at 8 floor level located mid-block with a small c.49sq.m terrace located on the western corner. Roof terraces and external communal areas at ground level are acceptable and all avail of a degree of overlooking and surveillance.

The interface with the Leyden site to the east needs to be addressed in a comprehensive manner. I note that this matter will be addressed in detail as part of a LRD application to be lodged on this site. If the Board is of a mind to grant permission I am of the view that this portion of the site and boundary treatment should be address in the current application in light of the current situation (ie Leyden site is not in residential/mixed use) and appropriate amenity provided along this portion of the application site.

I have examined the proposal submitted and I note that communal open spaces are distributed throughout the site and block as set out above. I consider this acceptable subject to acceptable daylight/sunlight etc being achieved. The Landscape report sets out the proposed hierarchy with amenity areas of varying function distributed throughout the development and overlooked by residential buildings.

I am satisfied that there is a clear definition between communal and private spaces is provided by the incorporation of landscaping to define the various spaces. Access to the basement car park is off Richmond Road, via the 'public plaza'. therefore there is a potential conflict with pedestrian using the amenity spaces. I also note that cyclist will use the shared access surface to access the allocated parking and there is potential conflict between cyclists and pedestrians. This is also indicated as access area for fire tender. I am satisfied that this can be managed in an appropriate manner. I address the issue of daylight/sunlight for amenity spaces in section 10.3.2 of this report.

10.3.1 Overlooking

I am of the view that for the most part the proposed layout provides for adequate separation distance between opposing balconies and habitable rooms within the scheme. However I do recognise that there are pinch points where separation distances are not optimal as highlighted above. I do however consider that given the limited instances where this arises that this matter can be addressed by appropriate screening and mitigation measures, such as meshes proposed balconies and windows, which are commonly used in urban areas to address potential overlooking while also protecting the amenity value of the balconies and rooms they serve. This matter could be addressed by condition if the Board considers granting permission.

10.3.2 Access to daylight/sunlight/overshadowing

Section 16.10.1 of the Development Plan sets out that: *'Glazing to all habitable rooms should not be less than 20% of the floor area of the room.'* The proposed development includes c. 128 units (c.70%) which are provided with 20% or more glazing, therefore 55 units (30%) fall below the 20% target, A Material Contravention statement regarding extent of glazing contained in the Dublin City Development Plan 2016-2022 was submitted. The shortfall is de minimus in my opinion and I do not consider it a material contravention of the current County Development Plan.

Section 16.10.1 of the Development Plan sets out that *'Development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011).'* A Material Contravention statement regarding daylight and compliance with section 16.10.1 contained in the Dublin City Development Plan 2016-2022 was submitted. I do not consider it a material contravention of the current County Development Plan as the wording states that 'development shall be guided.'

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

The Daylight & Sunlight Assessment Report (dated December 2021) submitted with the application considers inter alia potential daylight provision within the proposed scheme and overshadowing within the scheme. This assessment is read in conjunction with the BS 2008 Code of Practice for Daylighting and the BRE 209 site layout planning for daylight and sunlight (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the Apartment Guidelines. I am satisfied that the target ADF for the new residential units are acceptable and general compliance with these targets/standards would ensure adequate residential amenity for future residents.

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

The applicant's assessment includes an analysis of the proposed apartments with regard to amenity (daylight) available to future residents within the proposed scheme. The study assessed all habitable spaces/rooms across the two lowest floors (first and second floor), this included 127 points (rooms). The study concluded that 89.7% (i.e 114) of the rooms studied achieve the minimum ADF of $\geq 2.0\%$ and 94.4% (i.e 120) rooms achieved an ADF of $\geq 1.5\%$. The K/L/D that do not achieve 1.5% (L1.07 and L2.07) are located on the corner facing north. K/L/D with less than 2% include L1.08 which is dual aspect and L1.06 which has a large terrace.. A compliance study shows that Lx.07 units are below 2% to the 4th floor.

The planning authority considered, when viewing the scheme as a whole that the limited number of units with low ADF was acceptable given the compensations available to residents in the ancillary facilities ensuring that the residents of these less advantageous units would have alternative areas of the building for recreation and relaxation.

I have reviewed the applicant's assessment and have summarised the findings as follows:

Room Type	Ground Floor	First Floor	Second Floor	Compliance (3 rd , 4 th & 5 th floor)
LKD		22 assessed. 3 achieve values less than 2% (values range from 0.92 (L1.07), 1.61 (L1.06) to 1.94 (L1.08))	22 assessed. 3 achieve values less than 2% (values range from 1.98 (L1.05), 1.92% (L1.06) to 1.39 (L1.07))	8 assessed. 2 are less than 2% but over 1.5% ADF (value of 1.65% for L3.07, and 1.87 for L4.07).
Bedroom		33 assessed. 1 achieves less than 1% ADF (0.66 % for L1.07)	33 assessed. 1 achieve less than 1% ADF (0.75% for L2.07)	3 assessed. 2 are less than 1% (value of 0.84 for L3.0 and, 0.92 for L4.07).
Communal Amenity spaces	9 assessed 1 meeting room has a value of 0.46% (This is an internal room)			

Of the 52 LKD assessed 44 achieved an ADF of 2% or more. 8 have values below 2%, of which 6 achieve values over 1.5%. This equates to 89.7% achieving a minimum of 2% ADF with 94.4% achieving an ADF of $\geq 1.5\%$.

While the BS 8206-2:2008 indicates that where one room serves more than one purpose, the minimum ADF should be that for the room type with the highest ADF value, in this instance the kitchen area forms part of the living/dining area. I consider it reasonable to hold that the primary function of living/kitchen/dining (LKD) open plan room in an apartment such as those proposed, is as a dining/living room function and thus, it is reasonable to apply an ADF of 1.5%. The BRE guidance states, inter alia, that “non-daylight kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylight living room’. In this instance the kitchens are daylight, they are not intended as a dining area and the kitchen is directly linked to a well daylight living/dining room, thus it does not conflict with the BRE guidance in this regard. Where the primary use of a living/kitchen in apartments is living area in which case it may be reasonable to apply 1.5%. In this instance over 97% of the KLD achieve $\geq 2\%$ ADF and the remainder achieve $\geq 1.5\%$ ADF, bar one which has a value of 0.92%.

Unit 07 consistently fails to comply with the BRE requirements for both bedrooms and K/L/D for all floors up to the 5th. While I acknowledge that this refers to 4 apartments out of a total of 183, I do not consider the amenity of the proposed residents of this unit to be acceptable. This matter could be addressed by providing 2 bed units in lieu of 2 no. 21 bed units (.06 and .07) for example. I do not consider it appropriate to deal with this matter by condition as it could have implications for the layout of other units on each of the affected floors.

On balance however, I am of the opinion that the proposed development broadly complies with the BRE guidance and will generally provide an appropriate target of residential amenity regarding access to daylight with the exception of unit 07 on a number of floors. As noted above the amenity of this unit could be improved through its amalgamation and conversion into a 2 bed unit.

Of the 69 bedrooms assessed 65 achieved values of 1% or above. This equates to 94.2% achieving a minimum of 1% ADF which I consider acceptable given the use of these rooms and the provision of housing on serviced lands in an area undergoing significant regeneration,

The planning authority raised concerns in relation to ADF values for a number of units but on balance considered the overall development acceptable.

Having regard to the foregoing and that the analysis considered points which relate to habitable rooms across the lowest two floors of the proposed development these included bedrooms and living/kitchens for units and a comparative analysis for upper floors. I am satisfied, subject to recommended amendments to units .07 and .06, that the overall level of residential amenity is acceptable, having regard to internal daylight provision.

In addition to daylight within the units, the proposed development is also required to meet minimum levels of sunlight within amenity spaces. Section 3.3 of the BRE guidelines state that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March.

To this end, an analysis of the sunlight exposure levels for the amenity areas in the proposed scheme was carried out and submitted. The analysis indicated that the amenity spaces to the west and east of the block would receive adequate levels of sunlight and comply with BRE requirements.

The planning authority concluded that in terms of sunlight the assessment indicates the open spaces to the west and east of the block would receive good levels of sunlight of at least two hours at the equinox.

I have considered the assessment submitted and note that 3 of the 3 spaces meet the requirements. Ground floor amenity (94.1%), Roof Garden 1 (85%) and Roof Garden 2 (93.9%).

Given the nature of the development, BTR apartments, I am of the view that the communal amenities are to be provided in this case should be of the highest quality. Communal amenities are central to the residential standards of BTR developments to ensure quality amenities and living environment for future occupiers.

Having regard to the foregoing I consider that adequate allowance has been made in the proposed design for access to sunlight through adequate separation between the blocks and the siting of the block on site relevant to the scale of the development. I am satisfied that adequate levels of amenity space will meet sunlight standards. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines and I consider the development to be in accordance with the BRE guidelines.

10.4 Potential Impact on adjoining properties/land

10.4.1 Overbearance

A common theme throughout the submissions which are predominantly from local residents, is that the proposed development would be overbearing and have a detrimental impact on the visual amenities of local residents.

The planning authority also raised serious concerns regarding the overbearing impact of the proposed development on adjoining residential amenity in particular arising from the setbacks of Block A1 and its height relative to Deakin Court to the north.

The applicant's height strategy sets out that there is a concentration of taller elements towards the middle of the site and gradual transitions in height towards other buildings within proximity of the site were implemented to achieve this. Contiguous elevations submitted illustrate the transition in building height across the site and relationship with the existing built environment.

A key consideration is whether the height, scale and mass of development and the proximity to neighbouring properties is such that it would be visually overbearing where visible from the adjacent properties. The proposed development clearly exceeds the prevailing two-storey building heights (houses) and 4 storey (Deakin Court) and 7 storeys (Distillery Lotts) of the area. And I acknowledge that any development (regardless of scale and height) will have an visual impact on adjoining lands My concerns relate to the visual dominance of the proposed development which I consider incongruous due to its scale and height. It is the cumulative impact of the overall development in terms of height/scale and massing). I am of the view, given the orientation of the proposed development and the relationship of the application site with the immediate built environment and the scale and massing proposed that the proposed development would result in an overbearing and visually dominate development, when viewed from Deakin Court and properties along the northern side of Richmond Road in particular, which is further exacerbated by the limited setback from the site boundaries. The proposed development, given the predominant low rise nature of the receiving environment results in an overbearing, incongruous development when viewed from all approaches to the site.

While I accept that a degree of visual change should be expected having regard to the constantly evolving and restructuring urban landscape and the development of contemporary development of this nature would not be unexpected in this area owing to its land use zoning. I also acknowledge that any development on the application site in line with its zoning objectives would be visible from adjoining properties. The crux of the matter is the level of impact on the adjoining residential properties in terms of visual overbearance and whether this would detract from their residential amenities. In the current context there is no doubt that the proposed development would be visible from the communal opens space areas of the immediately adjacent development to the west and affect the outlook of houses in the wider vicinity, in particular along Richmond Road, and would change the outlook from these properties. I have inspected the site and its surrounds and having regard to the proposed design, scale and massing which I address in section 10.2. I have serious concerns in this regard and I concur with the planning authority that the level of overbearance is not acceptable given the context of the site as set out previously in my report permission should be refused accordingly.

10.4.2 Overlooking

I have set out the setback distance in detail in section 10.2.4 above.

With regard to potential overlooking of properties in the northern side of Richmond Road, I concur with the planning authority that in the context of an urban road and considering the height of six storeys is not unreasonable it is considered that while the houses opposite on Richmond Road would experience a significant change in their outlook there would not be an unacceptable impact in terms of overlooking.

With regard to the potential impact on the development potential of the 'Leyden' site, the applicant as the stated owner of this adjoining parcel would need to ensure that any redevelopment of that site would be likely to require a similar setback to protect the future amenities of residents of both schemes and 24m total is a satisfactory separation distance to prevent undue overlooking. If the adjoining site is not developed I still consider the proposed setbacks adequate in the current context (ie residential adjoining a non-residential use).

To the south the block is c.30m at its closest point from the Distillery Lofts building, having regard to the separation distance, the orientation of the respective blocks and their relationship with each other I do not consider that overlooking would occur to such an extent to warrant a reason for refusal.

The proposed development (and 10 storey element) is set back c. 11.6m from the northern boundary with Deakin court (4 storey). There are no windows on the southern elevation of Deakin Court that can be directly overlooked. The applicant has also addressed this matter through the use of angled windows on the northern elevation of the block to address any potential overlooking. The planning authority has raised concerns that, notwithstanding the provision of c.1.8m high perforated screens to balconies, that there is a perceived overlooking of the private and communal areas of Deakin Court. Furthermore the planning authority have also raised concerns that the proposed 10 storey element would have an overbearing impact when viewed from Deakin Court which I have addressed in section 10.4.1 above.

10.4.3 Access to daylight/sunlight & overshadowing

10.4.3.1 Context

In considering daylight and sunlight impacts, the Apartment Guidelines (2020) state that planning authorities 'should have regard to quantitative performance approaches outlined in guides like the BRE guide Site Layout Planning for Daylight and Sunlight (2nd edition) or BS 8206-2: 2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting' (Section 6.6 refers). The Building Height Guidelines (2018) state under Section 3.2 Development Management Criteria, that at the scale of the site/building, 'appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's Site Layout Planning for Daylight and Sunlight (2nd edition) or BS 8206-2: 2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I note the latter document British Standard (BS) 8206-2:2008 has since the publication of the guidelines been replaced by BS EN 17031:2018 'Daylight in Buildings', however, I am satisfied that it does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Building Height Guidelines and the Apartment Guidelines.

Both the Building Heights and Apartment guidelines indicate that where an applicant / proposal cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, and thereafter the planning authorities / An Bord Pleanála should apply their discretion, having regard to local factors including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution. This is provided for within the BRE guidance document itself.

I have had appropriate and reasonable regard to these documents (and associated updates) in the assessment of this application. I note that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria, and the BRE guidelines state 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'.

The Building Height Guidelines also seeks compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards.

The submitted Daylight & Sunlight Assessment Report examines the development with regard to BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. This in accordance with the most relevant S.28 Ministerial Guidelines including Section 6.6 of the Sustainable Urban Housing Design Standards for New Apartments 2020, and Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018). I am satisfied that there is adequate information in the submitted , Daylight & Sunlight Assessment Report to assess the impact of the proposed development.

I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) and BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK) I am satisfied that this document / updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines and the Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020.

A common thread raised by observers relates to the impact of the proposed development on the residential amenities of adjoining properties.

The planning authority raised no concerns in relating to access to sunlight/daylight from any of the residential properties within the immediately vicinity of the application site. The planning authority concerns related to overshadowing of private amenity space of adjoining residential properties.

10.4.3.2 Daylight

In designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is interned for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens and bedrooms. Tests that assist in assessing this potential impact, which follow one after the other if the one before is not met, are as noted in the BRE Guidelines:

- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
- ii. Does the new subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)

- iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)
- iv. Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)
- v. In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)

The above noted tests/checklist are outlined in Figure 20 of the BRE Guidelines, and it should be noted that they are to be used as a general guide. The document states that all figures/targets are intended to aid designers in achieving maximum sunlight/daylight for future residents and to mitigate the worst of the potential impacts for existing residents. It is noted that there is likely to be instances where judgement and balance of considerations apply. Where the assessment has not provided an assessment of all sensitive receptors, I am satisfied that there is adequate information available on the file to enable me to carry out a robust assessment. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues/impacts may arise and to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within zoned, serviced and accessible sites, as well as ensuring that the potential impact on existing residents is not significantly adverse and is mitigated in so far as is reasonable and practical.

The site is a brownfield site with a mixture of warehouse/industrial buildings of different scales and sizes and dwellings off Richmond Road, there is also extensive hardcore surfaces. To the north the site is bounded by Deakin Court (4 storey apartment block). To the south by the 'Leyden' site and the Distillery development, primarily its open space. Opposite the site, on the northern side of Richmond Road are a number of two storey houses and commercial premises. The applicant's assessment has assessed potential impacts VSC values for a) Waterfall Court, b) 145, 147, 149, 149A, 149B, 149C, 151, 151A, 153, 155, 161, 163, 165, 167, 169, 189, 191 and 193 Richmond Road, c) Hogan View, d) Grain Store and Corn House (Block A and B of Distillery Lofts), e) Clonliffe Square and f) Deakin Court.

4 of the submissions have been received from owners/occupiers of properties in the vicinity (Glencarrig Court, Richmond Road, Fairview Avenue Upper). Of these one (149C) is included in the applicant's assessment given its proximity and relationship with the application site.

1 Waterfall Court

No submissions have been received from owners/occupiers of this properties. 3 points were assessed.

Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
1a	28.60	21.29	0.74
1b	31.70	23.98	0.76
1c	31.94	23.42	0.73

All windows assessed fail BRE requirements. The applicant's assessment noted a 'not significant' effect (applicant's terminology). 1a is not BRE compliant.

145,147, 149, 149A, 149B, 149C, 151, 151A, 153, 155, 161, 163, 165, 167, 169, 189, 191 and 193 Richmond Road

One submissions have been received from an owners/occupiers of one of these properties. Of the 75 points assessed 13 have VSC values less than 27% . Below is a summary of these points:

Location	Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
Richmond Road	145a	30.39	20.35	0.68
Richmond Road	145b	33.18	23.11	0.70
Richmond Road	145c	33.01	21.98	0.67
Richmond Road	147a	34.42	22.08	0.64
Richmond Road	147b	34.73	22.15	0.64
Richmond Road	147c	35.03	22.32	0.64
Richmond Road	147d	36.57	27.12	0.74
Richmond Road	149a	24.75	16.18	0.65
Richmond Road	149Aa	25.64	16.57	0.65
Richmond Road	149Ca	25.08	17.46	0.70
Richmond Road	151a	25.41	18.15	0.71
Richmond Road	151Aa	25.77	18.86	0.73
Richmond Road	189c	26.52	25.53	0.99

The BRE Guidelines requires development meets the required 27% or where < than 27% but >80% existing. 5 points above (149Aa, 149Ba, 149Ca, 151a and 151Aa) do not comply with BRE Guidelines.

'Imperceptible' impact noted on 145 points (i.e 89.5% of the windows), 'not significant' for 6 and 'slight' for 11. Given the context of the site an 'imperceptible impact' (terminology used in the applicants assessment) to the VSC of surrounding buildings is to be expected for any substantial development in such an area due to these buildings' relative heights, proximity to the site and the nature of the structures on site at present. I am of the view that in this instance consideration should be given to the fact that the comparison being made is between an existing, under-utilised site and the proposed development, which is inevitably going to have some form of an impact given the circumstances and flexibility regarding BRE standards should be applied to balance the objective of achieving urban regeneration with any potential impacts.

Hogan View

No submissions have been received from owners/occupiers of these properties

10 points were assessed for Hogan View

Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
1d	3.84	3.50	0.91

All windows assessed are BRE compliant.

The Grain Store & The Corn House

No submissions have been received from owners/occupiers of these properties

85 points were assessed for the two blocks. These are located to the north and west of the application site, Of the 85 points assessed, 11 have VSC values less than 27% but within 0.8 times its baseline value. 2 points (The Corn House 1a and 2a) do not comply with BRE Guidelines. Below is a summary of these points:

Location	Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
The Grain Store	1c	25.02	24.25	0.97
The Grain Store	1d	21.84	21.13	0.97
The Grain Store	2d	23.44	22.39	0.96
The Grain Store	3d	25.12	24.15	0.96
The Corn House	0a	26.08	21.67	0.83
The Corn House	0a	29.70	25.78	0.87
The Corn House	0a	29.18	25.22	0.86
The Corn House	1a	21.92	17.22	0.79
The Corn House	1b	28.46	23.10	0.81
The Corn House	2a	23.59	18.33	0.78
The Corn House	2b	30.73	24.80	0.81
The Corn House	3a	25.11	20.15	0.80
The Corn House	4a	29.58	24.61	0.83

As highlighted above two points are marginally below the BRE Guidelines, given the context of the site I consider this acceptable.

Given the context of the site an 'imperceptible impact' (applicant's assessment) to the VSC of surrounding buildings is to be expected for any substantial development in such an area due to these buildings' relative heights, proximity to the site and the nature of the structures on site at present. I am of the view that in this instance consideration should be given to the fact that the comparison being made is between an existing, under-utilised site and the proposed development, which is inevitably going to have some form of an impact given the circumstances and flexibility regarding BRE standards should be applied to balance the objective of achieving urban regeneration with any potential impacts.

Clonliffe Square

Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
0a	19.22	19.22	1.00
0a	17.58	15.45	0.88
0a	18.40	17.33	0.94
0f	16.58	13.29	0.80
1a	20.28	20.28	1.00
1a	19.59	17.29	0.88
1a	19.93	18.78	0.94
1f	18.14	14.56	0.80
2a	21.30	21.30	1.00
2a	20.95	18.65	0.89
2a	21.13	19.98	0.95
2f	19.39	15.73	0.81

37 points were assessed for Clonliffe Square, located to the southwest of the site on the opposite side of the Tolka River. Of the 37 points assessed, 12 have VSC values less than 27% but within 0.8 times its baseline value therefore comply with BER guidance.

Deakin Court:

The assessment identified and assessed for potential impacts on 20 windows on the western (rear) elevation of Deakin Court located to the north of the site.

Window No.	Baseline VSC	Proposed VSC	Ratio of proposed to baseline
0a	7.01	7.01	1.00
0b	7.58	7.58	1.00
0c	8.05	8.15	1.01
0d	10.20	10.30	1.01
0e	7.46	8.71	1.17
1a	5.54	5.54	1.00
1b	5.59	5.59	1.00
1c	5.86	5.88	1.00
1e	5.97	5.82	0.97
2a	5.73	5.73	1.00
2b	5.79	5.79	1.00
2c	6.07	6.07	1.00
2e	7.21	6.02	0.83
3a	25.76	25.76	1.00
3b	26.47	26.37	1.00
3c	25.15	25.15	1.00
3e	27.23	24.58	0.90

Of the 20 points assessed, 17 have VSC values less than 27% but within 0.8 times its baseline value therefore comply with BER guidance.

Where values are less than 27% they are within 0.8 times the baseline figure, therefore meet the BRE guidelines. I consider this acceptable given the context of Deakin Court, its orientation and relationship with the proposed development.

I am satisfied that the proposed layout has had regard to the adjoining sensitive receptors and has been designed to mitigate potential impacts with regard to access to daylight of existing residential properties bounding and adjacent to the site.

The windows affected relate to windows in 1 Waterfall Court. Given the height and scale of the current structures on site which are vacant and the orientation of the windows which adjoin the application site, these windows currently receive a level of daylight that is beyond that typically expected in an inner suburban environment and that any development on the site is likely to affect these windows, in my opinion.

Daylight Conclusion:

The assessment submitted with the application concluded that while some impact is noted to the available daylight and sunlight in adjacent properties it is consistent with development on a largely vacant site, in a tight urban environment.

I acknowledge the difference in the VSC values from the pre and post development assessment on the houses along Richmond Road in particular. However in this instance I am of the view that consideration should be given to the fact that the comparison being made is between an existing, under-utilised site and the proposed development, which will inevitably have some form of an impact. Flexibility regarding BRE standards should be applied to balance the objective of achieving urban regeneration with any potential impacts. As set out previously in my report I have concerns regarding the height, scale and massing of the proposed development in terms of visual dominance/overbearance. However, with regard to access to daylight I am satisfied that adequate regard has been had to the potential impact on adjoining lands and properties, when balanced against the need for housing on zoned and serviced lands.

Adjoining lands to the south:

As noted above the site is bounded to the south by the 'Leyden' site which the applicant has stated they have acquired and will be preparing a LRD application for its redevelopment. The proposed development is located to the north of this adjoining site therefore will have limited impacts any potential development located to the south.

10.4.4.3 Overshadowing:

The assessment submitted with the application includes existing and proposed radiation maps. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox).

The applicant's assessment has assessed potential impacts on 9 spaces as follows a: Deakin Court amenity area, b) 149-149A Richmond Road, c) 149B Richmond Road, d) 151 Richmond Road, e) 151A Richmond Road, f) 153 Richmond Road, g) 155 Richmond Road and h) 161 Richmond Road.

8 areas achieve a minimum of 50% of sunlight on the 21st March and therefore are BRE compliant. I note that 161 Richmond Road achieved 44.1% however I also note that its baseline is 47%.

I acknowledge that a degree of overshadowing is to be expected in urban areas and I consider the level of impact is acceptable in this instance given the context of the site and its location in Dublin inner city in an area the subject of regeneration.

10.4.5 Potential Impacts during Construction Phase

Observers have raised concerns that the amenities of local residents would be impacted by noise, dust, vibrations, traffic and potential structural damage during the construction phase of the proposed development.

With regard to potential impacts from noise and dust during the construction phase of the proposed development. The Construction & Demolition Waste Management Plan and the Construction Management Plan address how it is proposed to manage noise, dust, vibration, demolition waste and other impacts arising at the construction phase to ensure the construction of the development is undertaken in a manner to minimise intrusion.

I note that Inland Fisheries Ireland (IFI) recommended conditions be attached pertaining to the storage of materials on site, dewatering, etc which are address in the CMEP, CDWMP and by discharge licence (if required).

A Construction & Demolition Waste Management Plan (CDWMP) submitted with the application deals with matters of waste management amongst other matters. As such, these plans are considered to assist in ensuring minimal disruption and appropriate construction practices for the duration of the project. I have no information before me to believe that the proposal will negatively impact on the health of adjoining residents.

The Preliminary Construction & Environmental Management Plan (pCEMP) addresses how it is proposed to manage impacts arising at the construction phase to ensure the construction is undertaken in a controlled and appropriately engineered manner to minimise intrusion. The pCEMP addresses construction traffic and management of same. Includes phasing for works, methodologies, and mitigation measures and address working hours, site security, dust, noise, visual impact, traffic and pollution control etc .

I have reviewed the Noise & Vibration Assessment submitted. A Basement Impact Report is submitted with the application. This sets out that the basement construction will require a temporary secant pile wall to be installed to enable the excavation and basement structure to be constructed. Regarding the use of a standard piling rig operating no closer than 5m from the top of the slope, at the highest bank location height. The assessment carried out by the applicant concluded that in this regard, the slope is stable, and recommended that machinery should be kept 2m away from the top of the slope.

I have examined the documentation submitted and I consider the proposal robust and reasonable. I note that the impacts associated with the demolition, construction works and construction traffic would be temporary and of a limited duration. I recommend that the applicant be required to submit and agree a final CMEP and CDWMP with the Planning Authority prior to the commencement of development.

10.4.6 Devaluation of property

Observers have raised concerns that the proposed development would result in the devaluation of adjoining residential properties. I have no information before me to believe that the proposal if permitted would lead to devaluation of property in the vicinity.

10.5 Traffic & Transportation

10.5.1 Access and Traffic

It is proposed to access the site via an existing vehicular access off Richmond Road, this will serve as a combined pedestrian/Vehicular and cyclist access with the provision of a public plaza off Richmond Road. A pedestrian/cycle route is proposed to the south of the site along the River Tolka with a connecting route through the west of the site linking Richmond Road and the River Tolka.

The vehicular access to the development basement will operate as a priority junction. The relocation of the existing utility poles in close proximity to the vehicular access will be required to be agreed with the utility providers in advance of works and all costs associated with the works will be at the applicant's / developers own expense. An additional access to the set-down area located on the front plaza.

DCC Transportation Planning Division has raised concerns that the open nature of the frontage is may result in conflict with pedestrians and other vulnerable road users, particularly in the context of the pedestrian crossing point on the southern side of Richmond Road. (Drawing No. 210027-DBFL-RD-SP-DR-C-1011 P02) which shows the vehicle manoeuvres highlights potential conflict between pedestrians and vehicles. If the Board is of a mind to grant permission amendments to this area would be required to address potential conflicts that arise between pedestrian/vehicular and cyclist and provide a safer environment for users.

DCC Transportation Planning Division note that under the current Dublin City Development Plan 2016-2022 objective MT030, it is proposed that Richmond Road will undergo road improvement works. While no works have commenced to date, it is anticipated that the objective will be carried through to the next Dublin City Development Plan 2022-2028 and is included under objective SMT023 of the new draft Development Plan 2022-2028. The Division notes that the application submitted accommodates a sufficient set back to facilitate future road improvement upgrade. The proposal includes a new signalised pedestrian crossing on Richmond Road. This division welcomes the creation of enhanced pedestrian linkages between the site and Richmond Road which is welcomed by the Transportation Division and a condition is recommended to be attached that final details be agreed with the planning authority. Works to Richmond Road are welcomed and if the Board is of the mind to grant permission this matter can be addressed by appropriate condition as set out in the DCC Chief Executive's report.

The Traffic and Transport Assessment Report (TTA) submitted with the application assessed the existing and future transport infrastructure and includes a Trip Generation Analysis (TGA) and traffic surveys. The TGA which finds that the generated traffic volumes arising from the development will be low and as result the traffic impact on the surrounding road network arising from the development will not be significant. This division accepts the findings.

A Stage 1 Road Safety Audit (RSA) has been undertaken and submitted with a set of observations and recommendations that would need to be addressed and a Stage 2 RSA completed if a grant of permission is forthcoming. Outstanding matters can be addressed by the use of appropriate conditions in my opinion of the Board is of a mind to grant permission.

Having regard to the foregoing I have no objection on the ground of access and traffic safety.

10.5.2 Pedestrian/cycle route along riverside

The proposed pedestrian / cycle facility located to the south of the subject site is proposed to align with the future 'NO2 Greenway - along the River Tolka / Richmond Road from Fairview to Drumcondra' proposed as part of the NTA's Greater Dublin Area Cycle Network Plan. A c.8m set back of the development boundary from the River Tolka to allow for a future pathway/cycleway is incorporated and is acceptable, in my opinion.

10.5.3 Parking

Car:

The application site is located in an area bordering Parking Area 2 and Area 3 Map J of the Dublin City Development Plan 2016- 2022. Table 16.1 sets out the maximum car parking standards for various uses in each area.

The 2016 City Plan notes that apartment parking spaces are mainly to provide for car storage to support family friendly living policies in the city and make apartments more attractive for all residents. It is not intended to promote the use of the car within the city. If the car space is not required in the short-term, it should be given over to other residential storage or utility uses

71 no. car parking spaces are proposed, 49 at basement level (63 for residents and 6 for visitor) at a ratio of 0.33 car space per unit. No spaces are allocated for the café. A car club space is proposed for use by the residents. The 71 no. car parking includes 4 no. mobility impaired spaces, 1 no. car share and 8 no. EVC spaces. A serving and delivery space is also provided at basement level with a set down area at surface level in front of the café/retail unit. The Chief Executive report raised no objection to the proposed parking provision.

A Car Parking Strategy (include with the TTA) and a Mobility management Plan are submitted with the application.

All carparking spaces at basement level will be future proofed for the provision of electrical charging points, this is acceptable in my opinion.

Chapter 2 of the Design Standards for New Apartments Guidelines 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. Central and/or Accessible Urban Locations are described in section 4.20 of the Guidelines as locations that are in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.

The proposed scheme includes 71 no. car parking spaces, which is below the 'maximum' standard set out in the current Dublin City Development Plan. While it is noted that the quantum of car parking is below the standard set out in the plan it is my opinion that this is not material, as it does not relate to a specific policy of the plan and furthermore Table 16.1 refers to 'maximum car parking standards'. It is also noted that the planning authority did not raise the issue of material contravention of car parking standards. I am satisfied that the proposed development meets the requisite car parking standards.

Bicycle:

Table 16.2 sets out the cycle parking standards for various uses. For all zones residential is 1 per unit (additional requirements for larger units and visitor parking will be decided on a case by case basis). 388 no. cycle spaces and 2 no. cargo bike spaces are proposed (the TTA refers to 390 spaces (338 long-stay, 52 short-stay & 2 residential cargo bike spaces). The proposed quantum of resident cycle parking exceeds both the New Apartment Guidelines as well the Dublin City Council Development Plan requirements for cycle parking which is acceptable. The scheme includes 10 no. electric scooter storage spaces. Bicycle pump and repair stations are provided within the bicycle parking compounds which I consider acceptable. The quantum, location and type of bicycle parking provision is acceptable.

10.6 Services & Drainage

It is proposed to drain foul and surface water in separate system.

There are two existing concrete foul sewers (525mm and 900mm) in Richmond Road, which converge into a 900mm concrete sewer further downstream. The proposed foul sewer will be discharged to the Irish Water Foul sewer in Richmond Road and the proposed storm water discharge to the Tolka River.

Local authority record drawings do not indicate any surface water sewers in the immediate vicinity of the site. There is a 1350mm diameter surface water sewer c.160m east of the site entrance on Richmond Road. Within the site the existing surface water network comprises of a combination of gullies, concrete channels, 225mm diameter uPVC and 200mm diameter perforated PE pipes, which collects surface water from the site, and discharges unattenuated runoff to the Tolka via an existing outlet located at the south-east corner of the site.

The applicant in the submitted documentation has confirmed that the drainage system does not drain to groundwater and that all SuDS are above the ground water level.

Surface water discharge will be treated by green roof, blue roof, stone layer underneath permeable paving and an appropriate petrol interceptor will be provided.

There is no overland flow from adjacent lands into the proposed development due to the presence of an existing boundary wall to the west of the site and proposed new wall along the eastern boundary. Overland flow from the development will be directed to the Richmond Road according to the proposed site levels and towards a low point to the south-eastern corner of the site. The overland flow of Richmond Road will follow the existing gradient of the road from west to east without entering into the proposed development which has proposed levels higher than the road.

Basement floor drainage will be discharged by pump and the invert level raised to avoid exceeding the max. depth of 1.5m to minimise the risk to basement flooding.

I note that DCC Drainage Division have not raised objections subject to standard conditions.

It is proposed to connect to the existing 160mm diameter water main located on Richmond Road.

Irish Water in their submission noted that new connection to the existing water and wastewater network is feasible without a network upgrade. That separate storm and foul water connection services should be provided for the development with the storm water discharge must be removed from the wastewater network. And the stormwater from the site must be discharged only into the existing storm water network that is not connected to the Irish Water network. And advised that the applicant shall liaise with the Local Authority Drainage Division to agree full details of the proposed connection. I note the requirements of Irish Water which are recommended to be addressed by condition and consider them acceptable.

Based on the information before me I am generally satisfied in relation to the matter of services and drainage subject to standard conditions. Notwithstanding, a condition should be attached that final drainage proposals are to be agreed with the Planning Authority if permission is granted. The site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition if the Board is of a mind to grant permission.

Flood risk

The proposed development includes the construction of a new c.126 No. metre long section of flood wall to the River Tolka along the site's southern boundary. The new flood wall is positioned at the top of the existing river bank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The top of the wall will be set at the required flood defence level resulting in typical wall heights of c. 1.2 to 2 metres above existing ground levels. The development will also include the repair and maintenance of the existing river wall on site adjacent to the River Tolka

The applicant in the SSFRA has stated that it was agreed with DCC Flood Resilience Team that the proposed development will provide the missing section of flood defence wall which will link to the upstream flood wall in Deakin Court and to the downstream constructed wall at Distillery Lofts. Therefore as part of the proposed application it is proposed to construct a new c.126m long section of flood wall to the River Tolka along the site's southern boundary. The new flood wall is positioned at the top of the existing river bank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The top of the wall will be set at the required flood defence level resulting in typical wall heights of c.1.2 to 2m above existing ground levels. The development will also include the repair and maintenance of the existing river wall on site adjacent to the River Tolka.

The proposed new flood wall is setback from the existing river wall to maintain the existing river profile and section of existing river wall. Existing 'river walls' will be retained and repaired where possible. Vegetation will be removed where required to provide for various repairs. The flood wall will comprise a sheet pile with capping beam with flood wall to the required levels constructed on top.

The proposed flood defence wall will have a 5.6m AOD as top of the wall level where it will tie into the existing OPW Flood Defence wall. In this location the existing OPW Flood Defence wall has 5.33m AOD as top of wall level.

Dublin City Development Plan 2016-2022 Vol. & Strategic Flood Risk Assessment (SFRA) shows the site is located in Flood Zone B and C.

A Site-Specific Flood Risk Assessment Report (SSFRA) is submitted with the application. This outlines that the SFRA mapping indicates site at risk of fluvial flooding from Tolka River flooding from 0.1%AEP event, but protected for a 1% AEP event/ Part of the site is defended (remainder of flood wall to be constructed to defend the site). Unlikely fluvial (flood wall breach) as part of the site is already defended. Remainder of flood wall onsite to be constructed to complete defence. SFRA requires assessment of defence failure. The site is c.1.7km from the coast. The Tolka river is tidal at site. Existing flood defence wall protected part of the site from 0.5%AEP tidal event. Wave action is not significant at site. ICPSS flood maps indicate site have a minor risk from 0.5% tidal event (MRFS) and 0.5% AEP & 0.1% AEP tidal event (HRFS) at gap in current flood wall. SFRA Pluvial Flood Hazard Maps indicate low to moderate risk of pluvial flooding from SW drains in some areas of the site. GSI & SI records indicate low risk of groundwater flooding. Local groundwater identified to be addressed during construction phase and for basement design. New surface water network incorporates flow control devices – blockage/failure of drainage network/flow control/flap valve causing surcharging.

The submitted SSFRA noted that the proposed development is comprised of highly vulnerable residential development in an existing flood zone B with new flood defence works to protect the site. And since the development is not classified as 'minor development' a 'Justification Test for Development Management' is required as set out in The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009).

The Submitted SSFRA identifies that part of the proposed development site is at risk of fluvial and coastal flooding. It is submitted that on completion of the flood wall the site will be protected from fluvial and coastal flooding up to the required flood defence level as advised by DCC (5.8m to 5.3m) including allowance for climate change sea level change (0.5m) and freeboard (0.3m) allowances.

The SSFRA states development proposes less vulnerable development at ground floor level which is compatible with the flood zone B classification without any flood defence works or justification test. Highly vulnerable residential apartments are positioned at first floor and above which is well above expected flood waters. It is submitted that further flood mitigation measures incorporating appropriate flood resistance and flood resilience feature will further reduce flood risk to the proposed development in particular the basement.

Justification Test for Flood Risk:

- The site is zoned and passed the Justification Test for Development Plan as set out in the SFRA for Dublin City Development Plan 2016-2022.

- The development proposals through the incorporation of design measures to address and manage flood risk passed a Justification Test for Development Management for both the highly vulnerable and less vulnerable development proposals.
- Less vulnerable development proposals are appropriate within the Flood Zone B&C designations.

Remaining residual flood risk, following the justification test for flood risk assessment include:

- Fluvial flooding due to breach/overtopping of flood defence wall or failure of flap valve on the surface water outfall.
- Fluvial flooding from 0.1% AEP event.
- Pluvial flooding from the drainage system related to pip blockage.
- Pluvial flooding from the roads drainage system for storms exceeding the 1% AEP event

Proposed mitigation measures to address residual flood risk include:

- The development will construction a section of the Tolka Flood Defence Scheme within the site connecting to the existing flood defence wall upstream at Deakin Court and downstream at the south-east corner of the site.
- A new surface water drainage system will be constructed to drain runoff from the proposed development. The system is designed to surcharge during critical storm events but with no out of system/pipe flooding. On line cellular storage provides 110m³ of storage for surcharged fluvial events.
- Green infrastructure and SuDS measures represent an environmental improvement to water quality and run-off rates compared to the existing fully paved and unattenuated site.
- Design of flood wall incorporates 0.5m climate change allowance for sea levels and 20% for fluvial events. The surface water drainage network is designed to incorporate a 20% increase in rainfall intensities for pluvial events.
- Design measures include:
 - Location of less vulnerable development at ground floor (FFL 5.3mAOD)
 - Highly vulnerable development located at first floor level and above (FFL 9.55m AOD)
 - Main building access is off Richmond Road (i.e away from fluvial/coastal flood risk).
 - The proposed FFL of 5.3mis designed to be 0.5m (climate change allowance) below the minimum upstream flood wall level of 5.8m AOD.

- Basement car park entry incorporates an elevated entry level (5.75m APD above FFL)
- Basement car park entry incorporates allowance for demountable flood gate/barrier for use in extreme events.
- Vents to basement elevated above ground level of 5.8m AOD.
- Basement to be fully tanked to ground floor level to protect against groundwater.
- Minimum 8m wide buffer provided between the building and the flood defence wall incorporates a footpath and cycle-path to improve the amenity value along the river.
- Maintenance of the drainage system to be carried out on a regular basis in accordance with the O&M/Safety File with annual visual assessment of flood defence wall.
- The scheme is designed to allow emergency vehicle access on to the podium and along the eastern and southern sides of the development.
- Preparation of an evacuation plan/inclusion in DCC's early warning system/emergency access provided to the east and west of the building.
- A river level marking to be provided on the flood defence wall (detailed to be agreed with DCC) so that operators/residents can view and prepare for an extreme event

It is submitted that flood risk mitigation measures if implements are sufficient to provide for a suitable level of protection to the proposed development.

Flood resistance measures include:

- Vehicular access ramp to the basemen carpark has an increased crest level of 5.375m AOD.
- Top of basement ramp and all building doorways at ground level to incorporate provision for fitting a flood barrier/gate to prevent ingress of surface water or flood water to a level of 1.2m above FFL.
- All windows at ground level to be set at a level of 5.8m AOD min.
- The basement car park to be adequately tanked and sealed.
- Walls and floors at ground level to be tanked to level exceeding the estimated 1% AEP fluvial flood level, 0.5% AEP tidal flood level, plus 300mm freeboard, plus 500mm allowance for climate change i.e level of 5.8m AOD.
- Non return valves or anti flood valves to be fitted to the drainage network at connection locations (foul and surface water).
- The surface water drainage system should be fitted with manhole covers capable of resisting uplift pressures from surcharging systems.
- Any pipes and/or cables that protrude through external walls at a level below 5.8m AOD should be adequately sealed to prevent groundwater ingress.

- Airbricks in external walls below the flood level should be sealed with 'smart airbricks'.
- Vents to the basement carpark should be raised to a minimum level of 5.8mAOD.
- Perimeter wall to site to prevent flooding into the site from adjacent areas to a minimum level of 5.8mAOD.

Flood resilience measures:

- Where possible, important electrical appliances within buildings to be raised above ground level (e.g. on shelves or plinths).
- Consider use of suitable materials at ground level which can be easily cleaned /dried should they become flooded.

The SSFRA has concluded that adjacent areas will not be impacted by the proposed development compared to the existing land use. The proposed development will improve flood protection by the continuation of the OPW Tolka River flood defence wall along the boundary of the site. It concluded that as per the OPW Guidelines, the sequential approach has been applied, the proposed development has passed the necessary justification tests, the development does not increase flood risk elsewhere and the design incorporates measures to address flood risk.

Based on the information submitted the scheme passes the Justification Test and is deemed appropriate on the basis that the mitigation measures stipulated, including the provision for the installation of demountable flood barriers for the basement entrance ramp, are met for the parts of the development within Flood Zones B and C. I note that DCC Drainage Division have no objections subject to conditions. I have reviewed the available information and I consider, subject to the implementation of appropriate mitigation measures as contained in the submitted SSFRA, that the proposed development passes the justification test and is acceptable from a flood risk point of view.

10.7 Ecology

10.7.1 The applicant has identified a number of ecological sensitivities that affect the site. To this end, the applicant has prepared an 'Ecological Impact Assessment' (EclA) together with an 'EIA Screening Report' and 'Appropriate Assessment Screening Report (AA Screening)' and Natura Impact Statement (NIS), 'Aboriginal Report' and an 'Invasive Alien Plant Species: Site Assessment Report & Management Plan'

The EclA (dated 20th December 2021) highlights impacts and outlines mitigation measures. It was noted that no mammals of conservation concerns were recorded within the site, although a variety of species may use the site. The following surveys were carried out:

- Habitat survey (12th May 2021)
- Invasive species survey (8th April 2021).
- Bat survey (21st - 22nd June 2021 and 6th - 7th September 2021). Bat roost inspection survey (21st June 2021 and 6th September 2021). Emergence & Activity surveys carried out in June and September 2021.
- Bird survey; Flight-line surveys (February and March 2021), these focus on the SCI species characterised as 'poor fliers'. A suite of 5 flight-line surveys were carried out (27th February, 10th March, 15th March, 23rd March and 30th March). Potential for collision risks from building for the Light Bellied Brent Geese was assessed as a precautionary measure given the proximity to the SPA and potential for ex-situ use of inner city grassland feeding grounds.
- Mammal survey (carried out in conjunction with the Habitat survey on the 12th May 2021).
- Other fauna survey (carried out during the course of all surveys).

Observers raised concerns regarding the impact of the proposed development on the flight path of the Brent Geese which I also address in section 12 (appropriate assessment). The DAU and planning authority the issue of otters which I address below.

DCC Parks raised concerns that the River Tolka is an important habitat for protected species within Dublin. The ecological impact assessment indicates otter activity along the river corridor as well as considerable activity by bats. The proposed removal of existing vegetation along the river as well as the introduction of public access will negatively impact on fauna habitat and is not considered acceptable.

10.7.2 Bats

No evidence of bats in any of the buildings on site. No bats emerged or entered any building and there were no signs typical of bat roosts within the site. Significant bat activity was recorded along the Tolka River during the June survey, soprano pipistrelle and common pipistrelle recorded within the site with Leisler bat also noted. The survey noted that the location of the roosts was not determined but were not found within the confines of the site. Bat activity was noted during the September survey for the same species but much reduced activity.

I note that the DAU have not raised any objection subject to a recommended condition and compliance with mitigation measures contained in the EclA and Bat Survey Report.

I am of the view that if permission is granted, mitigation measures proposed in the EclA are appropriate and should be attached as condition in addition to the Department's recommended condition.

10.7.3 Otters

The presence of otters in the immediate vicinity of the site was highlight by both DCC and the DAU.

The author of the EclA submitted with the application noted that given the highly anthropogenic nature of the site there is little suitable habitat for mammal species present. It was deemed that otter would not utilise the main body of the site due to the lack of any suitable habitat for the species therein and the highly built up nature of the immediate surroundings. The Author acknowledged that the River Tolka supports otter along sections of its length but that this is confined to the upper reaches and central section of the Tolka near the M50 crossover and the Botanical gardens regions respectively. The lower reaches (where the site is located) is characterised by high retaining walls along the banks of the river which flows in a 20m-30m heavily modified, canalised channel.

I note that the EclA recorded that evidence of otter along the more urbanised stretch of the Tolka River was low and that the nearest signs of otter (prints) were located upstream and immediately downstream of the site, as such it may be concluded that otter may potentially use this section of the river for commuting but based on the information submitted there is no evidence of otter activity on site and that the nature of the site is not conducive to otter activity given is unsuitable habitat. I am of the view that this would not be a reason for refusal of permission, rather appropriate measures could be dealt with by condition to address concerns relating to potential otter activity along this section of the Tolka.

10.7.4 Birds

The results from the bird breeding survey carried out at the site in May 2021 noted 1 bird species as breeding and 9 as possible. There were no red-listed species recorded as breeding. 2 amber-listed species recorded as breeding (Goldcrest and Starling). The only 'at risk' birds recorded over the site were Light-Bellied Brent Geese (LBBG) of which several flocks were recorded at height over the site and surrounding lands over the course of 3 surveys. The LBBG recorded during the surveys were noted as geese commuting inland to forage ex situ grassland sites. All LBBG recorded at heights between 20-160m.

At risk waterfowl (not listed as SCI) recorded flying over the site included Cormorant, Mallard, Grey Heron and Little Egret, of which the most common was Mallard. Flight height ranges recorded between 20.9m and 40m.

The possibility of bird strikes/collision due to the height of the buildings has been raised as a concern in some of the third party submissions received, in particular impact on Brent Geese who are stated to use the Tolka River as their flight path. Submissions do not include documentary evidence or surveys to support this. No significant flight paths related to protected birds have been identified in this area and the observer has submitted no evidence in relation to existence of flight paths.

The height of the tallest building within the proposed development site is 34.5m. The Urban Development and Building Height Guidelines note that an assessment of potential impact on flight lines and/or collision may be undertaken in proximity to sensitive bird or bat areas, but the guidelines are not prescriptive in this regard. The subject site is not located in such proximity and is remote from identified / designated sites for birds, and in particular migratory bird species. The site is not currently attractive for birds and no evidence has been submitted that this is a sensitive site.

The design of proposed buildings is such that there are not extensive glazed areas. While events of bird collision could still arise, I do not consider that significant impacts are likely and a condition in this regard would not address residual risks arising. There are unlikely to be significant effects on any SCI species associated with any designated sites in this regard, in particular the Brent Geese. This has not been raised as a concern by the planning authority.

I am of the view that if permission is granted, mitigation measures proposed in the EclA are appropriate and adequate and should be attached as condition.

10.7.5 Other Mammals:

No evidence of fox on site, but it is acknowledged that there may be fox present in the general area and therefore they may pass through the site.

10.7.6 Fish

There are no waterbodies within the site, the Tolka river bounds the site and may be utilised by Atlantic Salmon and Brown Trout, of which Atlantic Salmon as listed as ANNEX II species Lamprey (Annex II) and European Eel (red listed species) may also use the Tolka River. Please refer to section 12 of this report relating to appropriate assessment where I address this.

10.7.7 Trees

The provision of a flood defence wall and a cycle track/pedestrian greenway along the site's riverside boundary places constraints on landscaping options. The removal of structures from the site will underline part of the existing treeline along the site boundary, which raising concerns pertaining to their viability along the proposed pedestrian greenway. As such the EclA concluded that the loss of this treeline is unavoidable. The trees in question are Sycamore and Cypress and while providing a habitat corridor presently along the river that are non-native species. A native Hawthorn hedgerow along with a series of native trees (including is proposed along the boundary with the Tolka which is acceptable, in my opinion. Overall I consider that proposed landscaping and planting to the riverside greenway provides a robust replacement in terms of vegetation given the constraints of the site.

10.7.8 Invasive Species

The applicant includes a site assessment and management report noting the presence of invasive species Japanese Knotweed and Giant Hogweed on site. The monitoring and future elimination of invasive species is required before construction and during the development's operation phase and a condition is advised requiring this with any grant of planning permission.

10.7.9 Ecology Conclusion

I note the concerns raised by third parties, the Department and DCC Parks department. I also note that both the Department and the planning authority set out that outstanding matters could be address by condition. On balance and having regards to the foregoing I am of the view that if permission is granted, mitigation measures contained in the EclA are appropriate and adequate and should be attached as condition in addition to requirements recommended by the Department.

10.8 Non-Residential Use

10.8.1 Café

A c.157sq.m café/retail unit is proposed on the ground floor fronting onto and addressing Richmond Road. I consider the scale and location of this unit acceptable. Issues relating to shopfront and signage can be addressed by condition if a grant of permission is forthcoming.

10.8.2 Telecommunications

The proposed development includes the dismantling and removal and the existing mobile telecommunications structure (mast) currently located on the site adjacent to the river bank.

The applicant has submitted that the proposed block would interfere with the signal from the mast and requires that the telecommunications infrastructure/equipment is provided on the roof of the new block to allow for line of sight operation of the microwave links.

A Telecommunications Report has been submitted with the application, This outlines that that in order to retain the 3 no. microwave links which are required to be moved for the development permission is also being sought to install 3 no. support poles attached to the lift shaft overrun at 2.36m above roof level. Each of these poles would then have two microwave links attached. To retain the 6 no. Radio Frequency links permission is sought for 9 no. support poles attached to ballast mounts rising to 2.8m above parapet level. Each of these poles would accommodate 1 no. 2m 2G/3G/4G antenna and 1 no. 5G antenna. It is also proposed to surround each pole in a shroud to screen the equipment from view.

I note that the planning authority accepts the rationale for removing the existing mast and replacing it with new equipment is accepted as is the reason for not collocating with existing masts in the vicinity

The three poles attached to the lift overrun would be located at the centre of the roof set in from each parapet edge and would not be readily visible. The nine ballast mounted antennae would be arranged at the edge of the parapet to the west, east and southeast of the roof. The shrouded antennae are clearly visible on the elevation drawings and the CGI views such as VVM1 and VVM5. The proposed shrouds which would be clearly visible at medium and long distance. The level of detail with regard to the appearance, colour and texture of the shrouds is vague. I am of the view that outstanding matters relating to materials used for the shrouds could be dealt with by condition if the Board is of a mind to grant permission. However, as I have outlined in section 10.2 my concerns relating to the overall height of the proposed development and my reason for recommending refusal on these grounds and that the provision of additional equipment on the roof would further exacerbate this issue.

10.9 Part V

The applicant has submitted Part V proposals as part of the application documents 18 units are currently identified as forming the Part V housing. The Chief Executive Report note that the Housing Section outlined that had not received communication from the applicant and that the location and type of units is not agreed until permission is granted.

I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending on 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.

10.10 Social Infrastructure

Concerns have been raised by that there is a lack of available social infrastructure in the area to meet the needs to the existing community and additional demand arising from the proposed development will further exacerbate this situation.

A 'Social Infrastructure Audit' has been submitted with the application. This has examined existing range of social infrastructure within the vicinity of the subject site. If the existing social infrastructure provision supports the needs of the existing population; and sought to offer insights into the likelihood of the capacity of the existing services and facilities to support future residents.

I have reviewed the applicant's audit. I also note that the planning authority has not raised concerns in this regard and a review of the social infrastructure is also being undertaken as part of the overall review of the City Development Plan. Based on the information before me I see no justification to refuse permission on the ground of available social infrastructure.

10.11 Childcare

A total of 21 no. childcare facilities were identified in the Study Area using the latest Tusla Early Years data which could be accessed within a c.1 km radius (including the ones that are located just outside the 1km radius) of the site.

The applicant has argued in the documentation submitted that as the potential childcare uptake of the proposed 183 no. BTR apartments is likely to only be 2 no. spaces and therefore, there is sufficient capacity from the existing facilities to absorb the demand generated from the proposed development. The Planning Authority have not raised concerns in this regard.

The Apartment Guidelines (2020) states that the threshold for provision of childcare in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. The guidelines state that 1 bed or studio units should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with 2 or more bedrooms.

The proposal does not include provision for a childcare facility and the matter has been addressed in the submitted 'Social Infrastructure Audit' which included a Childcare audit and assessment to determine the existing childcare provision in the vicinity. The applicants support their argument for non-provision by reference to existing and permitted childcare facilities within the locality. I am satisfied with the justification put forward in this regard.

Having regard to the guidance contained in the Apartment Guidelines and in view of the development being comprised of studios, 1 and 2 bed units and the existing available facilities in the area, I am satisfied that the omission of childcare from the development is acceptable.

10.12 Other Matters

10.12.1 Archaeology

The site is located adjacent to, but not within, the zone of archaeological potential for Recorded Monument and Place (RMP) DU018-030 (water mill-unclassified).

An Archaeological, Architectural and Cultural Heritage Impact Assessment report is submitted with the application. This report states that subsurface archaeological remains associated with a 19th-century millrace and weir, as depicted on historical cartographic sources, may be impacted upon by the proposed groundworks and basement construction associated with proposed development. Earlier phases of mill fabric may also survive within the subject site. This report concludes the site is an area of high archaeological potential and recommends it be archaeologically tested prior to development.

DCC Archaeology section in their submission noted that the basis of the information in the report and the proposed archaeological mitigation (Section 5, page 23) it is recommended that the proposed archaeological mitigation measures for archaeological testing and monitoring are carried out in advance of any construction works as a condition of any grant of planning permission. *I am satisfied that given the location of the site and the presence of existing structures on site and issues pertaining to potential archaeological finds can addressed through the standard condition for archaeological monitoring during ground works if the Board is of a mind to grant permission.*

10.12.2 Legal

The issue of landownership has been raised by a third party (Donal Carroll) and has stated in his submission that a portion of the site includes lands that are in his ownership without his consent.

The applicants in Q.7 of The Strategic Housing Development Application Form have stated that they, Birkey Limited, are the owners of the majority of the site (c.0.63ha). The application site has been outlined in red in the documentation submitted with the application for SHD before the Board with a letter of consent from DCC relating to a portion of the public road and footpaths (c.0.06ha) to be included within the application site boundaries.

I note the information set out above and I further note that it is not for the planning system to resolve matters relating to landownership.

Section 5.13 of The Development Management, Guidelines for Planning Authorities (2007) refer to Issues relating to title of land. This section states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution by the Courts. In this regard, it should be noted that, as section 34 (13) of the Planning Act states, a person is not entitled to solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision.

The Guidelines also set out that permission may be granted even if doubt remains. However, such a grant of permission is subject to the provision of section 34(13) of the Act. In other words the developer must be certain under civil law that he/she has all the rights in the land to execute a grant of permission.

I am of the view that it would be unreasonable to refuse permission in relation to this matter. The question of ownership of land is a legal matter and outside the scope of a planning permission.

10.13 Material Contravention

The applicant has submitted a material contravention statement in relation to the matter outlined above, the justification/ reason put forward relate to the relevant section 28 guidelines, regional guidelines or national frameworks. The applicant has advertised that a material contravention statement is submitted as part of the application has as required under legislation.

Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the Development Plan, the Board may grant permission where it considers that:

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan

The current application has been lodged under the Strategic Housing legislation and in respect of 37(2)(b)(1) the proposal meets the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended). The policies and objectives within Housing for All – A New Plan for Ireland (2021) and the National Planning Framework (NPF) – Ireland 2040 which fully support and reinforce the need for increased residential density in settlements such as that proposed. National Policy Objective 35 of the NPF refers to such sites. I consider this to be one such site. Ultimately higher densities, result in greater numbers of people living at the right location, as well as taller buildings that should be delivered with greater unit mix and higher quality accommodation.

I have addressed all of these points in the body of my report.

Height:

Section 16.7.2 of the current Dublin City Development Plan: Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development addresses the issue of building height in the city. The Plan sets 24m as the maximum height permissible for residential developments in this area.

The height of the proposed development ranges in height from part 6 No. to part 10 No. storeys, exploring the potential for increased height whilst being cognisant of the surrounding context of the subject site. The maximum overall heights is set out below:

- Top of Roof c.33.5m.
- Top of Parapet c.34.6m.
- Top of Lift Overrun c.34.8m.
- Top of Equipment Cabinet c.35.9m.
- Top of Dishes c.36.5m.
- Top of Antenna Ballast Mount c.37.5m.

This proposed development with a maximum height of 10 storeys (c34.6m) exceeds the prescribed height in the development plan (16m residential). I consider the exceedance in terms of metres proposed to be material.

The 2018 Building Height Guidelines provide that permission may be granted for taller buildings where the development management criteria in the guidelines are met, even where specific objectives of the relevant Development Plan or Local Area Plan indicate otherwise. While I consider that the site is appropriate for increased height in light of guidance in the Urban Development and Building Height, Guidelines for Planning Authorities (SPPR3) I do not consider the proposed height in this instance appropriate particularly in consideration of the Development Management Criteria in section 3.2 of the guidelines. I have addressed compliance with criteria contained in section 3.2 in section 10.2.1. of this report. I have addressed access to sunlight/daylight in sections 10.3.2 and 10.4.3.

I refer the Board to section 10.2.1 of this report where I have set out my concerns regarding compliance with section 3.2 of the Building Height Guidelines. I am of the view that material contravention is not justified in this instance.

I have addressed in my assessment why I do not consider that the proposed development not materially contravene the provisions contained in the Dublin City Development Plan 2016-2022 relating to dwelling mix, requirement of units to exceed floor area by 10%, location of BTR units/legal covenant, number of units per core, daylight/sunlight, apartment room sizes, ratio of glazing and children's play space.

Having regard to the provisions of Section 37(2)(b) of the Planning and Development Act (as amended), I do not consider that a grant of permission, that may be considered to material contravene the Development Plan, would be justified in this instance under sub sections (iii) of the Act.

10.14 Chief Executive Report

I have addressed issues raised by the planning authority and where I do not consider a condition appropriate, I have set out my reason for same in the assessment under the relevant section.

11.0 Environmental Impact Assessment Screening

The applicant has addressed the issue of Environmental Impact Assessment (EIA) within an 'Environmental Impact Assessment Screening Report' and 'Statement in accordance with Article 299B (1)(b)(ii)(II)(c)' pursuant to Planning and Development Regulations 2001 (as amended) and Section 299B(1)(b)(ii)(II)(C)' and I have had regard to same in this screening assessment. These reports contain information to be provided in line with Schedule 7 of the Planning and Development Regulations 2001. The EIA screening report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Class 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:

- Construction of more than 500 dwelling units*
- 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.*

Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

It is proposed to demolish existing warehouse structures, two dwellings and hardstanding area (c.2346sq.m) and construct 183no. BTR apartments and 1 no. café (c.157sq.m) in one on a site with a stated area of c 0.61ha. Improvement works to Richmond Road are also proposed including carriageway widening and a new signal controlled pedestrian crossing facility on an area of c.0.08 ha. The development site area and road works area will provide a total application site area of c.0.69 ha. It is also proposed to construct a new c.126m long section of flood wall to the River Tolka along the site's southern boundary. The new flood wall is positioned at the top of the existing river bank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The top of the wall will be set at the required flood defence level resulting in typical wall heights of c.1.2 to 2 m above existing ground levels. The development also includes the decommissioning of the existing telecommunications mast at ground level and provision of new telecommunications infrastructure at roof level including shrouds, antennas and microwave link dishes; The development will also include the repair and maintenance of the existing river wall on site adjacent to the River Tolka. The site is located on a brownfield site within the urban footprint of Dublin city. The site is not located within any designated Archaeology zone of Interest. It is adjacent to the River Tolka Conservation area with a small section of the northeastern portion of the site is located within it. The site is, therefore, below the applicable threshold of 10ha. The site currently contains disused offices/warehouses/sheds and two dwellings, all of which are to be demolished/removed as part of the proposed development. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal. A preliminary CMEP, a CDWMP, a 'Basement Impact Report (including Preliminary and Generic Quantative Risk Assessment (GQRA), a Noise & Vibration Assessment, a Bat Survey, a Landscape Report, An Arboricultural Impact Assessment and a Microclimate Assessment have also been submitted with the application and an Ecological Impact Assessment Report, an Appropriate Assessment Screening Report and Natura Impact Statement.

Article 299B (1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The criteria set out in schedule 7A of the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. It is my view that sufficient information has been provided within the 'Environmental Impact Assessment Screening Report' and 'Statement in accordance with Article 299B (1)(b)(ii)(II)(c)' pursuant to Planning and Development Regulations 2001 (as amended) and Section 299B(1)(b)(ii)(II)(C)' (which should be read in conjunction with each other) and other documentation to determine whether there would or would not be likely to have a significant effect on the environment.

Article 299B (1)(b)(ii)(II)(B) states that the Board shall satisfy itself that the applicant has provided any other relevant information on the characteristics of the proposed development and its likely significant effects on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts and all other submissions. I have also considered all information which accompanied the application including inter alia:

- Planning Report and Statement of Consistency.
- Material Contravention Statement.
- Property Management Strategy Report
- Building Lifecycle Report
- Social Infrastructure Audit
- Childcare Demand Assessment
- Universal Access Statement.
- Housing Quality Assessment.
- Architectural Design Statement.
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Traffic and Transport Assessment Report
- Mobility Management Plan
- DMURS Design Statement
- Quality Audit Including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit
- Preliminary Construction & Environmental Management Plan
- Basement Impact Report (including Preliminary and Generic Quantative Risk Assessment (GQRA).
- Landscape Masterplan and Drawings
- Landscape Design Report
- Landscape Visual Impact Assessment

- Arboricultural Assessment
- Appropriate Assessment Screening Report
- Ecological Impact Assessment Report
- Environmental Impact Assessment Screening Report (including Bat Assessment)
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 (as amended)
- Natura Impact Statement
- Invasive Alien Plant Species: Site Assessment Report & Management Plan.
- Architectural Heritage Impact Assessment
- Archaeological, Architectural and Cultural Heritage Impact Assessment
- Noise & Vibration Impact Assessment
- Operational Waste Management Plan
- Construction & Demolition Waste Management Plan
- Microclimate Assessment.
- Daylight and Sunlight Analysis
- Verified View Montages and Computer Generated Images
- Part L Planning Compliance for the Mechanical and Electrical Services Installations
- Site Lighting Layout Drawing Pack
- Telecommunications Report- Section 3.2 of the Building Height Guidelines (2018)

Article 299B (1)(b)(ii)(II)(C), requires the applicant to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. In this regard the applicant submitted a Section 299B Statement.

The list below relates to assessment that I have taken account of -

- The Birds Directive (Directive 2009/147/EC) and Habitats Directive (Council Directive 92/43/EEC) through the Appropriate Assessment Screening report, Natura Impact Statement, Ecological Impact Assessment Report (including Bat Survey).
- The Water Framework Directive (WFD) (Directive 2000/60/EC) and The Groundwater Directive (Directive 2006/118/EC). The EIA Screening report, AA Screening Report, Natura Impact Statement and Infrastructure Design Report have been informed by the water quality status.
- The Floods Directive (Directive 2007/60/EC) Risk Assessment through the Site-Specific Flood Risk Assessment (SSFRA) which included Justification Test, the Basement Impact Report (including Preliminary and Generic Quantative Risk Assessment (GQRA).and the implementation of the Dublin City Development Plan 2016-2022 which undertook a Strategic Flood Risk Assessment (SFRA).

- The Strategic Environmental Assessment (SEA) Directive 2001/42/EC through the zoning of the land for Z10 in accordance with the Dublin City Development Plan 2016-2022 which was subject to SEA.
- The Waste Framework Directive 2008/98/EC thorough the design of the proposed development and the mitigation measures set out in the Infrastructure Design Report, the Preliminary Construction & Environmental Management Plan, the Operational Waste Management Plan and the Construction & Demolition Waste Management Plan.
- The Seveso Directive (Directive 82/501/EEC, Directive 96/82/EC, Directive 2012/18/EU). The proposed site is not located within the consultation zones, therefore, this does not form a constraint to the proposed development at this location.

The applicants Environmental Impact Assessment Screening Report under the relevant themed headings and the Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001-2021 considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening. I have also taken into account the SEA and AA of the Dublin City Development Plan 2016-2022.

I have completed an EIA screening determination as set out in Appendix 2 of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the information provided in the applicant's EIA Screening Report.

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

12.0 Appropriate Assessment

12.1 Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Richmond Road, a residential development comprising 183 BTR apartments, works to public road, provision of cycle/pedestrian greenway and c.126m section of a flood defence wall is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

12.2 Introduction

An Appropriate Assessment Screening Report and Natura Impact Statement were submitted with the application. Included with the application, amongst other reports are an Ecological Impact Assessment with a Bat Report Study and a preliminary Construction Environmental Management Plan all of which should be read in conjunction. 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 AA Screening Report concluded that further assessment (stage 2) for the proposed development at 146, 148-148A Richmond Road site, was required to establish whether any likely significant effects may arise to South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka SPA and North Bull Island SPA as a result of the proposed development. The Screening conclusion outlined that this determination was reached with reference to account 'mitigation measures' or measures intended to avoid or reduce any impact on European sites.

The information contained within the submitted reports is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development. I am satisfied that the best scientific knowledge for the purpose of a screening test has been put forward in this instance.

The planning authority in their Chief Executive Report state that they concur that no significant effects are likely to arise, either alone or in combination with other plans or

projects that will result in significant effects to the integrity of the Natura 2000 network. I also note the contents of the submission received from Inland Fisheries Ireland and the DAU.

I shall deal with measures at local level relating to River Tolka at the outset, before proceeding any further in the AA Screening assessment.

As will be seen in the following sections, I am satisfied that there is a low likelihood of significant levels of any polluting substances getting into the system. The River Tolka is of very high ecological value and its importance as a habitat corridor and for its bird, mammal and fish species is noted. I am cognisant of the fact that the South Dublin Bay Tolka Estuary SPA is the closest designated site to this development site and there is a direct pathway from the site to this designated site. Measures in relation to the protection of the River Tolka at a local level have been detailed in the submitted accompanying documents including the EIA Screening report and Preliminary CEMP and I refer the Bord to same.

While the applicant's Appropriate Assessment Screening report described these as mitigation measures for the purposes of appropriate assessment, they are not. Notwithstanding the reference to 'mitigation' measures in a number of documents, The EclA, The Preliminary CEMP and the AA Screening Report, I have examined these documents and I do not consider that they are mitigation measures for the purposes of appropriate assessment. In my view the word has been used incorrectly. They constitute the standards established approach to surface water drainage for construction works on sites. Their implementation would be necessary for a housing development on any greenfield site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on a greenfield site whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy in preventing the risk of a deterioration in the quality of water downstream of construction works has been demonstrated by long usage. Therefore, the proposed development would be not likely to have a significant effect the quality of the waters in the Natura 2000 sites downstream of the application site. Any potential impact would only arise if the proposed development were carried out in an incompetent manner or with reckless disregard to environmental obligations that arise in any urban area whether or not it is connected to a Natura 2000 site.

I am of the opinion that it is very clear that any measures proposed are not needed to avoid, prevent or reduce significant effects on European Sites within Dublin Bay and that no mitigation has been put forward in this regard.

I have examined all mitigation measures put forward in the aforementioned documents and am satisfied that the intention of the measures detailed are directed solely at protecting the fisheries value and habitat of the Tolka River at a local level

species and habitat features that are not included as qualifying interest features for the downstream SPA sites and SAC sites.

In relation to this matter, I note the submission from the Department of Housing, Local Government and Heritage in relation to nature conservation. I note they are recommending that permission be granted, subject to conditions. Notwithstanding the reason in their recommended Condition No. 3, as stated previously, I am of the opinion that these are best construction measures/practices that they are referring to. I am not considering them as mitigation in the context of the designated sites but instead as measures to protect the ecology at a local level of the River Tolka. Notwithstanding the reason attached to recommended Condition No. 3 of the Department submission, I am of the opinion that these measures would be required in any such development, irrespective of whether there were designated sites in proximity or not.

While I acknowledge that the purpose of these measures may have no connection with a designated site, it could be argued that it does not exclude the possibility that there may be more than one purpose for the measures and there may be some incidental protection of the designated sites. In this regard, I am satisfied that the intention of the measures in question, are such, that they were adopted not for the purpose of avoiding or reducing the potential impact on the relevant designated sites but were adopted solely and exclusively for some other purpose, namely protecting the fisheries value and habitat of the Tolka River itself at a local level. I am of the opinion that many of the measures are essentially best-practice construction measures and their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.

12.3 Screening for Appropriate Assessment (Stage 1)

12.4 Description of Development

The applicant provides a description of the project in section 4 of the NIS. I refer the Board to section 3 of this report.

12.5 Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the is likely to have significant effects on a European site(s).

The proposed is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

12.6 Designated sites within Zone of Influence

In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the site to the European Sites, and any potential pathways which may exist from the site to a European Site. The site is not within or directly adjacent to any European Site. The site is located adjacent Tolka River which forms the southern boundary. This enters Dublin Bay c.1.4km downstream. Potential ex-situ impacts also arise regarding Lower Bellied Brent Geese given the potential for foraging on grassland in the area.

Designated sites within Zone of Influence:

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location Relative to the Proposed Site
<p>South Dublin Bay SAC (Site Code 000210)</p> <p>Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines ABP-310860-21 Inspector's Report Page 130 of 207 Salicornia and other annuals colonising mud and sand Embryonic shifting dunes</p> <p>Conservation Objective: To maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>	c.4km to SE
<p>North Dublin Bay SAC (Site Code 000206)</p> <p>Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with white dunes Fixed coastal dunes with grey dunes Humid dune slacks Petalwort</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected</p>	c.4.4km to E
<p>Baldoyle Bay SAC (Site Code 000199)</p> <p>Mudflats and sandflats not covered by seawater at low tide Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows</p> <p>Conservation Objective: To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	c.8.4km to NE

<p>Howth Head SAC (Site Code 000202)</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts European dry heaths</p> <p>Conservation Objective: To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p>	<p>c.10km to E</p>
<p>Rockabill to Dalkey Island SAC (Site Code 003000)</p> <p>Reefs/ Harbour Porpoise</p> <p>Conservation Objective: To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>c.10.5km to E</p>
<p>Malahide Estuary SAC (Site Code 000205)</p> <p>Mudflats and sandflats not covered by seawater at low tide Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Shifting dunes along the shoreline with Ammophila arenaria (white dunes) Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>c.10.9km to E</p>

<p>Ireland's Eye SAC (Site Code 002193)</p> <p>Perennial vegetation of stony banks Vegetated sea cliffs of the Atlantic and Baltic coasts Conservation Objective: To maintain the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected</p>	<p>c.12.7km to NE</p>
<p>Glenasmole Valley SAC (Site Code 001209)</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites) Molinia meadows on calcareous, peaty or clayey-siltladen soils Petrifying springs with tufa formation Conservation Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>c.14.3km to SW</p>
<p>Wicklow Mountains SAC (Site Code 002122)</p> <p>Oligotrophic waters containing very few minerals of sandy plains Natural dystrophic lakes and ponds Northern Atlantic wet heaths with Erica tetralix European dry heaths Alpine and Boreal heaths Calaminarian grasslands of the Violetalia calaminariae Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) Blanket bogs (* if active bog) Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) Calcareous rocky slopes with chasmophytic vegetation Siliceous rocky slopes with chasmophytic vegetation Old sessile oak woods with Ilex and Blechnum in the British Isles Lutra lutra (Otter) Conservation Objective: To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected</p>	<p>c.14.2km to S</p>

<p>South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)</p> <p>Light-bellied Brent Goose Oystercatcher Ringed Plover Grey Plover Knot Sanderling Dunlin Bar-tailed Godwit Redshank Black-headed Gull Roseate Tern Common Tern Arctic Tern</p> <p>Wetlands & Waterbirds Conservation Objective: To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>	<p>c.1.4km to E</p>
<p>North Bull Island SPA (Site Code 004006)</p> <p>Light-bellied Brent Goose Shelduck Teal Pintail Shoveler Oystercatcher Golden Plover Grey Plover Knot Sanderling Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Turnstone Black-headed Gull</p> <p>Wetlands & Waterbirds Conservation Objective: To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>	<p>c.4.4km to E</p>
<p>Baldoyle Bay SPA (Site Code 004016)</p> <p>Ringed Plover Shelduck Golden Plover Bar-tailed Godwit Grey Plover Light-bellied Brent Goose</p> <p>Wetlands and Waterbirds Conservation Objective: To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>	<p>c.8.7km to NE</p>

<p>Broadmeadow/Swords Estuary (Malahide Estuary) SPA (Site Code 004025)</p> <p>Shelduck Pintail Goldeneye Oystercatcher Redshank Knot Bar-tailed Godwit Black-tailed Godwit Golden Plover Light-bellied Brent Goose Dunlin Grey Plover Red-breasted Merganser Great Crested Grebe Wetlands Conservation Objective: To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected</p>	<p>c.10.9km to NE</p>
<p>Ireland's Eye SPA (Site Code 004117)</p> <p>Cormorant Herring Gull Kittiwake Guillemot Razorbill Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>c.12.5km to NE</p>
<p>Howth Head Coast SPA (Site Code 004113)</p> <p>Kittiwake Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>	<p>c.13km to E</p>

<p>Dalkey Islands SPA (Site Code 004172)</p> <p>Arctic Tern Common Tern Roseate Tern Conservation Objective: To maintain or restore the favourable conservation condition of the species for which this SPA has been selected.</p>	<p>c.13.9km to SE</p>
<p>Wicklow Mountains SPA (Site Code 004040)</p> <p>Merlin Peregrine Conservation Objective: To maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>	<p>c.14.5km to S</p>

I do not consider that any other European sites fall within the zone of influence of the project based on a combination of factors including the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site. See also the applicant's Appropriate Assessment Screening, the conservation objectives of Natura 2000 sites, the lack of suitable habitat for qualifying interests, as well as by the information on file, including observations made by prescribed bodies and I have also visited the site. I note that the applicant's screening concluded that the possibility of a likely significant effect on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka SPA and North Bull Island SPA could not be excluded and proceeding to carry out a stage 2 and prepared a Natura Impact Statement.

12.7 Potential Effects on Designated Sites

The proposed development is on a site hydrologically connected to South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka SPA and North Bull Island SPA. There is a direct pathway to the designated sites within Dublin Bay, via the River Tolka. The River Tolka passes along the southern boundary of the site, a 126 m flood defence wall is proposed along this boundary.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, there is potential for significant effects upon these Natura 2000 sites arising from construction activities associated with the proposed development, as well as during operation. The following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Possibility of operational surface water discharged from site to Tolka River.
- Possibility of construction related surface water discharge to Tolka River.
- Potential for transport of invasive flora species from the site.
- Possibility of deterioration of water quality arising from foul water from the operational phase of the development which passes through Ringsend WWTP and ultimately discharges to Dublin Bay.
- Potential collision risk/obstruction of flight oaths involving certain SCI waterfowl species (eg. Light Bellied Brent Geese) by proposed development during operational phase.

With regard to habitat loss and fragmentation, given the site is not located within or adjoining any European sites, there is no risk of direct habitat loss impacts and there is no potential for habitat fragmentation.

The foul effluent generated by the proposed development will drain via a separate foul drainage network within the site prior to discharge into a combined sewer network at Richmond Road, from there it will be transferred via the combined sewer for treatment to Ringsend WWTP for treatment prior to discharge to Dublin Bay. Therefore the development has a potential impact pathway to European Sites within Dublin Bay via the combined surface water and foul water network.

In view of the potential hydrological connection to sites within Dublin Bay, I consider that the potential for effects on sites within the Dublin Bay coastal waterbody need to be considered at the Screening Stage. There are no hydrological or ecological pathways to any other European sites due to the separation distances involved and the absence of any ecological / hydrological or other potential impact pathways. I am, therefore, satisfied that likely significant impacts can be excluded in respect of all other European Sites at the preliminary stage.

The potential for significant effects on the qualifying interest of the European Sites listed above as a result of disturbance and displacement effects do not arise. There

are no European sites within the Zone of Influence for disturbance arising from construction. The nearest European site is c.1.4km away. The site has a direct hydrological connection to the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka SPA and North Bull Island SPA.

As the proposal would not result in the disturbance/displacement of the qualifying/special conservation interest species of any European site, there is not potential for any in combination effects to occur in that regard.

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

- The relatively low volume of any potential surface water run off or discharge events during construction relative to the recovering surface water and marine environments.
- 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. The distance between the subject lands and European sites within Dublin Bay and potential for pollution to be dissipated in the drainage network.
- Foul and surface waters will discharge to the existing combined foul and surface 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.
- The EPA in 2018 classified water quality in Dublin Bay as 'unpolluted'.

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

There is a potential groundwater pathway between the proposed development site and the European sites should indirect discharges (i.e. spillages to ground) occur, or should any contamination on the site enter the ground water as a result of basement construction and piling.

Contaminated water could potentially discharge to the ground or the local surface water drainage network and the River Tolka and from there, eventually, to the sea. There will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase.

There is a potential risk to water as surface/ground water arising at the site may contain contaminants. The main contaminants arising from construction activities may include suspended solids, hydrocarbons and concrete/cement products. If not properly managed, such pollutants could potentially discharge to the ground or the local surface water drainage network and the River Tolka and from there, eventually, to the sea.

Notwithstanding the presence of pathways to European sites, the risk of contamination of any watercourse or groundwater is extremely low, and even in the event of a pollution incident significant enough to impact upon surface water quality on the proposed project site or the Tolka, this would not be perceptible in any European sites given the distance involved, the occurrence of significant levels of dilution and the fact that the construction phase would occur over a relatively short phase, with no possibility of long-term impacts.

The nearest designated site of Dublin Bay (South Dublin Bay and River Tolka Estuary SPA) is c.1.4km from the proposed project site

A significant level of dilution and mixing of surface and sea water would occur in any event. Upon reaching the bay any pollutants would be even further diluted and dissipated by the waters in Dublin Bay;

There is no possibility of long-term impacts arising as a result of the construction elements of the proposed project, given the nature and scale of the proposed project and its location in the centre of a busy city at a remove from the European sites. This includes the proposed construction of the new surface water outfalls to the River Tolka which are very minor in scale.

There is no possibility of any other potential direct, indirect or secondary impacts on any European site during the construction phase.

There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction of the proposed project, and no interference with the key relationships that define the structure or function of any European site

As set out previously I do not consider best construction practices mitigation measures but constitute a standard established approach to construction works on such lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.

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

The management of surface water for the proposed development has been designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS) and with the requirements of planning authority.

The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS).

I am of the opinion water management is in line with GDSDS with SuDS measures to be implemented is not mitigation for the purposes of protection of any Natura designated site.

A Site Specific flood risk assessment concluded that the proposed project site falls within Flood Zone B and Justification Test has been carried out and the proposed project is deemed 'Appropriate'

There will be no operational impacts related to surface water management or flooding on European sites or otherwise, as a result of the proposed project.

Neither the planning authority nor Irish Water have expressed any objections to the proposal, in this regard.

In terms of indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant, foul wastewater discharge from the proposed project will be treated at the Irish Water Wastewater Treatment Plant at Ringsend prior to discharge to Dublin Bay. The Ringsend WWTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission (ABP Reg. Ref.: 301798) in 2019 for upgrade works.

There will be no operational phase impacts related to foul water management, on European sites or otherwise, as a result of the proposed project. Irish Water have not expressed any objections to the proposal

In terms of wintering birds, I note that several European sites in the wider Dublin area, including the South Dublin Bay and River Tolka Estuary SPA and the North Bull Island SPA support a range of wintering bird species. No Light Bellied Brent geese were observed anywhere on the site during the comprehensive bird surveys and the project site is not an important site for this or any other overwintering species.

In terms of the matter of bird strike, I note that the proposed project site is approximately 1.4km from the nearest SPA and the risk of collision is imperceptible. I refer the Bord to the submitted EclA and AA Screening report which includes detailed analysis on this matter. Birds tend to fly higher than the tallest obstruction in their flightpath and also to fly at a greater height between foraging sites.

Light-Bellied Brent Geese (LBBG) of which several flocks were recorded at height over the site and surrounding lands over the course of 3 surveys. The LBBG recorded during the surveys were noted as geese commuting inland to forage ex situ grassland sites. All LBBG recorded at heights between 20-160m.

At risk waterfowl (not listed as SCI) recorded flying over the site included Cormorant, Mallard, Grey Heron and Little Egret, of which the most common was Mallard. Flight height ranges recorded between 20.9m and 40m.

The possibility of bird strikes/collision due to the height of the buildings has been raised as a concern in some of the third party submissions received, in particular impact on Brent Geese who are stated to use the Tolka River as their flight path. Submissions do not include documentary evidence or surveys to support this. No significant flight paths related to protected birds have been identified in this area and the observer has submitted no evidence in relation to existence of flight paths.

12.8 Screening Determination

It has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 000210 (South Dublin Bay SAC), 000206 (North Dublin Bay SAC), 004024 (South Dublin Bay and River Tolka Estuary SPA) and 004006 (North Bull Island SPA) or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This is based on the following:

- The nature and scale of the proposed development on fully serviced lands
- The distance from European Sites

it is concluded that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said sites' conservation objectives. A stage 2 appropriate assessment (and submission of NIS) is not therefore required

13.0 Recommendation

I recommend that permission be refused in accordance with Section 9(4)(d) of the Act for the reasons and considerations set out below.

14.0 Reasons and Considerations

1. Having regard to the surrounding urban structure and the disposition of the building on site, to the height, form and scale of the proposed development and the separation distances to the site boundaries of adjoining properties, it is considered that the proposal does not provide an appropriate transition in height and scale or have due regard to the nature of the surrounding urban morphology. The proposed development is considered overly dominant, would have an excessive overbearing effect on adjoining property and would unduly overlook third party private open space. Furthermore it is considered that the proposed development would have a negative impact on the development potential of adjoining property, in particular Deakin Court and properties along the northern site of Richmond Road opposite the proposed development. The proposed development, would, therefore seriously injure

the amenities of property in the vicinity and character of the area and would be contrary to the proper planning and sustainable development of the area.

15.0 Recommended Board Order

Planning and Development Acts 2000 to 2021

Planning Authority: Dublin City Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 23rd December 2021 by Birkey Limited care of Thornton O Connor Town Planning.

Proposed Development:

Birkey Limited intend to apply to An Bord Pleanála for permission for a strategic housing development at this c. 0.61 hectare (c. 6,067 sq m) site at No. 146A and Nos. 148-148A Richmond Road, Dublin 3 (Eircodes D03 W2H1, D03 T6P0, D03 Y8R9, D03 PX27, D03 K6F7, D03 E447 and D03 HR27). The site is bounded to the north-east by Richmond Road and the Leyden's Wholesalers & Distributor Site, to the north-west by an apartment development (Deakin Court), to the south-west by the Tolka River and to the south-east by a residential and commercial development (Distillery Lofts). Improvement works to Richmond Road are also proposed including carriageway widening and a new signal controlled pedestrian crossing facility on an area of c. 0.08 hectares (c. 762 sq m). The development site area and road works area will provide a total application site area of c. 0.69 hectares (c. 6,829 sq m).

The proposed development will principally consist of: the demolition of all existing structures on site (c. 2,346 sq m) including warehouses and 2 No. dwellings; and the construction of a part 6 No. to part 10 No. storey over basement development (with roof level telecommunications infrastructure over), comprising 1 No. café/retail unit (157 sq m) at ground floor level and 183 No. Build-to-Rent apartments (104 No. one bedroom units and 79 No. two bedroom units). The proposed development has a gross floor area of c. 16,366 sq m over a basement of c. 2,729 sq m. The proposed development has a gross floor space of c. 15,689 sq m.

The development also includes the construction of a new c.126 No. metre long section of flood wall to the River Tolka along the site's southern boundary. The new flood wall is positioned at the top of the existing river bank and will connect to existing constructed sections of flood wall upstream and downstream of the site. The top of the wall will be set at the required flood defence level resulting in typical wall heights of c. 1.2 to 2 metres above existing ground levels. The development will also

include the repair and maintenance of the existing river wall on site adjacent to the River Tolka.

The development also provides ancillary residential amenities and facilities; 71 No. car parking spaces including 8 No. electric vehicle spaces, 4 No. mobility impaired spaces and 1 No. car share space; 5 No. motorcycle parking spaces; bicycle parking; electric scooter storage; a drop off space; the decommissioning of the existing telecommunications mast at ground level and provision of new telecommunications infrastructure at roof level including shrouds, antennas and microwave link dishes; balconies facing all directions; public and communal open space; a pedestrian/bicycle connection along the north-western boundary of the site from Richmond Road to the proposed pedestrian/bicycle route to the south-west of the site adjoining the River Tolka; roof gardens; hard and soft landscaping; boundary treatments; green roofs; ESB Substation; switchroom; comms rooms; generator; lift overruns; stores; plant; and all associated works above and below ground.

The application contains a statement setting out how the proposal will be consistent with the objectives of the Dublin City Development Plan 2016-2022. The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land. A Natura Impact Statement has been prepared in respect of the proposed development.

Decision

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

Matters Considered

In making its decision, the Bord 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

1. Having regard to the surrounding urban structure and the disposition of the building on site, to the height, form and scale of the proposed development and the separation distances to the site boundaries of adjoining properties, it

is considered that the proposal does not provide an appropriate transition in height and scale or have due regard to the nature of the surrounding urban morphology. The proposed development is considered overly dominant, would have an excessive overbearing effect on adjoining property and would unduly overlook third party private open space. Furthermore it is considered that the proposed development would have a negative impact on the development potential of adjoining property, in particular Deakin Court and properties along the northern site of Richmond Road opposite the proposed development. The proposed development, would, therefore seriously injure the amenities of property in the vicinity and character of the area and would be contrary to the proper planning and sustainable development of the area.

Dáire McDevitt
Senior Planning Inspector

5th October 2022

Appendix 1 List of documentation submitted.
Appendix 2 EIA Screening Determination Form

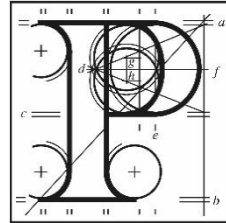
Appendix 1 Documentation submitted.

Reports/drawings submitted in addition to the requisite plans and particulars with the application included inter alia:

- Planning Report and Statement of Consistency.
- Material Contravention Statement.
- Property Management Strategy Report
- Building Lifecycle Report
- Section 47 Agreement
- Social Infrastructure Audit
- Childcare Demand Assessment
- Universal Access Statement.
- Schedule of Accommodation.
- Housing Quality Assessment.
- Architectural Design Statement.
- Architectural drawings
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Traffic and Transport Assessment Report
- Mobility Management Plan
- DMURS Design Statement
- Engineering drawings
- Quality Audit Including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit
- Preliminary Construction & Environmental Management Plan
- Basement Impact Report (including Preliminary and Generic Quantitative Risk Assessment (GQRA)).
- Landscape Masterplan and Drawings
- Landscape Design Report
- Landscape Visual Impact Assessment
- Outline Landscape Specification
- Arboricultural Assessment
- Arboricultural Drawing Pack
- Ecological Impact Assessment Report (including Bat Survey report)
- Environmental Impact Assessment Screening Report
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 (as amended)
- Appropriate Assessment Screening Report
- Natura Impact Statement
- Invasive Alien Plant Species: Site Assessment Report & Management Plan.
- Architectural Heritage Impact Assessment
- Archaeological, Architectural and Cultural Heritage Impact Assessment
- Noise & Vibration Impact Assessment
- Operational Waste Management Plan
- Construction & Demolition Waste Management Plan
- Microclimate Assessment.
- Daylight and Sunlight Analysis
- Verified View Montages and Computer Generated Images

- Part L Planning Compliance for the Mechanical and Electrical Services Installations
- Site Lighting Layout Drawing Pack
- Telecommunications Report- Section 3.2 of the Building Height Guidelines (2018).

Appendix 2 EIA Screening Determination Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-312352-21
Summary		
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	A Natura Impact Statement was submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA undertaken in respect of the Dublin City Development Plan 2016-2022 and see also Inspectors Report section 11 in relation to Article 299 B(1)(b)(2)(c)
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of 183 BTR apartments and 1 no. café/retail unit on lands where residential is permitted in principle. Proposal also includes a section of a flood defence wall and works to Richmond Road.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal includes construction of a BTR residential complex which are not considered to be out of character with the pattern of in the surrounding area.	No

1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such urban development . The loss of natural resources or local biodiversity as a result of the of the site are not regarded as significant in nature.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management & Environmental Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Demolition Waste Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via an Operational Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.	No

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. And the removal of asbestos</p> <p>Such construction impacts would be local and temporary in nature and implementation of a Construction and Demolition Waste Management Plan, Preliminary Construction & Environmental Management Plan , Basement Impact Report (including Preliminary and Generic Quantative Risk Assessment (GQRA) and Noise & Vibration Impact Assessment will satisfactorily mitigate potential impacts.</p>	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environment Management Plan, Basement Impact Report (including Preliminary and Generic Quantative Risk Assessment (GQRA) and Noise & Vibration Impact Assessment</p>	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	No

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of the development. Any risk arising from construction will be localised and temporary in nature. There are no Seveso / COMAH sites in the vicinity of this location.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Development of this site as proposed will result in an increase in residential units (183 BTR apartments) which is considered commensurate with the development of a Z10 lands in Dublin City.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	Current proposal is a standalone development, with small and medium scale developments in the immediately surrounding area. It is noted that the adjoining site (stated to be in the applicant's ownership) may be the subject of a LRD application in the future, cumulative impacts at that stage will need to consider depending on the scale proposed.	uncertain
2. Location of proposed			
2.1 Is the proposed located on, in, adjoining or have the potential to impact on any of the following: 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna	No	There are no conservation sites located in the vicinity of the site. The nearest Natura 2000 sites are: South Dublin Bay SAC North Dublin Bay SAC North Bull Island SPA South Dublin Bay & River Tolka SPA	No

5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a plan/ LAP/ draft plan or variation of a plan		The proposed development will not result in significant impacts to any of these sites. Please refer to the AA Screening in section 12 of this report	
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	No	No such uses on the site and no impacts on such species are anticipated.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	The site does not contain any protected structures. it is not located within a designated Architectural Conservation Area. A section is located in the Tolka River Conservation Area (please refer to section 10.2 of this report) and is located in an area where there is archaeological potential (please refer to section 10. of this report)	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	There are no areas in the immediate vicinity which contain important resources.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water runoff. The site is located within Flood Zone B (see also section 10.5 in the Inspectors Report in relation to services and drainage)	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.	No

2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	There are no existing sensitive land uses or substantial community uses which could be affected by the project.	No
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved result in cumulative effects during the construction/ operation phase?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No

C. CONCLUSION

No real likelihood of significant effects on the environment.	Yes	ElAR Not Required	
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- (b) The location of the site on lands zoned "Z10" where residential development and the commercial element is permitted in principle and Z9 lands where the proposed open space/riverside walk is located and the results of the Strategic Environmental Assessment of the Plan.
- (c) The existing use on the site and pattern of development in surrounding area;
- (e) The availability of mains water and wastewater services to serve the proposed development,
- (f) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (g) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Waste Management Plan, Preliminary Construction Environmental Management Plan, the Operational Waste Management Plan and the Infrastructure Design Report, the Archaeological, Architectural & Cultural Impact Assessment, the Microclimate Assessment, the Noise & Vibration Impact Assessment, the Site Specific Flood Risk Assessment, the Basement Impact Report (including preliminary and generic quantitative risk assessment GQRA), the Ecological Impact Assessment Report (including Bat Survey report), the Architectural Design Statement and the Landscape Design Report

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

5th October 2022

Dáire McDevitt
Senior Planning Inspector

Date