



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313220-22**

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#### **Strategic Housing Development**

Demolition of all existing buildings on site, construction of 881 no. apartments, creche and associated site works.

#### **Location**

Site incorporating the old Dundrum Shopping Centre known as Dundrum Village Centre and adjacent properties to the west of Main Street, Dundrum, Dublin 14.

#### **Planning Authority**

Dun Laoghaire-Rathdown County Council

#### **Applicant**

Dundrum Retail GP DAC (acting for and on behalf of Dundrum Retail Limited Partnership)

#### **Prescribed Bodies**

Transport Infrastructure Ireland (TII)

National Transport Authority (NTA)

Irish Water

Irish Aviation Authority

Inland Fisheries Ireland

Department of Housing, Local  
Government and Heritage

An Taisce

**Observer(s)**

699 submissions - See Appendix 1

**Date of Site Inspection**

22<sup>nd</sup> of October 2024

**Inspector**

Stephen Ward

## Contents

1.0 Introduction .....	4
2.0 Site Location and Description.....	4
3.0 Proposed Strategic Housing Development.....	5
4.0 Planning History.....	9
5.0 Section 5 Pre Application Consultation .....	10
6.0 Relevant Planning Policy.....	15
7.0 Third Party Submissions.....	27
8.0 Planning Authority Submission.....	33
9.0 Prescribed Bodies.....	44
10.0 Oral Hearing Request.....	47
11.0 Assessment.....	48
12.0 Appropriate Assessment.....	142
13.0 Environmental Impact Assessment .....	146
14.0 Recommendation .....	175
15.0 Recommended Draft Order.....	175
Appendix 1 – List of Observers.....	184
Appendix 2 – AA Screening Determination.....	199
Appendix 3 – Appropriate Assessment.....	217

## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application includes the construction of 881 no. apartments and a stated gross floor space of residential accommodation of 83,983.3m<sup>2</sup>. It has a stated gross floor space of non-residential development of 4,458.7m<sup>2</sup>. The non-residential floor space would not exceed 15% of the cumulative gross floor area; would not exceed 4,500m<sup>2</sup>; and would not exceed 15m<sup>2</sup> for each house (i.e. 13,215m<sup>2</sup>). On this basis, I would be satisfied that the proposed development would come within the definition of 'Strategic Housing Development' as set out in Section 3 of the Act and that the application has been made in accordance with legislative requirements.

## 2.0 Site Location and Description

- 2.1. The site is located in the centre of Dundrum, which is a designated Major Town Centre located c. 6km south of Dublin City Centre. The site lies between Main Street (to the east and north) and the Dundrum By-Pass (to the west). The opposite (east) side of Main Street consists mainly of small 2-storey commercial properties, while the western side of the by-pass hosts a mix of low-density housing (Sweetmount Park/Avenue) and more recent high-density apartments (Dundrum View). Part of the site extends across the by-pass into an existing open space within the Sweetmount residential area. The southern end of the site is bound by Ballinteer Road / Don Marmion Bridge and the grounds of Holy Cross Church, while further south of the site is the Dundrum Town Centre Shopping Centre.
- 2.2. The site itself extends to a stated area of 3.5 ha and is of an irregular shape within a generally north-south alignment. The site levels vary, rising from c. 45m at the north end up to c. 53m at the southern end. It mainly comprises the 1970's 2 to 4-storey 'Dundrum Village Centre' shopping centre and surrounding surface car-parking, mainly covering the central and northern parts of the site. The southern end of the site currently accommodates a temporary structure used for ice-skating. The site also contains 11 properties along Main Street at the southern end of the site. No's 11 and 16/17 Main Street are not included in the current application site. There are 4

no. existing vehicular entrances (2 from Main Street, 1 from the by-pass, and 1 from Dundrum Town Centre car park), along with several pedestrian entrances.

- 2.3. The LUAS Green line runs to the east of the site to and from the city centre and the Dundrum stop is c. 50m from the northern end of the site. There is also a high concentration of bus stops/services adjoining the northern end of the site at Main Street/Waldemar Terrace and along the Bypass.

### 3.0 Proposed Strategic Housing Development

- 3.1. An 8-year permission is sought for the construction of 881 no. apartments and 4,458 m<sup>2</sup> of non-residential gross floor space including a replacement food store, a crèche and complementary commercial space along Main Street. The development is laid out in 11 blocks across 4 zones, which can be summarised in the following table.

**Table 1 – The proposed zones and blocks**

<b>Zone 1</b>			
<b>Blocks</b>	<b>Height (storeys)</b>	<b>Apartments</b>	<b>Non-residential</b>
1A	10-16 onto by-pass and northern end of site	1no. studio	retail unit (330.3sqm)
1B		115no. 1-bed	retail foodstore (2028.1sqm)
1C		19no. 2-bed (3 person)	ancillary (41.5sqm)
	5 onto Main Street	134no. 2-bed (4 person)	<b>Total - 2399.9sqm</b>
		23no. 3-bed	
		<b>Total – 292 units</b>	
<b>Zone 2</b>			
<b>Blocks</b>	<b>Height (storeys)</b>	<b>Apartments</b>	<b>Non-residential</b>
2A	9-12 onto By-pass	87no. 1-bed	4 retail units (482.8sqm)
2B		40no. 2-bed (3 person)	ancillary (21sqm)
2C	5 onto Main Street	85no. 2-bed (4 person)	<b>Total – 503.8sqm</b>
		27no. 3-bed	
		<b>Total – 239 units</b>	
<b>Zone 3</b>			

Blocks	Height (storeys)	Apartments	Non-residential
3A	9-11 onto By-pass	75no. 1-bed	2 retail units (218.4sqm)
3B		25no. 2-bed (3 person)	café/restaurant (167.2sqm)
3C	5 onto Main Street	103no. 2-bed (4 person) 19no. 3-bed <b>Total – 222 units</b>	ancillary (22.2sqm) <b>Total – 407.8sqm</b>
<b>Zone 4</b>			
Blocks	Height (storeys)	Apartments	Non-residential
4A	8-10 onto by-pass	58no. 1-bed	3 retail/commercial units (365.1sqm)
4B	3-5 onto Main Street & 6 onto internal street	57no. 2-bed (4 person) 13no. 3-bed <b>Total – 128 units</b>	3 café/restaurant units (236.3sqm) creche (523.1sqm) ancillary (22.7sqm) <b>Total – 1147.2sqm</b>

- 3.2. The development includes a new public street running on a north-south axis through the site and a series of new public spaces located between the 4 zones facilitating new connections to Main Street. A new public open space known as “Church Square” (c. 0.2ha) is proposed to the rear of Holy Cross Church and the Parish Pastoral Centre. A new east-west pedestrian/cycle linkage is proposed linking Main Street to Sweetmount Park on the western side of Dundrum Bypass.
- 3.3. It is proposed to provide 3 no. vehicular access / egress points on Dundrum Bypass. A total of 373no. car parking spaces, 17no. motorcycle parking spaces and 1,750 bicycle parking spaces are proposed. New / upgraded pedestrian crossings are proposed on adjoining roads/streets. It is proposed to demolish existing buildings on site (excluding No.’s 1-3 Glenville Terrace which will be used for resident amenity services) and to carry out all associated site works and servicing requirements.
- 3.4. The proposed surface water drainage system consists of two sub-catchment areas (North catchment and South catchment). Surface water will pass through a SuDS management train and will be attenuated prior to discharge to the Slang Stream

culvert and to ground through infiltration. The foul sewerage will discharge from each of the four phases/zones of the development to a proposed trunk foul sewer within the proposed service road and will connect to the Uisce Eireann network on the west side of the by-pass via a pumping station. The water supply will comprise a 200mm diameter watermain within the service road with connections to each of the four phases (zones) in the development.

- 3.5. The following table sets out some of the key elements of the proposed scheme as stated by the applicant:

**Table 2 – Key Figures of the Proposed Development**

<b>Site Area</b>	3.53 ha (gross), 3 ha (net)
<b>Gross Floor Area</b>	88,442 sqm (83,983.3sqm residential (95%) & 4,458.7sqm non-residential (5%))
<b>Residential Units</b>	881 (1 no. studio (<0.1%), 335 no. 1-beds (38.1%), 463 no. 2-beds (52.6%), 82 no. 3-beds (9.3%)).
<b>Density</b>	249 uph (gross), 294uph (net)
<b>Plot Ratio</b>	1:2.5 (gross), 1:2.9 (net)
<b>Site Coverage</b>	33%
<b>Dual Aspect</b>	60%
<b>Communal Open Space</b>	5,575m <sup>2</sup> (3,603m <sup>2</sup> courtyard, 1971m <sup>2</sup> rooftop)
<b>Public Open Space</b>	6,588m <sup>2</sup> (18.6%) – 5326m <sup>2</sup> usable space (15%) and 1262m <sup>2</sup> transitional space (3.65)
<b>Car Parking</b>	318 residential spaces, 55 non-residential spaces
<b>Other Parking</b>	1,750 cycle spaces, 17 motorcycle spaces
<b>Part V</b>	88 units (10%) in Block 4A

- 3.6. In addition to the standard drawings and documentation requirements, the application was accompanied by a range of reports and documentation including the following:

- Planning Statement / Response to ABP Opinion
- Statement of Consistency and Material Contravention Statement

- Environmental Impact Assessment Report
- Design Statement
- Schedule of Accommodation
- Housing Quality Assessment
- Building Lifecycle Report
- Property Management Strategy Report
- Landscape Design Statement
- Telecommunications Report
- Arboricultural Assessment & Impact Report
- Mobility Management Plan
- Transport Assessment
- Engineering Services Report
- Site Specific Flood Risk Assessment
- Outline Construction Management Plan
- Site Specific Construction and Demolition Waste Management Plan
- Operational Waste Management Plan
- Public Lighting Design Report
- Energy & Sustainability Statement
- Daylight and Shadow Impact Assessment
- Microclimatic Wind Analysis and Pedestrian Comfort Report
- Appropriate Assessment Screening & Natura Impact Statement.



## 4.0 Planning History

The recent relevant planning history for the site has been set out by the applicant and the planning authority, which can be summarised as follows:

**P.A. Reg. Ref. D03A/0207 (ABP Ref. PL 06D.204042):** On 13<sup>th</sup> February 2004, the Board upheld the decision of DLRCC to grant permission for a mixed use town centre development comprising retail units (30,260m<sup>2</sup>), restaurants (1490m<sup>2</sup>), leisure units, cafe bars, hotel (105 beds), library (1,370m<sup>2</sup>), 13 apartments, underground car park (1550 spaces), and pedestrian bridge.

**P.A. Reg Ref: D04A/1456:** A subsequent permission for amendments to P.A. Reg. Ref. D03A/0207 (ABP Ref. PL 06D.204042) was granted in March 2005 for a scheme broadly similar to the original scheme on a site which included additional properties on Main Street.

**P.A. Reg Ref: D06A/0506:** Permission was granted in November 2007 for further amendments to the above permissions.

**P.A. Reg. Ref. D07A/0261:** Permission granted in January 2008 for amendments to the above permissions including provision of a tunnelled slip road from Dundrum by-pass with underpass beneath the by-pass road to gain access to the site, together with the elimination of the previously permitted entrance to the site from Main Street.

**P.A. Reg Ref: D08A/0231, ABP Ref: PL06D.233317:** Permission granted in December 2009 for amendments to the above permissions to include an additional 35,273m<sup>2</sup> floorspace. The overall development comprised 3 main elements as follows:- 1. Main Street Frontage: 14 no. retail/ commercial units, 40 no. apartment units and the refurbishment of No's 1-3 Glenville Terrace to create a single restaurant unit; 2. Main Retail/ Centre: a retail / commercial centre arranged around a series of internalised streets/ malls and public spaces, with accommodation including a Major Department Store, 11 no. secondary anchor units (MSUs) and 66 no. retail/ non retail services units, 9 no. restaurant units, a public library, Crèche, leisure centre and associated ancillary areas; 3. Hotel: 96 bed hotel located at the

northern end of the site. A subsequent application to extend the duration of this permission was refused in April 2015.

## 5.0 Section 5 Pre-Application Consultation

### 5.1. Pre-Application Consultation ABP-311553-21

5.1.1. A Section 5 pre application consultation took place remotely on 17<sup>th</sup> December 2021. The consultation related to a proposal for 884 no. apartments, retail (1,806 sq.m), food store (2,124 sq.m), and creche (505 sq.m). Representatives of the prospective applicant, DLRCC, and An Bord Pleanála were in attendance.

5.1.2. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The applicant was advised that the following issues need to be addressed in the documents submitted that could result in them constituting a reasonable basis for an application for Strategic Housing Development:

1. **Development Strategy:**

*Further justification for the proposal in light of the 'MTC' zoning objective, 'to protect, provide for and or improve major town centre facilities', and non-residential uses proposed. The predominant use proposed in the scheme is residential, a town centre zoning would envisage a greater degree of mixed use and the site is located within the major town centre area for Dundrum.*

2. **Architectural Design Approach:**

*Further justification for the height strategy, integration with the wider area and specifically how transition occurs in terms of design, presentation, quality community and place making. A key issue at this location is the existing environment and specifically how transition occurs between the existing established development along Main Street and the Dundrum Bypass and the*

*proposed development, cognisance being had that this development will be highly visible on approach from the surrounding area.*

**3. Landscaping, Materials and Character:**

*Further consideration/justification of the documents as they relate to the visual impact, materials and finishes to the proposed buildings and hard & soft landscaping. The further consideration / justification should address the character and identity and creation of inclusive people friendly neighbourhood, regard being had, inter alia, to the architectural treatment, landscaping, quality public and communal open spaces, pedestrian way finding and connectivity. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.*

**4. Residential Design:**

*Further consideration/justification of the documents as they relate to the quality of the proposed residential amenity. This consideration should have regard to, inter alia, the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual'); the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' in particular with regard to number of single aspect and north facing units, and daylight and sunlight access to internal habitable areas and in particular to communal courtyards. Shadow Impact Assessment of communal open spaces, private open space and public open spaces. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted relating, inter alia, to layout of the proposed development, improving the quality and providing extended hours of daylight and sunlight to the internal courtyards and to the public open space.*

5.1.3. Furthermore, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, specific information should be submitted with any application for permission, which can be summarised as follows:

1. A detailed statement of consistency and planning rationale, clearly outlining consistency with local planning policies and the MTC zoning.
2. An updated Architectural Design Statement.
3. A detailed Material Contravention statement.
4. A statement of consistency with the relevant objectives of the development plan / local area plan for the area.
5. Assessment on how the proposed scheme ties in with the expansion of the overall Dundrum village Centre and the Dundrum shopping centre.
6. A Housing Quality Assessment
7. A report that addresses issues of residential amenity (both existing residents of adjoining development and future occupants), specifically with regards to potential overlooking, overshadowing and overbearing.
8. A Daylight and Shadow Impact Assessment.
9. A visual impact assessment.
10. A Traffic and Transportation Impact Assessment.
11. A detailed Flood Risk Assessment.
12. Report on surface water drainage, surface water management strategy, flood risk, and the quality of surface water discharge.
13. Microclimate Impact Assessment.
14. Justification of location, hierarchy and quantum of open space provision.
15. Detailed landscape drawings.
16. A full response to matters raised within the PA Opinion and Appended Dun Laoghaire Rathdown County Council Department comments.

17. Site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
18. Site Specific Construction and Demolition Waste Management Plan.
19. Details of public lighting.

## 5.2. Applicant's Statement of Response to ABP Opinion

5.2.1. A 'Planning Statement / Response to ABP Opinion' was submitted with the application, as provided for under Article 297(3) of the Planning & Development Regulations 2001 (as amended). The response to the Development Strategy issues can be summarised as follows:

### 1. Development Strategy

- All proposed uses are permissible within the MTC zone.
- The MTC zone has an extremely limited number of residential units (47), and the proposed development will help to redress this deficit.
- The proposed development would increase the residential proportion of overall floorspace within the 'Dundrum Town Centre' land (i.e. Phases 1 and 2) to 35%. If the entire MTC zone is considered, the proportion of residential use would reduce to well below 20%.
- There is ample opportunity for non-residential uses within the applicant's landholding and within the MTC lands overall.
- The design strategy aims to rejuvenate Main Street with an emphasis on local / neighbourhood needs.
- The proposed development will increase the amount of commercial floorspace over what is trading at present on the site.
- The application responds to the changing retail environment and retail policy adjustments by providing an increased mix of residential use in a superior urban environment.
- The applicant is open to accommodating DLRCC civic uses within the application site or on other lands in its ownership.

## 2. Architectural Design Response

- The Design Statement and the Statements of Consistency and Material Contravention Statement outline a justification of building height.
- The height, scale and massing reflect recent changes in policy and is considered compatible with the character and pattern of development.
- The Main Street blocks respect the established scale and character of Main Street and range from 3 to 5 storeys. The approach follows the previously approved schemes in terms of building height on Main Street. The fact that development is now residential with clear breaks and smaller building volumes means that the apparent scale and massing are greatly reduced.
- Having regard to the MTC zoning, the adjacent scale (e.g. Dundrum View), the distance from houses and position overlooking Sweetmount Park, it is considered that the receiving environment can absorb buildings of the proposed scale along Dundrum By-pass.
- The northern end of Dundrum has consistently been identified as the suitable location for a building of height to act as a “gateway” to the Town Centre. The proposed 16- storey building was chosen as a reasonable balance between the policy imperatives of density on a MTC site and the existing context.

## 3. Landscaping, materials and character

- The Design Statement and the Landscape Design Statement address the issues.
- The proposed built form along Main Street is respectful of Dundrum’s heritage and streetscape, particularly Main Street. It will comprise of red brick typical of the local area such as Glenville Terrace, with a darker red possibly glazed or semi glazed brick as an accent colour.
- Development along the Bypass will comprise of a lighter buff brick to play down the perceived scale, with a darker brickwork acting as a base element to distinguish elements containing amenity and retail uses.
- The application describes the proposed development and how the scheme seeks to create an ‘inclusive people friendly neighbourhood’.

#### 4. Residential Design

- The Housing Quality Assessment and Statements of Consistency and Material Contravention Report provide a detailed analysis of the scheme with reference to the provisions of the Apartments Guidelines.
- A Daylight and Shadow Impact Assessment has also been submitted.

5.2.2. With regard to the 'specific information' also requested by the Board, the applicant's response outlines that the requested information (points 1-19) has been submitted.

## 6.0 **Relevant Planning Policy**

### 6.1. **National Policy / Guidance**

6.1.1. 'Housing For All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price,
- Built to a high standard in the right place,
- Offering a high quality of life.

6.1.2. 'Project Ireland 2040 – The National Planning Framework' (NPF) is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.

- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.3. The Draft First Revision to the NPF was published on 10<sup>th</sup> July 2024. It focuses on the need to update the Framework in order to appropriately reflect changes to government policy that have taken place, such as climate transition, regional development, demographics, digitalisation and investment and prioritisation. The Draft Revision was on public consultation until 12<sup>th</sup> September 2024.

6.1.4. The Climate Action Plan 2024 implements carbon budgets and sectoral emissions ceilings and sets a course for Ireland's targets to halve our emissions by 2030 and reach net zero no later than 2050. All new dwellings will be designed and constructed to Nearly Zero Energy Building (NZEB) standard by 2025, and Zero Emission Building standard by 2030. In relation to transport, key targets include a 20% reduction in total vehicle kilometres travelled, a 50% reduction in fossil fuel usage, a significant behavioural shift away from private car usage, and continued electrification of our vehicle fleets. The Board is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

6.1.5. The National Biodiversity Action Plan 2023-2030 includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local Level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, EIA Directive, Water Framework Directive and Marine Strategy



Framework Directive, and other relevant legislation, strategy and policy where applicable. Biodiversity is addressed in sections 12 and 13 of this report.

6.1.6. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions received, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage (hereafter referred to as the '*Compact Settlement Guidelines*').
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, (July 2023) (hereafter referred to as the '*Apartments Guidelines*').
- The Planning System and Flood Risk Management including the associated Technical Appendices, 2009 (the '*Flood Risk Guidelines*').
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018 (hereafter referred to as the '*Building Height Guidelines*').
- Childcare Facilities – Guidelines for Planning Authorities (June 2001) and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education Scheme (the '*Childcare Guidelines*').
- Retail Planning – Guidelines for Planning Authorities, 2012 (hereafter referred to as the '*Retail Planning Guidelines*').
- Architectural Heritage Protection Guidelines for Planning Authorities, 2011 (hereafter referred to as the '*Architectural Heritage Guidelines*').

6.1.7. Other relevant national Guidelines include:

- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidance for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

## 6.2. Regional Policy

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The 'Metrolink – Luas Corridor' involves upgrades to the Luas Green Line and will support development in the south of the county. Dundrum is also designated as a 'Level 2 - Major Town Centres & County (Principal) Town Centres' within the Retail Hierarchy for the Region.

6.2.2. The following RPOs (summarised) are of relevance:

**RPO 4.3** supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within Dublin City and suburbs and ensure that future development areas are co-ordinated with infrastructure.

**RPO 5.4:** Development of strategic residential development areas shall provide for higher densities and qualitative standards set out in national guidance documents.

**RPO 5.5:** Residential development shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner.

**RPOs 6.12-6.14** outline support for town centre renewal and placemaking.

6.2.3. The Greater Dublin Area Transport Strategy 2022-2042 (NTA) sets out a framework aiming to provide a sustainable, accessible, and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

## 6.3. Dun Laoghaire-Rathdown County Development Plan 2022-2028

- 6.3.1. This Development Plan was adopted on the 10th of March 2022 and came into force on the 21st of April 2022. This application was lodged on the 5<sup>th</sup> of April 2022.

Core Strategy

- 6.3.2. Dundrum is designated as a 'Major Centre' in accordance with the Core Strategy. Major Town Centres are considered 'Strategic Employment Locations' with potential for the development of key strategic urban regeneration sites for employee-intensive development on strategic transport corridors, aligning employment growth with both existing and new residential communities. Relevant policy objectives can be summarised as follows:

**CS7** – To support the delivery of strategic employment growth areas.

**CS11** - To deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.

**CS13** - To support the development and renewal of strategic regeneration sites.

Neighbourhood – People, Homes and Place

- 6.3.3. Chapter 4 aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning. Section 4.2 deals with 'People' and aims to facilitate a balance between additional housing units, community facilities, and quality of life. Relevant policies/objectives can be summarised as follows:

**PHP3:** Ensure that supporting neighbourhood infrastructure/land is provided in conjunction with, and as an integral component of, residential development.

**PHP6:** Encourage childcare facilities as an integral part of new residential developments. In general, at least one facility for all new residential developments.

- 6.3.4. Section 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

**PHP18:** Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

**PHP20:** Seeks to protect the residential amenity of existing properties.

**PHP27:** Encourages an appropriate mix of housing.

- 6.3.5. Section 4.4 'Place' promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a high quality of design and layout in residential developments. Policy objective **PHP42** aims to ensure high quality design of all new development and compliance with the Building Height Strategy (CDP Appendix 5) for the County (consistent with NPO 13 of the NPF).

#### Mobility and Transport

- 6.3.6. Chapter 5 outlines a range of policies and objectives which aim to integrate land use and transport policy, thus promoting compact sustainable growth, traffic demand management, and modal change towards increased use of public transport and active travel.

#### Towns, Villages and Retail Development

- 6.3.7. Chapter 7 deals with 'Major Town Centres'. The overall strategy for Dundrum (Old shopping centre and adjoining lands) is to include an appropriate level of complementary non-retail uses and activities in respect to community, cultural and civic uses, as well as a public realm upgrade of Main Street. The relevant policies/objectives can be summarised as follows:

**MFC1:** Supports the development of Major Town Centres as multifunctional centres which provide a variety of uses for the community they serve.

**MFC3:** Supports proposals for development in towns and villages that provide for a framework for renewal where relevant and ensure the creation of a high-quality public realm and sense of place and enhance the character of Main Streets.

**RET5:** Maintain the two Major Town Centres - Dún Laoghaire and Dundrum – as the primary retail centres in the County and to support their evolving multifunctional role. The vitality of the towns will be enhanced by their mixed-use nature. In addition to retail, these centres must include community, cultural, civic, leisure, restaurants, bars and cafes, entertainment, employment and residential uses. Development shall be designed to enhance the creation of a sense of place.

### Open Space, Parks and Recreation

- 6.3.8. Chapter 9 outlines the importance of such resources in terms of health and well-being, social interaction, connectivity, and biodiversity. Policy objective OSR4 promotes public open space standards in accordance with the 'Sustainable Residential Development Guidelines'.

### Heritage and Conservation

- 6.3.9. Chapter 11 aims to protect heritage by providing the appropriate tools and mechanisms to manage change in a positive way, so that it enhances the evolving character of the County. Holy Cross Church, its railings and gates, and the adjoining Parochial House are designated as Protected Structures to the southeast of the site. The Dundrum Architectural Conservation Area (ACA) includes part of the site (along Main Street) as well as other properties incorporating Pembroke Cottages, Ballinteer Road and Main Street. Relevant policy objectives can be summarised as follows:

**HER1:** To protect archaeological sites and National Monuments.

**HER8:** To protect structures included on the RPS from any works that would negatively impact their special character and appearance, including their setting.

**HER13:** To protect the character and special interest of ACAs.

**HER14:** To prohibit the demolition of a structure(s) that positively contributes to the character of the ACA.

**HER20:** To retain and protect Buildings of Vernacular and Heritage Interest.

### Development Management

- 6.3.10. Chapter 12 outlines a wide range of standards for Development Management, including the following:

**12.3** outlines guidance on criteria for residential developments and neighbourhood infrastructure. It aims for high quality design to improve the living environment and facilities for residents.

**12.4** sets out Transport guidance, including standards relating to traffic management, road safety, and parking.

**12.6** deals with towns, villages, and retail development.

**12.8** deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

#### Zoning & Specific Objectives

6.3.11. In accordance with Chapter 13 'Land Use Zoning Objectives', the application site is zoned as 'MTC Major Town Centre', with the objective to '*protect, provide for and/or improve major town centre facilities*'.

6.3.12. Chapter 14 'Specific Local Objectives' includes the following:

**SLO 6** - To complete a Local Area Plan for Dundrum.

**SLO 8** - To ensure Dundrum develops beyond just a retail shopping destination. Any future redevelopment of the old shopping centre lands shall provide for residential use and a range of complementary non-retail uses including - but not limited to - employment, restaurant, leisure, entertainment, creche facilities, remote working hubs, cultural, community and civic uses – to supplement that already provided for within the wider Dundrum Town Centre.

**SLO 9** - To ensure that any future redevelopment of the old shopping centre lands, and adjoining /nearby properties on Main Street, take cognisance of the character and streetscape of the Old Main Street, and maintain where appropriate, and possible existing buildings and/or facades. Building Heights alongside Main Street must be sensitive to the original streetscape, in keeping with its character, scale and Architectural Conservation Area status.

**SLO 11** - To support the recommendations of the Dundrum Community, Cultural and Civic Action Plan.

**SLO 114** - To ensure any future redevelopment of the Old Shopping Centre site addresses the need for the provision of a future Dundrum Community, Cultural and Civic Centre facility, which also integrates into a civic square/plaza area.

**SLO 123** - To ensure that, as Strategic Regeneration Sites, residential provision on the Central Mental Hospital Site and the Old Shopping Centre site will provide for a balanced mix of housing tenure, including affordable homes, and an acceptable mix of larger flexible units, and lifetime adaptable homes to ensure balanced, sustainable communities in Dundrum.

**SLO 124** - Permeability through all developments on the west side of Main Street should ensure pedestrian/cycle links between Main Street and the Dundrum Bypass.

#### 6.4. **Dundrum Local Area Plan 2023**

6.4.1. The Dundrum LAP came into effect on the 21<sup>st</sup> of November 2023. It sets out a framework for the future development of lands at Dundrum through a series of objectives that clearly define the development strategy. Other than general provisions which are already covered in CDP policy above, the main relevant provisions are summarised below.

6.4.2. Section 2.8 identifies the Old Shopping Centre (OSC) site as a Key Development Area (KDA). Section 2.8.2.4 sets out design principles and objectives for the KDA, including the following:

- OSC1 – Design Principles and Objectives
- OSC2, OSC3, & OSC4 – Walking / Cycling
- OSC5 – Public Transport
- OSC6 - Servicing, Access and Vehicular Parking
- OSC7 – Public Spaces
- OSC8, OSC9, & OSC10 – Street Character
- OSC11 – Built Form
- OSC12 – Heritage and Building Character
- OSC13 – Plot Ratio
- OSC14 - Heights
- OSC15 – Land Uses
- OSC16, OSC17, & OSC18 – Climate Mitigation

6.4.3. Other relevant provisions of the LAP can be summarised as follows:

- Figure 3.2 identifies a ‘playground opportunity’ within the site and objective P2 is to provide facilities in accordance with Fig. 3.2.
- Figure 3.3 identifies the site as a ‘childcare opportunity site’ and objective DLAP12 is to provide at least one childcare facility at such locations.

- Section 3.2.4 acknowledges SLO114 in the CDP but outlines that lands at Taney Cross north of Waldemar Terrace have emerged as an alternative site for a new civic, community and cultural facility in a landmark building as per Objective P3 of the LAP.
- Policy DLAP17 – Residential Density.
- Policy DLAP18 – Building Height.
- Policy DLAP20 – Housing Options.
- Objective H2 – Housing for All.
- Section 4.5 outlines recommendations from an Area Based Transport Assessment (ABTA), including those for Dundrum Cross, Taney Cross, and Dundrum By-pass. Objective T12 is that vehicular access to parking within the Old Dundrum Shopping Centre site shall be solely from Dundrum Bypass.
- MTC1 – Encourage a broad mix of day and evening uses within Dundrum.
- MTC2 – Ensure an appropriate balance of retail uses and size of retail units.
- MTC4 – Support residential use above ground floor level within the MTC, providing that prime land use objectives are complemented, not undermined.
- MTC5 – Supports the development of the application site with an appropriate mix of uses and improved connectivity to the Town Centre site.
- MTC6 – Adequate convenience floorspace as well as variety and choice is maintained in Dundrum following the redevelopment of the application site.

## 6.5. Applicant's Statement of Consistency

- 6.5.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(a)(iv)(I) of the Act of 2016, which outlines how the proposal is consistent with National and Regional Policy; Section 28 Ministerial Guidelines; the Dun Laoghaire Rathdown County Development Plan 2016-2022; and the Draft Dun Laoghaire Rathdown County Development Plan 2022-2028.
- 6.5.2. The CDP 2016-2022 has now been replaced by the CDP 2022-2028 and Section 6 of the applicant's report considers the Draft CDP 2022-2028. It does not identify any inconsistencies with the exception of Unit Mix – Section 12.3.3.1 (Table 12.1). It acknowledges the proposal to provide a proportion (35%) of communal open space



in roof gardens but concludes that this is 'generally compliant' with the provision (s.12.8.5.4 of the CDP) that it should generally not account for more than 30%.

6.5.3. The Statement acknowledges that a Dundrum Local Area Plan was proposed but had not yet been prepared at the time of writing.

## 6.6. **Applicant's Material Contravention Statement**

6.6.1. The applicant's statement addresses the identified material contraventions of the CDP 2016-2022 and re-examines these issues in the context of the Draft CDP 2022-2028, which was deemed likely to be in force prior to a final decision on the application. The issues raised can be summarised under the headings below.

### 6.6.2. Building Heights

The 6-storey height limit in the CDP 2016-2022 no longer applies in the Draft CDP 2022-2028. The Draft Plan includes a criteria-based approach that would allow the proposed development to be considered. Therefore, a Material Contravention would not be involved on this issue.

### 6.6.3. Unit Mix

Based on Chapter 12.3.3.1 of the Draft CDP 2022-2028, the proposed development exceeds the 80% figure for the combination of studios, 1 and 2 bed units and, therefore, also falls below the minimum 20% 3+ bed units standard. With 38% studio plus one bed units, the development also exceeds the 30% figure for the combination of one bed and studios. Therefore, a Material Contravention would be involved.

### 6.6.4. Internal Storage

The higher requirements of the CDP 2016-2022 (Table 8.2.1) do not apply in the Draft CDP 2022-2028. The Draft Plan is consistent with the Apartments Guidelines and a material contravention would not be involved.

### 6.6.5. Minimum Floor Areas

The requirements of the CDP 2016-2022 (Table 8.2.3.2) do not apply in the Draft CDP 2022-2028. The Draft Plan is consistent with the Apartments Guidelines and a material contravention would not be involved.

#### 6.6.6. Parking

The residential standards outlined in the CDP 2016-2022 (Section 8.2.5, Table 8.2.3) do not apply to the Draft CDP 2022-2028. The Draft Plan provides for reduced parking standards (especially in Zone 1) and there is scope for flexibility on a case-by-case basis. Therefore, a Material Contravention would not be involved on this issue.

#### 6.6.7. Strategic Flood Risk Assessment

The SFRA (Appendix 16) in the Draft CDP 2022-2028 sets out site specific recommendations for the 'Shopping Centre Phase 2 lands (Site 27)' and these measures have been incorporated into the Site-Specific Flood Risk Assessment (SSFRA) and the associated technical details associated with the proposed SHD development. The proposed development is therefore consistent with the SFRA contained in the Draft Plan 2022-2028.

6.6.8. Section 5.2 of the applicant's report outlines the basis on which permission can be granted under Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016. In doing so, it addresses the potential material contraventions of both the CDP 2016-2022 and the Draft CDP 2022-2028.

## 7.0 **Third Party Submissions**

The Board received a total of 699 submissions. The submissions raise many common issues which can be cumulatively summarised under the headings below.

### Principle of Development

- The principle of redevelopment is generally welcomed.

- Proposed mix of uses is a material contravention of the CDP zoning objective (MTC) and the Board is precluded from granting permission. It also materially contravenes Core Strategy objectives; SLOs; MFC objectives; and strategic employment/retail objectives.
- Failure to create a viable town centre with neighbourhood facilities/services, which are not provided in the existing Dundrum Town Centre.
- Excessive proportion of residential uses.
- The loss of the existing valuable local services/businesses on site and the lack of appropriate replacements.
- Inadequate provision for civic, cultural, community, and leisure/recreation space/uses, together with excessive pressure on existing social/community infrastructure such as schools, healthcare etc.
- Inadequate employment-related uses.
- Creation of a transient community.
- Lack of clarity on sale/rent of units and concerns that the dwellings will not be available/affordable for locals to buy.
- The cumulative impact of other SHD developments in the area.
- The proposal is contrary to a range of national, regional, and local policies (including SLOs; the Building Height Strategy; PHP18, PHP20, PHP27, and PHP30).
- Adverse impacts on footfall and businesses on Main Street.
- Prematurity pending the completion of the LAP and an Area Based Transport Assessment.

- The alternative proposals from 'Imagine Dundrum' are supported.
- Non-compliance with the Dundrum Community Cultural & Civic Action Plan.
- The non-residential floor area exceeds 4,500m<sup>2</sup> and therefore the application falls outside the remit of SHD.

### Residential Standards

- Inadequate proportion of larger units for family use or units suitable for older people/downsizers. The proposed mix is a material contravention of the CDP.
- Inadequate provision of green/open/civic/public space, which has been incorrectly measured and is of poor quality.
- Communal open space is deficient, overshadowed, poor quality, and has been incorrectly measured. The proportion of communal roof space is excessive.
- Lack of childcare and other facilities for younger people.
- Part V proposal should be more inclusive and affordable.
- Apartment design is substandard in terms of security; corridor design; room widths; private amenity space; inadequate light to open spaces; daylight/sunlight standards (BRE Guidelines); and resident amenity space.
- Dual aspect has been incorrectly measured and single-aspect units include unacceptable north-facing and 3-bed units.
- Micro-climate wind impacts concerns associated with the development.
- The development should include live/work units.

### Impact on surrounding properties

- Buildings will impact on daylight/sunlight to surrounding properties and public spaces, including Main Street.
- Surrounding properties will be severely overlooked.
- The applicant's daylight/sunlight assessments are inadequate.
- Excessive construction disruption for up to 10 years, including air pollution, traffic, water pollution, noise, waste.

- Demolition/underpinning and other work to the rear of 16/17 Main St does not have consent of the owners and construction work will adversely affect the business.
- There will be noise pollution from the proposed dwellings.
- Overdevelopment will result in anti-social behaviour.
- Concerns that the development may be left vacant or incomplete.
- Wind tunnel effects for existing properties.
- Devaluation of existing properties.
- The impacts would be contrary to Development Plan zoning objectives to protect existing residential amenity.
- Inadequate information regarding reflected light impacts from the solar PV panels at roof level.

#### Design, Layout, Visual Impact, & Heritage

- Excessive density, building height, and scale is overbearing and out of character with the wider area, the by-pass, Main Street, Luas bridge, protected structures, and the designated ACA. The 16-storey tower is also seriously out of character, of substandard design for a 'landmark' building, and injurious to the amenities of the area.
- Existing buildings on Main Street should not be demolished and would be contrary to the Planning Act and the CDP.
- The design does not respect the history and heritage of Dundrum.
- Substandard design and materials/finishes results in a repetitive, homogenous, and monolithic appearance.
- Failure to comply with the CDP Building Height Strategy, the national Building Height Guidelines, and the Apartments Guidelines.
- Would negatively impact on landmark/sensitive views and the skyline.
- Proposed location and design of open space is peripheral, unacceptable and inaccessible. It should include an appropriately designed civic plaza/square as a focal point.

- Lack of permeability and connectivity through the site.
- Proposed bridge to Sweetmount is not welcomed or necessary and it is queried as to how it will be managed/maintained. It will encourage anti-social behaviour and result in the loss of existing green space and biodiversity.
- Inadequate separation distances between blocks.
- Additional green space & planting would improve drainage and biodiversity.
- Alternative designs have not been considered.
- There is no artistic contribution to the area.
- Lack of activity and cycle/pedestrian facilities along the bypass.
- Non-compliance with the provisions of DMURS and substandard design interface with existing/proposed streets.

#### Traffic & Transport

- The road network does not have adequate capacity and will result in traffic being diverted through residential areas such as Sweetmount.
- The Luas and bus services do not have adequate capacity.
- Concerns about the cumulative impact of other planned developments.
- Inadequate car-parking will lead to overspill and could be addressed through a better mix of uses.
- There will be a loss of existing commercial surface parking spaces.
- Additional traffic will result in air pollution.
- The development will make walking and cycling more difficult.
- There are inadequate and substandard linkages to Phase 1.
- Traffic assessments are based on inaccurate assumptions and do not account for lower traffic volumes associated with the COVID-19 restrictions.
- Mobility Management measures are unclear and inadequate.
- Visitor cycling standards have been reduced.
- Removal of access off Main Street would impact on vulnerable users.

### Water services & Flooding

- Excessive pressure on sewerage and water supply.
- Excessive risk of flooding on site and for other properties in Dundrum.
- Negative impacts on the Slang River, including flow and water quality.
- Concerns about the capacity and maintenance of the River Slang culvert.

### Ecology

- Construction stage impacts on wildlife.
- Inadequate consideration has been given to impacts on wildlife and habitats.
- There is insufficient information on the risk of impacting bird/bat flight lines and collision.

### Environmental Impacts

- The EIAR is inadequate and does not permit a proper assessment, including cumulative impacts, impacts of increased population on services, biodiversity, human health, and flood risk.
- This sub-threshold development should be subject to full EIA having regard to its nature and location.
- The EIA Screening Report (including the Ecological Report) is inadequate and does not permit a proper assessment, including impacts related to pollution, nuisances (dust/noise), human health, biodiversity.
- The Board lacks the ecological and scientific expertise to properly examine the EIA Screening Report.
- The EIAR has not addressed the issue of water supply/pressure.
- The EIAR does not respect the importance of green spaces and trees in addressing the impacts of climate change.

### Appropriate Assessment

The AA Screening information presented is inadequate, contains lacunae, is not based on scientific expertise, and does not comply with the Habitats Directive.

Concerns are raised in relation to:

- An absence of reasoning based on scientific information.
- Non-consideration of all aspects, including the construction phase.
- Insufficient surveys and assessment of bat/bird flight lines.
- Flawed consideration of the 'zone of influence'.
- Cumulative effects of other developments.
- Reliance on mitigation measures, including the potential hydrological connection to North Dublin Bay SAC and North Bull Island SPA.
- Insufficient site-specific surveys.
- Reliance on the Ringsend WWTP.

#### Procedural Issues

- It is unclear whether the applicants at pre-application and application stage are the same.
- The application refers to the old CDP 2016-2022.
- The issues raised in the Board's pre-application Opinion have not been addressed.
- The process/timeline for the Ministerial review of the draft CDP is unclear.
- The Site Notices are difficult to read, and the application drawings and details do not adequately illustrate/assess the development.
- Concerns are raised about the SHD process and inadequate public consultation.

#### Other Issues

- Excessive pressure on services/utilities such as broadband, electricity, gas.
- Inadequate firefighting facilities for the proposed building height, inadequate building standards, and emergency access.
- Concerns about the universal accessibility of the development.
- Lack of: renewable energy use; rainwater reuse; measures to offset GHG emissions, including embodied carbon; and environmentally friendly design.



- Inadequate assessment of impact on telecommunications links. It ignores potential impacts on Digital Terrestrial Television signals broadcast from Three Mountain Rock by 2RN.
- Lack of clarity on taking in charge, management, and maintenance.
- Reliance on national guidelines and associated SPPRs is unconstitutional and contrary to the SEA Directive.
- The Board cannot grant permission as the development is not of strategic or national importance.
- Queries as to how existing businesses will be accommodated.
- Concerns are raised about the proposed phasing, which should prioritise the provision of services and amenities.

## 8.0 Planning Authority Submission

### 8.1. Overview

8.1.1. In compliance with section 8(5)(a) of the 2016 Act, DLRCC submitted a report of its Chief Executive Officer which was received on the 10<sup>th</sup> of June 2022. The submission includes technical reports from relevant departments of the County Council and a summary of the views of the elected members of DLRCC.

8.1.2. The Chief Executive's Report welcomes the principle of the redevelopment of this brownfield site in accordance with local, regional, and national policy. However, it recommends a refusal of permission based on an extensive range of concerns. The report does not consider it appropriate to specify any planning conditions given that some of the recommended refusal reasons relate to fundamental development principles which cannot be addressed by condition.

### 8.2. Summary of Inter-Departmental Reports

#### 8.2.1. Drainage Planning

The report outlines significant concerns in relation to a range of flood risk and drainage design issues. It outlines the need for further information in this regard and the unsuitability of addressing these matters by condition, particularly regarding the

need for detail hydraulic modelling. Nonetheless, it outlines conditions to be attached to any grant of permission.

#### 8.2.2. Housing

- No objection subject to standard Part V agreement condition.

#### 8.2.3. Environmental Health Officer

- No objection subject to the agreement of a final Construction Environmental Management Plan and Demolition Management Plan.

#### 8.2.4. Transportation Planning

- The TTA does not follow TII Guidelines in relation to (i) Traffic Forecasting and (ii) Cumulative Impacts.
- Proposed layout creates an integrated permeable network of streets, paths etc., and is consistent with DMURS.
- The proposed northernmost access arrangement conflicts with the NTA requirement for a bus lay-by (c.75-85m long) at the northern end of the By-Pass<sup>1</sup>. DLR Traffic Section is opposed to this proposal.
- Taking in Charge proposals require clarification.
- The car and cycle parking proposals are generally considered acceptable.
- In conclusion, refusal is recommended on the basis of conflicts between access arrangements and NTA requirements. Conditions are recommended in the event that permission is contemplated.

#### 8.2.5. Conservation

The report raises concerns in relation to:

- 4-5 storey blocks along Main Street are not in keeping with existing urban grain and morphology and, together with the blocks along the by-pass, would have an overbearing impact on Glenville Terrace. The proposal will denigrate the

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<sup>1</sup> The lay-by has since been installed at this location.

prominence of Holy Cross Church and Parochial House (protected structures) and would not be acceptable to the character of the ACA.

- The retention and refurbishment of 1-3 Glenville Terrace is generally welcomed. However, proposals to demolish the Former Post Office, 4 Glenville Terrace, and 13 & 13A Main Street are not supported as they contribute to the overall character of Main Street.
- In conclusion, the proposal fails to comply with CDP provisions – SLO9, HER13, HER14, and Section 12.11.4.

#### 8.2.6. Parks

- The public open space includes transitional space and bike parking. The calculation is overly generous and should be recalculated. A financial contribution in lieu of Open Space would be required as per Table 12.8 s.12.8.3.1 of the CDP.
- Communal space does not meet s.12.8.5.4 of the CDP – no more than 30% of communal open space as roof garden space.
- Concerns are raised about the inadequate width between buildings; the need for the proposed link bridge to Sweetmount to be of a more green and sustainable design; overshadowing of public spaces; the design, gradient, and levels within the Church Square space; and inadequate planning proposals for Main St. and the By-pass.
- A range of conditions are recommended in the event of a grant of permission.

#### 8.2.7. Community & Culture

- There is an identified lack of community facilities in the area and the application is a missed opportunity to address the matter.

#### 8.2.8. Architects

- Regarding the design for Main Street, concerns are raised about: not reflecting urban grain; lack of block modulation and appropriate massing; consistent 5-storey height is excessive; inappropriate shopfront/ground level design; and a monolithic appearance which overwhelms the streetscape.

- Regarding the design along the By-pass, concerns are raised about: the size/scale and impermeable podium would further increase severance from the west; a monolithic wall appearance; imposing impact on the Sweetmount area; and a dominating appearance when viewed from the north and west.
- The proposal for a marker building at the north end of the site would not deliver a distinctive landmark building that is significantly taller or more notable compared to other blocks. The 13-storey transitional wing to Main Street is inappropriate and would dominate views.
- There are concerns about the hierarchy of public spaces and the proposed surface finishes and public realm consistency.
- There are concerns about the design of Sweetmount Place, which should have greater significance, distinctiveness, and legibility.
- Church Square is not an appropriate location/setting for a public space due to problems with access, permeability, surveillance, and a lack of connectivity to Main Street.
- There are concerns about inadequate lighting for Sweetmount Bridge.

### 8.3. Summary of Views of the Elected Members

The application was discussed at a Dundrum Area Committee Meeting on 3<sup>rd</sup> May 2022. The main views outlined in the CE Report can be summarised as follows:

#### 8.3.1. Uses

- Undermines the ability to attract employment to the area.
- SLO114 requiring a civic hub and plaza not adhered to.
- Materially contravenes the zoning and SLO8 as 95% is residential space.
- No active uses onto the by-pass.

#### 8.3.2. Procedures

- Disappointing that the application precedes an LAP.
- 5-week consultation period is inadequate.
- More community engagement is required.

### 8.3.3. Design, character, heritage

- Ignores SLO9 and does not respect the character of Main Street.
- Fails to demonstrate that the height and density will not be detrimental.
- Fails to respect the ACA and proposed demolitions is a Material Contravention.
- Glenville Terrace will be boxed by the development.
- Inadequate design quality will have negative effects.
- 10 storeys should be the maximum height on the site.
- Will impact on views, including Dublin Mountains.
- Landmark building is contrary to the character of the area.
- Need to consider space between blocks.

### 8.3.4. Housing standards

- Housing mix does not comply with HNDA.
- Part V housing provision is welcomed.
- Only 54% of units are dual aspect, not 60% as stated.
- 57 single aspect north-facing units materially contravenes the CDP and the Apartments Guidelines.
- Cost of Part V units puts the council under strain.

### 8.3.5. Traffic & Transport

- Development of the site should be conditional on upgrade of Luas to Metro.
- Traffic management for the area needs to be considered through an ABTA.
- No east-west permeability provided.
- Visitor cycle requirements are inadequate.

### 8.3.6. Open Space

- Concerns about the location of the space behind the Church.
- Some of proposed spaces are transitional and should not be included.

- Open space is at a premium and this site is the last chance to address it.
- Some reports suggest communal space does not meet minimum requirement.
- 40% of communal space is at roof level – contrary to the CDP.

#### 8.3.7. Others

- Should include a Community Legibility Design Statement.
- 8-year construction period would be excessive.
- Development of the site with higher density is welcomed.
- The proposal violates SLOs 6, 9, 10, 11, 114, 123, 128.
- Proposal is contrary to s. 7.5.2.1 and policy objective 20 of the CDP.
- The excessive height and scale will adversely impact on residential amenity.

#### 8.4. **Planning Assessment**

The assessment outlined in the CE Report references and largely supports the internal reports discussed in section 8.2 of this report. Any additional relevant commentary can be summarised under the following headings.

##### 8.4.1. Principle of the development

- Redevelopment of the site is welcomed, and the proposed uses are permitted in principle. Further clarity is required on the retail/commercial unit uses.
- Significant additional residential development is welcomed in the MTC, and it is noted that a significant no. of units has been permitted in the wider area.
- However, it is the strong opinion of the PA that the proposal would not deliver anything approaching an appropriate mix of non-residential uses for the MTC.
- The non-provision of employment uses is a significant missed opportunity and is contrary to the strategic employment designation of the MTC.

##### 8.4.2. Demolition of existing structures

- The applicant has not satisfactorily justified the extent of proposed demolition.
- The complete removal of 4 No. buildings within the ACA, which make a positive contribution to the character of the ACA, will negatively affect the

character of the ACA, is contrary to Policy Objectives HER13 and HER 14 and materially contravenes the 2022-2028 Development Plan in this regard.

#### 8.4.3. Specific Local Objectives (SLOs)

- SLO6 – Preparation of an LAP has recommenced.
- SLO8 – The proposed mix of uses does not comply.
- SLO9 – The proposed design does not comply due to adverse impacts on main Street and the ACA.
- SLO11 - No direct requirement for the subject scheme applies.
- SLO114 – Does not include an appropriate Community, Cultural and Civic Centre facility and would be premature pending the resolution of options.
- SLO123 – There are serious concerns about the proposed housing mix and a lack of larger units.
- SLO124 – Inadequate east-west connectivity provided for the wider public in the proposed scheme between the By-pass and Main Street.

#### 8.4.4. Residential Density

- The quantitative element of the proposed density (252 uph (gross) and 294 uph (net)) is consistent with local and national policy guidelines for highly accessible locations.
- However, there are reservations about qualitative factors, including consideration of PHP18 and PHP20 regarding impacts on existing residential amenity and the established character of the area.

#### 8.4.5. Residential Amenity

- Concerns about the negative overlooking impact of Block 4B on Nos. 11 and 16/17 Main Street.
- Serious concerns about various instances where 22m block separation distance not achieved. Although reduced distances may be allowable, there would be unacceptable overlooking which would require a major re-design.

- It does not appear that noise for apartments and open spaces along the by-pass has been considered.
- Some concerns are raised about the available information on daylight/sunlight impacts for existing properties. However, the PA is reasonably satisfied that there would be no material negative impacts.
- Regarding daylight/sunlight impacts for the proposed scheme, the PA generally welcomes the results of the applicant's assessment. However, it highlights that the level of fenestration proposed contributes to aforementioned overlooking issues, and that the application does not include sunlight or 'No Sky Line' assessments for the proposed apartments.

#### 8.4.6. Standard of Accommodation

- The proportion of studio and 1-bed units (38.1%) exceeds the CDP maximum of 30%, while the proportion of 3+ bed units (9.3%) does not meet the minimum of 20%. The CDP requirements are supported by a HNDA in accordance with SPPR 1 of the Apartments Guidelines. This does not comply with the requirements of PHP27 or SLO123.
- The proposal appears to comply with CDP requirements for apartment sizes; ceiling heights; lift/stair cores; internal storage; and private open space.
- The CDP requirement for dual aspect units is 50% as per s. 12.3.5.1. Despite the applicant's claim that 60% of the units are dual aspect, there are concerns about the classification of some units as such and it is not considered that the 50% standard is complied with. There are also instances of single aspect north-facing units which do not overlook significant amenities as required by the Apartments Guidelines.
- No external storage space is provided, which does not comply with the requirements of s. 12.3.5.3 of the Development Plan.

#### 8.4.7. Public & Communal Open Space



- As outlined in Internal Reports, there are serious concerns about the calculation of public open space and the quantity and quality of same, in particular the primary Church Square space.
- The payment of a contribution in lieu of public open space is not considered pertinent as it should be delivered as part of the redevelopment of the site.
- There would be merit in removing one of the blocks facing Main St. to provide a public open space, although this would require substantial re-design.
- Communal open space meets the minimum CDP requirements. However, there are concerns about the extent of roof space (35%) which does not comply with s. 12.8.5.4, and the provision of all remaining space above basement/lower ground floor level which the quality of planting.

#### 8.4.8. Urban Design & Layout

- Concurs with the concerns outlined in the DLRCC Architect's report.
- Concern about inadequate detail of lift arrangements at Ballinteer Road.
- There are inactive uses and a lack of permeability along the by-pass, which is particularly unsatisfactory given NTA's proposed bus interchange at the northwest corner of the site.
- The proposal does not adequately integrate with Main St due to excessive height/scale and inappropriate design having regard to existing character, the ACA, and Protected Structures (Holy Cross Church and Parochial House).

#### 8.4.9. Transport, Connectivity, Parking

- Concerns are raised about: the number of access points along the by-pass and implications for the cycle lane and conflict with the NTA's proposed bus interchange.
- There is inadequate information regarding public transport capacity.
- Parking proposals are generally acceptable as per Internal DLRCC reports.

#### 8.4.10. Building Height

- The site is within a 'residual suburban area' and the proposal for increased height is supported by BHS 1 of the CDP.
- The proposal does not satisfy the criteria under Table 5.1 of the CDP with regard to: the inadequate mix of uses, including employment; lack of integration with the character of the area; adverse impacts on the ACA, Protected Structures, the skyline etc; failure to comply with the Urban Design Manual (2009); monolithic appearance; inappropriate materials and finishes; inadequate context for key spaces and thoroughfares; inadequate contribution to legibility and permeability; impacts on surrounding properties; and proposed aspect arrangements.

#### 8.4.11. Surface Water Drainage and Flood Risk

- Refers to concerns outlined in the DLRCC internal report.
- In the absence of satisfactory and robust evidence regarding flooding risk, the proposed development is deemed to materially contravene the requirements of Section 12.9.6 of the County Development Plan 2022-2028.

#### 8.4.12. AA/EIA

- The submitted AA and EIAR is noted and An Bord Pleanála is the competent authority for screening and assessment purposes.

#### 8.4.13. Recommendation

It is recommended that permission be refused for a wide range of reasons which can be summarised as follows:

1. Zoning and land use
  - a) The low quantum of non-residential uses is contrary to the MTC zoning objective and Policy Objectives MFC 1 and RET5 and could result in an underperforming Major Town Centre.
  - b) The absence of employment intensive uses would be contrary to the Core Strategy of the Development Plan.

c) The proposal fails to provide an adequate range of complementary uses as explicitly required by SLO8.

## 2. Flood Risk

a) The absence of hydraulic modelling does not meet the requirements of the SFRA and Policy Objective EI22 of the CDP, and the proposed development would materially contravene the requirements of section 12.9.6 of the CDP.

## 3. Building design and architectural impact

a) The complete removal of 4 buildings within the ACA would be contrary to Policy Objectives HER13 and HER14 of the CDP.

b) The proposed height and design along Main Street would be contrary to Policy Objectives HER13 and HER14, as well as SLO9.

c) The proposed heights do not successfully integrate with Main Street or the bypass and fail to meet the criteria set out in Table 5.1 Appendix 5 of the CDP.

## 4. Community Infrastructure

a) The proposal fails to address the need for the provision of a future Dundrum Community, Cultural and Civic Centre facility, which also integrates into a civic square/plaza area, as explicitly required by SLO114 of the CDP.

b) The proposal would deliver inadequate and insufficient high quality public open space, which would be hugely detrimental for the site and for the wider residential community.

## 5. Quality of residential development

a) The unit mix is not consistent with the HNDA and is contrary to Policy Objective PHP27 of the CDP.

b) With only 82 no. 3-bed units, the proposal does not provide an acceptable mix of larger units as required by SLO123 of the CDP.

c) The proposal would result in unacceptable levels of overlooking, resulting in a very poor residential amenity for future residents.

d) The quantum of dual aspect units is not compliant with CDP requirements.

## 6. Transportation and Movement

- a) Vehicular access from the by-pass directly conflicts with NTA plans for a bus stop and lay-by facility. The proposal would therefore be contrary to Policy Objective T7 of the CDP.
- b) The proposal does not provide pedestrian/cycle links between Main Street and the bypass, which is contrary to SLO124 of the CDP.
- c) The proposal provides a poor interface along the bypass and represents poor placemaking along this western boundary.

## 9.0 **Prescribed Bodies**

9.1. In accordance with the requirements of the Board's pre-application opinion, the application outlines that the following were notified:

- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- Minister for Culture, Heritage and the Gaeltacht
- The Heritage Council
- An Taisce-the National Trust for Ireland
- An Comhairle Ealaoin
- Failte Ireland
- Irish Aviation Authority
- Dun Laoighaire Rathdown County Childcare Committee.

9.2. The submissions received in relation to the application can be summarised as follows:

### An Taisce

Welcomes the redevelopment of the site but not at the scale proposed. Concerns are raised in relation to:

- Inadequate mix of uses (SLO149 of the CDP 2016-2022).

- Failure to meet SLOs 8, 9, and 114 (CDP 2022-2028).
- Failure to respect the character of Main Street and the ACA (SLO 150 of the CDP 2016-2022, and SLO9 of the CDP 2022-2028).
- The demolition of structures within the ACA would have a material negative effect and would contravene HER14 of the CDP 2022-2028. The application does not provide sufficient justification for this demolition.
- Regarding the proposed development adjoining the ACA, the proposal would be contrary to the Architectural Heritage Protection Guidelines and HER13 of the CDP 2022-2028.
- The inadequate proportion of non-residential uses would materially contravene the zoning objective, and it is not open to the applicant to make a statement under s. 8(1)(a)(iv) of the Act of 2016 indicating why permission should be granted.
- The lack of complementary uses, particularly cultural, community and civic uses, would materially contravene SLO8 and no reason has been established as to why permission should be granted.
- The proposal materially contravenes the CDP objective to preserve the ACA and no reason has been established as to why permission should be granted.
- Large scale development should not be considered until the LAP is prepared.
- The proposed height and design is not sensitive to Main Street (SLO9), would be premature pending the adoption of the LAP, and the overall heights would not meet the criteria in Chapter 5 of the BHS.
- The proposed density would represent overdevelopment of the site.
- The application should assess the capacity of the Luas Green Line in light of the cumulative impact of other developments in the area.
- If granted, the existing sash windows (1-3 Glenville Terrace) should be retained and repaired throughout as per the Conservation Report.

Department of Housing, Local Government and Heritage

- Archaeological monitoring shall be undertaken as mitigation.

- Concerns are raised about the potential for pollution within the hydrological pathway from the site to the Slang Stream, the River Dodder, the River Liffey, and Dublin Bay. Construction Management mitigation measures are recommended.
- No survey of nesting birds has been carried out. Appropriate timing of works and surveys are recommended as mitigation.
- A bat-friendly lighting scheme shall be agreed.

#### Inland Fisheries Ireland

- Highlights the importance of the Slang Stream and the River Dodder for salmon and trout populations and the need to protect water quality in considering surface water and foul water discharges.

#### Irish Water

- Wastewater - Strict flow management will be required via the proposed pump station. Peak discharges into Irish Water network shall be limited to 2.0 average Dry Weather Flow. The required pump station will be funded and delivered by the developer within their own site.
- Water - Connection should be made to the existing 300mm service main.
- Storm water - Must be discharged only into the existing storm water network that is not connected to the Irish Water network.
- Standard conditions are recommended.

#### Irish Aviation Authority

- Any grant should be conditioned to agree appropriate obstacle warning lighting and to notify the IAA of the intention to commence crane operations.

#### National Transport Authority

- Having regard to Luas and BusConnects, there is support in principle as it aligns with the Principles of Land Use and Transport Integration as set out in national and regional planning policy.
- The northern bypass entrance conflicts with the proposed location of a bus stop and 65m long layby, which is planned as part of a critical transport

interchange at the north end of Dundrum. It has not been demonstrated that an alternative location is feasible.

- In the event of a grant of permission, conditions should apply requiring the northern access to be dependent upon the satisfactory resolution of an alternative arrangement for the planned bus facility.

### Transport Infrastructure Ireland

Conditions are recommended requiring:

- All deliveries to limit interference with Luas operations.
- Maintenance of 24-hour access to Luas infrastructure.

## 10.0 Oral Hearing Request

- 10.1. The Board received two submissions which included requests for an Oral Hearing (Phillip O’Kane & Theresa Marnane). I have considered the basis for these requests and the grounds raised in the respective submissions, which are generally consistent with the other submissions received. Having regard to the nature of the site and the surrounding area, together with the nature and scale of the proposed development, I consider that there is adequate information on the file for the purposes of determining this case. I do not consider that an oral hearing would be warranted and, therefore, I recommend that an oral hearing should not be held for the reasons outlined above.
- 10.2. The Board is also referred to sections 11.10 and 11.11 of this report, which separately addresses the question of holding of an Oral Hearing in the context of new policy issues and material contraventions.

## 11.0 Assessment

### 11.1. Introduction

11.1.1. Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all the submissions received in relation to the application, and having inspected the site and had regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Principle & Procedural Issues
- Zoning and Mix of Uses
- Residential Standards
- Impacts on Existing Properties
- Daylight and Sunlight
- Traffic and Transport
- Water Services, Drainage, & Flooding
- Building Height, Density, Visual Amenity, & Built Heritage
- New Policy Issues
- Material Contravention
- The Local Authority Recommendation
- Appropriate Assessment (See section 12)
- Environmental Impact Assessment (See section 13).

## 11.2. **Principle & Procedural Issues**

### Validity and Procedural Issues

- 11.2.1. At the outset it is noted that the submissions outline a wide range of concerns in relation to procedural matters. These preliminary matters are addressed in the following paragraphs.
- 11.2.2. In relation to the pre-application process, I am satisfied that the prospective applicant at that stage (Dundrum Retail GP DAC) is consistent with the current applicant for permission (Dundrum Retail GP DAC (acting for and on behalf of Dundrum Retail Limited Partnership)). The applicant has included a Planning Statement / Response



to the Board's pre-application opinion and the merits of that response will be assessed in this report.

- 11.2.3. Concerns have been raised in relation to the application documentation and drawings. However, I am satisfied that the documents and drawings satisfactorily meet legislative requirements for the purposes of this assessment. The applicant's response to the Board's Opinion has also addressed the 'specific information' requested and this will be assessed throughout this report.
- 11.2.4. The principle of the SHD process has been questioned, particularly in relation to inadequate opportunity for public consultation and participation. Concerns are also raised about the principle of SPPRs and the impact of the material contravention of Development Plans. I would state that these are primarily legislative issues which need not concern the Board for the purpose of this decision. The application has complied with the statutory requirements for pre-application consultation and public participation (including site notices, newspaper notice, notification to prescribed bodies and EIAR portal, and creation of a website). Accordingly, I am satisfied that the concerned parties were not prevented from making representations and participating in the application process. Furthermore, I am satisfied that the principle of SPPRs and material contravention procedures continue to apply in legislation, irrespective of the adoption of a new Development Plan which has had regard to the SPPRs. The question of material contravention is discussed further in section 11.11.
- 11.2.5. Concerns have also been raised about SPPRs and the need for a new Strategic Environmental Assessment (SEA) of the Development Plan. However, I consider that the EIA Directive must be interpreted as not precluding national legislation which requires competent authorities, when deciding whether or not to grant development consent for a project, to act in accordance with SPPRs, where possible, and which have been subject to an environmental assessment under the SEA Directive. Accordingly, I have no objection to the application of SPPRs in terms of environmental effects and this is assessed further in section 13 of this report.
- 11.2.6. I note that concerns have been raised about the making of the application in the transitional period between the CDP 2016-2022 and the CDP 2022-2028. I acknowledge that the application was submitted on 5<sup>th</sup> April 2022, which was after the CDP 2022-2028 was adopted (10<sup>th</sup> March 2022) but prior to it coming into effect (21<sup>st</sup> April 2022). However, the application, including the Material Contravention

Statement, has considered the provisions of the Draft CDP 2022-2028. I also note that the adopted CDP 2022-2028 was the subject of a Ministerial Direction process which has now been concluded.

- 11.2.7. In addition to concerns about Development Plan timelines, it has also been submitted that the making of the application was premature pending the completion of a Local Area Plan (LAP) for Dundrum. However, an LAP has since been adopted and its provisions will be considered in the assessment of the application. The implications of the adoption of the LAP subsequent to the making of the application will also be considered in section 11.10.
- 11.2.8. Within the LAP, I note that OSC1 is an objective that a Masterplan for the entire site shall be prepared and accompany all planning applications for significant development on the site. I consider that the current application effectively constitutes a masterplan, and its suitability will be assessed throughout this report, including compliance with the Guiding Principles and Objectives set out in the Site Development Framework and the accompanying SFRA as required by OSC1.
- 11.2.9. Finally, it has been submitted that the area of non-residential use is 4,526m<sup>2</sup>, which would exceed the 4,500m<sup>2</sup> limit for SHD applications. This is submitted on the basis that a corridor has been omitted at lower ground floor level between the foodstore and a retail unit. Having reviewed the 'Lower Ground Floor Arrival & Parking Strategy Plan' (p. 156 of Design Statement), I note that this is intended as a customer access route running between the basement car park and Main Street. Accordingly, I do not consider that it should be considered 'floor space' which would exceed the 4,500m<sup>2</sup> limit as per the definition of SHD in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).
- 11.2.10. Having regard to the foregoing, I am satisfied that the application has been made in accordance with legislative requirements and that there is adequate information on file for the purposes of this assessment.

#### Principle and Nature of the development

- 11.2.11. The principle of redevelopment of the site is clearly supported by the Development Plan. Indeed, notwithstanding the overwhelming opposition to the proposed development, the submissions generally support the need to redevelop the site.

- 11.2.12. I note that concerns have been raised about the loss of existing businesses/services and the implications for existing tenants. However, while I acknowledge that such temporary loss/disruption is regrettable, I consider it to be an unavoidable impact if the site is to be redeveloped for long-term gain in accordance with Development Plan objectives. The implications for existing tenants and any other legal interests are a civil matter for resolution between the relevant parties.
- 11.2.13. With regard to the nature of the proposed development, I note that many submissions have questioned the tenure of the residential units and whether they would be available for purchase by individuals. The application has not been categorised as 'Built-To-Rent' in accordance with SPPR 7 of the Apartments Guidelines (2020 version) and accordingly shall not be assessed as such. I also acknowledge that the 'Regulation of Commercial Institutional Investment in Housing' (Department of Housing, Local Government and Heritage, 2023) outlines provisions to restrict the sale of 'own door' houses and duplex units to 'individual purchasers', but that this restriction does not extend to cover the sale of apartments. Similarly, the Development Plan does not include any such restrictions. Therefore, in the event of a grant of permission, I would not propose to include such restrictions in the absence of a policy basis.
- 11.2.14. In conclusion, I consider that the principle of the redevelopment of the site is acceptable. However, I acknowledge that serious concerns have been raised about the nature and scale of the proposed development and I will address these concerns throughout this report.

### 11.3. **Zoning & Mix of Uses**

#### Zoning

- 11.3.1. One of the primary points of objection from third parties is that the proposed development would materially contravene the zoning objective for the site due to the lack of an appropriate mix of uses and an excessive proportion (95%) of floorspace devoted to residential use. This is a key issue given that the Board is precluded from granting permission '*where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land*' (s. 9(6)(b) of the Act of 2016).

- 11.3.2. The zoning objective for the site is Major Town Centre (MTC), which is ‘*To protect, provide for and/or improve major town centre facilities*’. Notwithstanding the planning authority’s concerns about some lack of clarity on the nature of the proposed ‘retail/commercial’ units, I am satisfied that the specified uses (i.e. residential, retail, café/restaurant, and creche) are all ‘permitted in principle’ under the zoning objective as outlined in Table 13.1.11 of the CDP.
- 11.3.3. However, while the individual uses may be permitted in principle, the key issue in this case is the suitability of the mix/range of uses and the dominant nature of the residential use proposed. In this regard, the wording of the zoning objective is quite general and limited in scope for detailed assessment. Therefore, I consider that assessment requires a wider consideration of policies and objectives relating to the MTC zone, as will be outlined in the following paragraphs.

#### Employment

- 11.3.4. Major Town Centres are designated as Strategic Employment Locations in Table 2.15 of the CDP, which highlights the potential for the development of key strategic urban regeneration sites for employee-intensive development located on strategic transport corridors, aligning employment growth with both existing and new residential communities.
- 11.3.5. Policy Objective CS7 is to support the delivery of strategic employment growth areas in the County. Section 6.4.2 of the CDP also recognises the importance of retaining and facilitating additional office accommodation in Major Town Centres as a key land use that contributes to the vibrancy and vitality of these highly accessible multi-functional centres. The Council will support the development of office accommodation at each of the Major Town Centre’s subject to maintaining a balanced mix of uses across the wider Major Town Centre lands in line with their multi-functional role.
- 11.3.6. Having regard to the foregoing, it is clear that employment-related uses are envisaged as being an integral part of the development of Dundrum as a multi-functioning MTC. I consider that the proposed development does not include employee-intensive development and would not, therefore, be in accordance with Policy Objective CS7.

#### Community, Neighbourhood, and Commercial Uses

- 11.3.7. Policy Objective MFC1 is to embrace and support the development of the County's Major Town Centres as multifunctional centres which provide a variety of uses that meet the needs of the community they serve. The submissions received have acknowledged the application's reference to the significant range and scale of commercial uses within the existing 'Dundrum Town Centre' development, but I would concur with their distinction between the wider regional catchment of this primarily retail offer compared to the need to serve a variety of community needs in accordance with MFC1. This role distinction is also supported in Section 7.5.2 of the Development Plan.
- 11.3.8. The application contends that only 30-40% of the old Dundrum Shopping Centre gross floor area of c. 8,500sqm is currently occupied, resulting in c. 2,550-3,400m<sup>2</sup> of occupied space. It states that the proposed development (3,828.2m<sup>2</sup> retail / commercial) will increase the amount of commercial floorspace over what is trading at present. However, I do not consider it appropriate to rely on the varying nature of occupied floorspace and I note that the proposed development would involve a significant loss of actual commercial floorspace coupled with a significant increase in the population of the local community. Accordingly, I do not consider that the proposed development would be in accordance with Policy Objective MFC1.
- 11.3.9. Similar to MFC1, Policy Objective PHP3 deals with planning for sustainable communities and aims to *inter alia 'Identify, provide and/or improve (as appropriate) supporting sustainable neighbourhood infrastructure in tandem with residential development in renewal/ redevelopment areas and existing residential neighbourhoods'*. I do not consider that the extent and range of supporting infrastructure would be commensurate with the scale of residential development proposed in this case.
- 11.3.10. Section 7.4.2 of the CDP defines the core shopping area for Dundrum as corresponding to the MTC zoning objective, including the application site in the area between Main Street and Dundrum Bypass. Policy Objective RET5 is to maintain the Major Town Centres (including Dundrum) as the primary retail centres in the County and to support their evolving multifunctional role. It states that the vitality of the towns will be enhanced by their mixed-use nature and that, in addition to retail, these centres must include community, cultural, civic, leisure, restaurants, bars and cafes, entertainment, employment and residential uses. In my opinion, the proposal for 95% residential floorspace would not be consistent with the primary retail function of the

MTC and would not provide a suitable mix of retail and other uses in accordance with Policy Objective RET5.

#### Specific Local Objectives (SLOs)

11.3.11. The CDP outlines SLOs which are relevant to the question of land use within the application site.

11.3.12. **SLO8** reads as follows:

*'To ensure Dundrum develops beyond just a retail shopping destination. Any future redevelopment of the old shopping centre lands shall provide for residential use and a range of complementary non-retail uses including - but not limited to - employment, restaurant, leisure, entertainment, creche facilities, remote working hubs, cultural, community and civic uses – to supplement that already provided for within the wider Dundrum Town Centre'.*

11.3.13. This SLO supports the principle of residential development on the site. However, it clearly outlines that this shall also involve a range of specified complementary non-retail uses, which are discussed below:

Employment – It is acknowledged that the non-residential uses would include limited levels of employment. However, this would not be consistent with levels envisaged for a Strategic Employment Location as previously outlined.

Restaurant – The application includes several café/restaurant uses.

Leisure – The CDP defines 'Leisure Facility' as '*A building or part thereof or land which may be available to the public on payment of a charge or free of charge and which may contain a theatre, cinema, concert hall/music hall, conference centre, bingo hall, bowling alley, skating rink, or children's/ teenager's games centre*'. I

acknowledge that the application includes public open space, but I consider that this would make only a limited contribution to leisure uses.

Entertainment – I acknowledge that the café/restaurant uses could be considered as 'entertainment', but I consider that this does not contribute significantly to the range of proposed uses.

Creche facilities – The proposed development does include a creche facility.

Remote working hubs – The application indicates that the ‘resident amenity’ space could provide for co-working or home working. However, as a ‘resident’ facility, this would not appear to contribute to the wider community.

Cultural, community and civic uses – This will be addressed in the following paragraphs in relation to SLO 114.

11.3.14. It is also important to note that SLO8 states that the above uses are required to *‘supplement that already provided for within the wider Dundrum Town Centre’*. Therefore, contrary to the applicant’s argument, I do not consider that the application can rely on the presence of existing facilities to satisfy this requirement. Accordingly, I do not consider that the application includes a satisfactory range of uses to comply with SLO8.

11.3.15. **SLO11** is *‘To support the recommendations of the Dundrum Community, Cultural and Civic Action Plan’* (DCCCAP). I note that Action No. NN3 of the DCCCAP is to *‘Promote the development of a Civic and Cultural Hub in Dundrum Town Centre to serve as a District-scaled facility serving a wide catchment’*. Indicative illustrations show that this could be achieved at the northern end of the application site, or on adjoining lands to the north. Therefore, consistent with the planning authority’s CE Report, I would concur that the action relates to the wider MTC zone and cannot be attributed directly to the application site. Action NN6 is to *‘Reflect civic, cultural and community needs in the review of the Dún Laoghaire Rathdown County Development Plan and the forthcoming Dundrum Local Area Plan’*, and this will be considered in the following paragraphs.

11.3.16. **SLO114** reads as follows:

*‘To ensure any future redevelopment of the Old Shopping Centre site addresses the need for the provision of a future Dundrum Community, Cultural and Civic Centre facility, which also integrates into a civic square/plaza area’*.

11.3.17. In response to this, the applicant’s ‘Statement of Consistency’ refers to SLO11 and outlines that the DCCCAP was not available at the time of writing but that the applicants are willing to explore options with DLRCC. The applicant’s ‘Planning Statement & Response to Opinion’ also addresses the matter. It outlines that it has previously proposed to include a civic/library building (1500m<sup>2</sup>) to the rear of Holy Cross Church, but that this was rejected by DLRCC on the basis that their intention

was to incorporate such uses into a larger single integrated Civic Building in accordance with the recommendations of the DCCCAP. The applicant understood that the DLRCC preference was to locate the facility on another site in their ownership, i.e. the Waldemar Terrace/ William Dargan Bridge Undercroft site to the north. The application also outlines a willingness to allocate part of the non-residential floorspace proposed as part of the current SHD to a suitable community / civic use by agreement with the Council. For example, it suggests that the 3 no. commercial units in Block 4A (Part V block) fronting Church Square could be suitable for some form of community or civic use.

- 11.3.18. The applicant's reference to an alternative site is supported in Section 3.2.4 of the Dundrum LAP. It recognises that such a facility was envisaged on the application site as per SLO114, but states that lands at Taney Cross (north of Waldemar Terrace) have emerged as a site, which subject to feasibility, could potentially accommodate a new civic, community and cultural facility. The LAP continues to state that the redevelopment of the old Shopping centre site shall incorporate a new park which will connect via a green strip to the new urban realm area associated with the Civic centre and concludes that this will address SLO 114.
- 11.3.19. In conclusion, I would highlight that the requirement in SLO114 is to address the need for the provision of such a facility, as opposed to actually providing the facility. The application has addressed the matter, primarily in the form of a suggested alternative location, and this is supported by the subsequently adopted LAP. Accordingly, I am satisfied that the omission of a Community, Cultural and Civic Centre facility would not necessarily be contrary to CDP/LAP policy. However, I note that the proposed 'civic square/plaza area' (i.e. Church Square) would not be well integrated/connected with the potential alternative site for the Community, Cultural and Civic Centre facility as envisaged in SLO114 and the LAP, and this will be addressed when assessing public open space later in this report.

#### Dundrum LAP 2023 Provisions

- 11.3.20. The LAP outlines a range of other provisions about the mix of uses relating to the application site. OSC15 outlines a range of requirements for any redevelopment of the site, which are discussed as follows:



- While I acknowledge that the individual uses proposed are acceptable within the MTC zoning objective, I do not consider that an appropriate mix has been provided commensurate with the wider objectives for the MTC.
- Retail, food, and beverage/leisure uses would be provided along the vast majority of Main Street, albeit that there are some notable instances of inactive frontage at the northern end of the site and in 1-3 Glenville Terrace.
- Almost exclusively residential development would be provided along the bypass, as opposed to the '*residential focused mixed-use development*' as envisaged in the LAP.
- The uses along the '*residential pedestrian street*' are mainly limited to the associated residential amenities, services, and facilities, with little in the form of separate complementary uses apart from the creche and retail / café / restaurant units at the southern end of the site. The nature and scale of the uses would not divert significant footfall from Main Street.
- A supermarket (2028m<sup>2</sup>) of between 1500 – 2500 square metres would be provided.
- The location of the proposed local park/plaza is not in accordance with the LAP, but it does include café/restaurant uses adjacent. I note that an adjacent hotel use should also be 'explored' but is not required.
- As previously outlined, employment uses such as offices and/or remote working hubs have not been provided.
- A limited number of potential evening uses (café/restaurants) have been provided and I do not consider that an appropriate balance is achieved with day uses.
- Requirements in relation to the mix of housing will be assessed in section 11.4 of this report.

11.3.21. Section 6.5.1 of the LAP outlines Multifunctional Town Centre Objectives, and I would assess the proposed development against these as follows:

MTC1 – As previously outlined, I do not consider that there is an appropriate mix of day and evening uses.

MTC2 – As previously outlined in relation to CDP objectives MFC1, PHP3, and RET5, I do not consider that an appropriate balance of retail uses and size of retail units is achieved to serve the day to day needs of its local catchment.

MTC4 – As previously outlined, I consider that the excessive scale of residential development would undermine the centre’s prime land use objectives, i.e. including retail, employment, community, cultural, and civic uses.

MTC5 – As previously outlined, I do not consider that the mix of uses is commensurate with the MTC zoning or that the mix of day and evening uses provides for an active and attractive MTC. The application aims to connect with Dundrum Town Centre via the proposed Church Square space and the provision of new steps and a lift to the Dom Marmion Bridge. However, as will be discussed later in this report, I would have concerns about the design quality of this aspect of the development.

MTC6 – The proposed development would provide supermarket floorspace in accordance with OSC15, but the nature of much of the remaining retail/commercial floorspace is unclear in terms of the required variety and choice.

### Conclusion

11.3.22. Having regard to the foregoing and particularly the nature and scale of the proposed development involving 95% residential floorspace within a significant portion (3.5 hectares) of the MTC zone, I consider that the proposed development would be contrary to a range of CDP objectives for Dundrum MTC as follows:

- The lack of employment intensive uses would not support the delivery of strategic employment growth areas (Policy Objective CS7).
- The lack of variety in uses would not support the development of a multifunctional MTC that would serve the needs of the community (Policy Objective MFC1).
- The lack of supporting sustainable neighbourhood infrastructure in tandem with residential development (Policy Objective PHP3).

- The lack of retail and other complementary non-residential uses would not maintain the MTC as a primary retail centre with an evolving multifunctional role (Policy Objective RET5).
- The lack of non-retail uses to compliment the proposed residential use (Specific Local Objective 8).

11.3.23. In addition to the CDP objectives, I have also outlined that the proposed development would not satisfactorily address the requirements of the LAP in relation to objectives OSC15, MTC1, MTC2, MTC4, MTC5, and MTC6. However, while these LAP provisions provide an additional layer of detail and support for the aforementioned CDP objectives, I do not consider that they have introduced any significant new provisions that have rendered the proposed development inconsistent with the objectives for the site and/or the wider MTC zone. I am satisfied that this was already the case with the pre-existing CDP.

11.3.24. Notwithstanding the above, the question of whether the proposed development '*contravenes materially the development plan or local area plan ...in relation to the zoning of the land*' (s. 9(6)(b) of the Act of 2016) is another matter which requires separate consideration. In this regard, I would note that:

- The MTC zoning objective applies to the entire MTC zone. Although the application site forms a significant portion of that zone, the Board must consider the potential for other lands within the zone, including existing and future development, to cumulatively comply with the MTC zoning objective.
- The MTC zoning objective, '*To protect, provide for and/or improve major town centre facilities*', is quite general and limited in scope/detail. While I have already considered other more detailed CDP/LAP provisions relating to the MTC zone, I do not consider that a material contravention of zoning can be identified given the generality of the zoning objective itself.
- The proposed uses are 'permitted in principle' within the MTC zone and the CDP/LAP does not establish a specific quantitative limit for the extent/proportion of such uses.

11.3.25. For the reason outlined above, I do not consider that the proposed development would constitute a material contravention in relation to the zoning of land, or that the Board would be precluded from granting permission under s. 9(6)(b) of the Act of

2016. However, based on a wider reading of the CDP and LAP, I consider that the nature and scale of the proposed development would be contrary to the overall objectives for the use of Dundrum Major Town Centre in respect of employment, multi-functional centres, sustainable neighbourhood infrastructure, retail and complimentary non-retail uses, and the dominant nature of residential use. I consider that a refusal of permission is warranted on this basis.

#### 11.4. Residential Standards

11.4.1. This section assesses the standard of residential amenity for the proposed development having regard to the provisions of the CDP and relevant national guidelines. I note that the CDP makes several references to compliance with the standards outlined in the older 2020 version of the Apartments Guidelines. And while there are transitional provisions that apply the 2020 version to 'Built To Rent' and 'Shared Accommodation/Co-living' developments, this does not apply to the current application. Accordingly, I am satisfied that the CDP references to the Apartments Guidelines should be interpreted as the current 2023 version.

##### Apartment sizes, dimensions, private amenity space

11.4.2. Section 12.3.5 of the CDP outlines quantitative standards for apartments, including unit sizes and dimensions, which are derived from the Apartments Guidelines standards and Specific Planning Policy Requirements (SPPRs).

11.4.3. In this regard, the application includes a 'Housing Quality Assessment' and Appendix A outlines a schedule of areas for each unit in each residential block. This demonstrates that all proposed units exceed the minimum overall apartment floor areas as set out in SPPR 3. Furthermore, with regard to 'Safeguarding Higher Standards' the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. The 'Housing Quality Assessment' demonstrates that 463 (or 52.5%) of the 881 units exceed the requirements by more than 10% and that the proposed cumulative floor area (57,986m<sup>2</sup>) would exceed the minimum cumulative floor area (55,451m<sup>2</sup>) by 10%. Accordingly, the proposals satisfactorily address the requirements of minimum apartment sizes.

- 11.4.4. I have also reviewed the other requirements of Appendix 1 of the Apartment Guidelines for areas and widths for living/kitchen/dining areas, bedrooms and storage. In this regard, I have considered the Housing Quality Assessment including Appendix A (Dwelling Schedule) and Appendix B (Dwelling Type Plans), as well as the drawings submitted with the application. Having regard to the provisions of the Apartments Guidelines, which allow a variation of up to 5% to room areas and widths subject to overall compliance with the required minimum overall apartment floor areas, I am satisfied that the quantitative areas and widths are satisfactorily provided in accordance with the requirements of the Guidelines.
- 11.4.5. The proposed ground floor apartment ceiling heights are at least 2.7m, while the upper floor units have ceiling heights of 2.4-2.5m. Therefore, I am satisfied that the proposed ceiling heights are acceptable in relation to the requirements of the Apartments Guidelines (i.e. 2.7m at ground floor and 2.4m on upper floors). No apartment units will not front directly onto Main Street and accordingly increased heights of 3.5 - 4m would not be required in accordance with s. 3.23 of the Guidelines.
- 11.4.6. All of the proposed units would also be provided with private amenity spaces which comply with or exceed the minimum area requirements as per Appendix 1 of the Guidelines. The spaces are at least 1.5m deep and are suitably accessed off the main living areas in accordance with the requirements of the Guidelines. However, as will be discussed later regarding inadequate separation distances and dual aspect arrangements, I would be concerned about the level of privacy for the proposed balconies in some cases.

#### Unit Mix

- 11.4.7. The third-party submissions and the DLRCC CE Report have raised significant concerns about the proposed mix of units, particularly a lack of larger units. In total, it is proposed to provide 1 no. studio (0.1%), 335 no. 1-beds (38.1%), 463 no. 2-beds (52.6%), and 82 no. 3-beds (9.3%).
- 11.4.8. Section 12.3.3.1 of the CDP states that apartment developments shall generally be in accordance with Table 12.1. For an 'existing built-up area' such as the current case, Table 12.1 outlines apartment mix requirements of: up to 80% studio, one and two bed units; no more than 30% of the overall development as a combination of one

bed and studios; no more than 20% of the overall development as studios; and a minimum 20% 3+ bedroom units.

- 11.4.9. The proposed development would not comply with the above requirements given that the combination of studio, one and two bed units (c. 90.8%) would exceed the 80% limit; the combination of studio and one bed units (c. 38.2%) would exceed the 30% limit; and the number of 3+ bed units would not meet the minimum requirement of 20%. I acknowledge that s. 12.3.3.1 of the CDP allows for some level of flexibility by stating that developments shall 'generally' be in accordance with Table 12.1. However, I consider that there are significant disparities in this case which could not reasonably be deemed to 'generally' comply. Therefore, I consider that the development would materially contravene the CDP in this respect.
- 11.4.10. The application has also acknowledged that a material contravention would be involved and contends that this would be justified by SPPR1 of the Apartments Guidelines. In compliance with SPPR1, I acknowledge that the combination of studios and 1-bed units would not exceed 50%; that studio units would not exceed 20-25%; and that no minimum requirement applies for 3+ bed units. Of the proposed 2-bed units, I note that only 84 are 3-person units and this would not exceed 10% as recommended in the Apartments Guidelines.
- 11.4.11. However, SPPR1 also confirms that statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).
- 11.4.12. The CDP is supported by a Housing Strategy & HNDA which comprehensively considers the policy context, demographics, socio-economic profile, supply, demand, and affordability. Section 2.9.2 acknowledges that within more mature suburban areas where housing stock which is predominantly semi-detached and detached dwellings, the provision of apartments to aid in the mix and allow for downsizing is appropriate. Furthermore, it states that to allow for choice, to provide for family units, and to aid in downsizing, a greater mix is needed in the apartments offer with a move away from the predominance of schemes with one and two beds to schemes that ensure that there is a more varied mix with a percentage of 3 and 4 bed apartment

units. On this basis Table 12.9.1 outlines the mix requirements which have been included in the aforementioned Table 12.1 of the CDP.

11.4.13. I acknowledge that the applicant's Material Contravention Statement attempts to justify the proposed mix by carrying out a separate analysis of existing housing stock, the pipeline of permitted housing, and the comparative size of families in Dundrum compared to the overall county/state. It contends that the application is an ideal example of where a scheme comprising predominantly one- and two-bedroom units is appropriate to counterbalance the proliferation of suburban housing that characterises this area at present.

11.4.14. However, I consider that the HNDA has already acknowledged the predominant nature of semi-detached and detached dwellings but has nonetheless outlined requirements for larger units as part of future apartments schemes. I am satisfied that the HNDA has been carried out on an evidence basis and I do not consider that the current application has identified any reasonable basis to contravene the HNDA and CDP. The requirements of the HNDA and CDP are supported by SPPR1 and, accordingly, I do not consider that there is a justification to materially contravene the CDP on this basis. By extension, I am not satisfied that the proposed development would meet the CDP requirements of PHP27 or SLO123 which require a suitably balanced mix of housing for the county and application site respectively.

11.4.15. In addition to a mix in the specific size of units, Policy Objective PHP30 of the CDP is to support housing options for older people and persons with disabilities/mental health; support the provision of specific purpose-built accommodation, including assisted living units and lifetime housing, and adaptation of existing properties; and promote 'aging in place' opportunities for 'downsizing' or 'right sizing' within their community. This is generally supported in Policy DLAP20 of the LAP. In addition to this, LAP objectives include:

H2 – Including a requirement that all new residential developments of 10+ units shall include a minimum of 25% of the total housing stock that is designed to facilitate an ageing population / people with a disability, and

OSC15 – Including a requirement for suitably designed residential units for older people and for "right-sizing" and/or "downsizing."

11.4.16. I note that the proposed development has not been designed with specific purposes / accommodation in mind. However, having considered the additional criteria outlined

in Objective H2, I am satisfied that at least 25% of the units could facilitate an ageing population / people with a disability. Notwithstanding this, I am not satisfied that the overall mix of units satisfactorily addresses the requirements previously outlined.

#### Part V

11.4.17. It is proposed to allocate 88 no. apartment units (10%) to comply with the requirements of Part V of the Act of 2000, as amended. It has been confirmed by the applicant and DLRCC that Part V negotiations have been carried out and the Housing report in the DLRCC CE Report has outlined that there are no objections subject to agreement by condition.

11.4.18. I note that third-party submissions have raised concerns about the Part V proposals, including issues about affordability and inclusivity. I would acknowledge that all the Part V units are proposed within Block 4A and that this raises valid concerns about segregation within the development. However, I would acknowledge that these proposals are subject to agreement and that the stated costs are estimates only. In the event of a grant of permission, I am satisfied that this matter can be reviewed and satisfactorily addressed in agreement with DLRCC as a condition of any permission.

#### Aspect

11.4.19. Notwithstanding my previous comments regarding the accessibility of the application site and the requirement for 33% dual aspect units in more central and accessible urban locations as per SPPR 4 (i) of the Apartments Guidelines, section 12.3.5.1 of the DLRCDP outlines that 50% dual aspect units are required in all areas of the county as per SPPR 4 (ii). The application outlines that this would be exceeded by the provision of 60% dual aspect units but third-party submissions and DLRCC have raised concerns about the classification of some units as dual aspect and non-compliance with the 50% requirement.

11.4.20. Section 12.3.5.1 of the CDP outlines that a dual aspect apartment is designed with openable windows on two or more walls, allowing for views in more than just one direction. The windows may be opposite one another, or adjacent around a corner. The use of windows, indents or kinks on single external elevations, in apartment units which are otherwise single aspect apartments, is not considered acceptable and/or sufficient to be considered dual aspect and these units, will be assessed as single aspect units.



- 11.4.21. Section 3 of the applicant's Housing Quality Assessment (HQA) outlines compliance with dual aspect requirements based on the UK's 'London Housing Standards Report (2009)' (LHSR). However, I have reviewed the apartments counted as dual aspect based on the CDP which, despite the guidance contained therein, still requires a level of interpretation. It is my opinion that 44 of the proposed 'dual aspect' units should not count as such, including 22 units in Zone 1, 2 units in Zone 2, and 20 units in Zone 3. The reason for my exclusion of these units is generally due to the fact that they rely on indents in elevations to create a limited second aspect, which in many cases involves an unsatisfactory interface with the balconies of adjoining units. Notwithstanding this, it is my conclusion that there would be 483 (54.8%) dual aspect units, which would exceed the CDP requirement for at least 50%.
- 11.4.22. The Apartments Guidelines state that, ideally, any 3-bedroom apartments should be dual aspect. I have counted that 34 (41.46%) of the 82 no. 3-bed apartments would be single aspect, which does not compare favourably with the Guidelines.
- 11.4.23. The Guidelines also state that the number of south facing units should be maximised, with west or east facing single aspect units also being acceptable. North facing single aspect apartments may be considered, where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. The current version of the Guidelines (2023) does not define 'north-facing', but it should be noted that the 2018 version clarified that north facing units are units that face predominantly<sup>2</sup> north, north-west or north-east and fall within a 45-degree angle of 0° (i.e. due north). I consider that this is a reasonable but approximate guide to apply in this case.
- 11.4.24. The applicant's HQA states that there are no north facing single aspect apartments within the development, although Appendix A of the HQA does classify 148 no. single aspect units as having a northeast or northwest orientation. However, while I note that some third-party submissions contend that there are 59 no. single aspect north-facing units, I consider that 74 no. units should be classified as such. Furthermore, where north-facing single aspects occur, they generally overlook Main Street or some of the internal spaces/routes within the site. I do not consider that these would constitute a significant amenity feature as referenced in the Apartments Guidelines.

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<sup>2</sup> Over 50 per cent of the facade

11.4.25. Overall, while I acknowledge that the proposed development would exceed the minimum 50% dual aspect requirement, I consider that a substandard quality of aspect is reflected in the high proportion of single-aspect 3-bed units together with the high proportion of north-facing single aspects units and the limited quality of outlook from same.

#### Lift / Stair Cores

11.4.26. In compliance with SPPR 6 of the Apartments Guidelines, I note that the proposed development would not exceed a maximum of 12 apartments per floor per core. However, it is noted that the proposed corridors are largely enclosed with no direct natural light or ventilation as recommended in section 4.2 of the Guidelines.

#### Security Considerations

11.4.27. The proposed blocks and entrance points have generally been designed to overlook the public realm to provide users with a sense of safety and security. Gated access is also provided to most apartments via the communal courtyard areas. However, I note that ancillary facilities such as parcel/bicycle storage and other entrance points are provided at ground floor level along the Bypass, and I would have concerns about the lack of activity and surveillance at this location.

11.4.28. The Guidelines outline that where ground floor apartments are to be located adjoining the back of a public footpath or some other public area, consideration should be given to the provision of a 'privacy strip' of approximately 1.5m in depth. The applicant's HQA outlines that this is achieved through 'a nominal 1500mm wide area of defensible space'. However, this space is actually the proposed private terraces, and I consider that there is an element of dual purpose in this approach which detracts from the quality of the private amenity space.

#### Accessibility

11.4.29. Regarding accessibility, the applicant's Design Statement confirms that all buildings will have level access, with no stepped access to any building. All buildings will include lifts to provide universal access to the upper and lower floors. However, I would have concerns about the design quality of the southern corner of the site which requires an external lift and steps to accommodate the 5m level change between Church Square and the Dom Marmion Bridge above.

#### Internal Resident Amenities

11.4.30. This is not a BTR development which would require dedicated amenities and facilities specifically for residents as per SPPR 7(b) of the Apartments Guidelines. For 'standard' apartments developments, the Guidelines outline that communal rooms may be provided, particularly in some larger developments, although they should not generally be imposed as requirements. Given the large-scale nature of this development, I consider it appropriate that such communal rooms should be provided.

11.4.31. The application proposes a total of 2,023.2m<sup>2</sup> communal space which is primarily divided across zones 1-3. It is primarily provided in the form of open ground floor entrance spaces and within the retained Glenville Terrace element. However, there is little detail on the purpose/function of the majority of the proposed space. I would be concerned that the ground floor entrance spaces would primarily function as circulation spaces and they would certainly not be suitable for uses suggested in the Guidelines (e.g. laundry, community/meeting rooms, childcare, gym).

#### Childcare

11.4.32. At national policy level, the Childcare Guidelines for Planning Authorities recommend the provision of one childcare facility (providing 20 places) per 75 dwellings, but also states that the threshold should be established having had regard to the existing geographical distribution of childcare facilities and the emerging demographic profile. Notwithstanding this, the Apartments Guidelines state that the threshold for provision of any childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms.

11.4.33. CDP Policy Objective PHP6 encourages the provision of childcare facilities in residential development. It states that, in general, at least one childcare facility should be provided for all new residential developments subject to demographic and geographic need. The LAP identifies the subject site as a 'Childcare Opportunity Site' and Policy DLAP12 requires at least one childcare facility on such sites. It also requires one facility (minimum of 20 child places) for every 75 dwelling units, unless

it can be satisfactorily demonstrated that there is already an adequate provision in the area and confirms that provision shall be in accordance with PHP6 of the CDP.

- 11.4.34. I note that the third-party submissions have highlighted concerns about inadequate childcare facilities. The application outlines that there are 545 no. 2- & 3-bed units which at a rate of 1 facility (20 spaces) per 75 units would require 7 facilities providing a total of 140 no. spaces. Based on the Childcare Guidelines applying a minimum net floor space per child of 2.32m<sup>2</sup>, it estimates that a minimum of 324.8m<sup>2</sup> net floor area is required and assumes that this would require a gross floor area of 433m<sup>2</sup> to 541m<sup>2</sup>. The application proposes a crèche of 523.1m<sup>2</sup> GFA over two levels in building 4B. It is accessed off Main Street (including a drop-off layby) and has an external roof play space of 136m<sup>2</sup>.
- 11.4.35. I acknowledge that the applicant's calculation has included a significant number of 2-bed units and that the Apartments Guidelines indicate that such units may not contribute to childcare requirements. The application also highlights records (at that time) of 8 other childcare facilities in the surrounding area and that additional facilities have been permitted as part of other residential developments. Accordingly, I am satisfied that the childcare proposals are adequate to cater for the nature and scale of the proposed development.

#### Waste

- 11.4.36. Appendix 6 of the CDP outlines guidance on waste management standards for residential/apartment developments. The application outlines that waste management proposals are designed to comply with BS5906 (i.e., for each dwelling: 70ltrs per bedroom plus 30ltrs). Each dwelling will be provided with 3 segregated bins and each building will have a ventilated refuse store at lower ground / ground level which will be collected along the Bypass. The application is accompanied by an Operational Waste Management Plan, and I am satisfied that proposals in this regard would be acceptable.

#### External Storage

- 11.4.37. Section 12.3.5.3 of the CDP outlines that apartment schemes should provide external storage for bulky items outside individual units (i.e. at ground or basement level), in addition to the minimum apartment storage requirements. These storage

units should be secure, at ground floor level, in close proximity to the entrance to the apartment block and allocated to each individual apartment unit. As highlighted in the DLRCC CE Report, I note that no such storage space is proposed in this case.

#### Communal Open Space

- 11.4.38. The CDP standards for the quantum of communal open space are consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development would require a minimum of 5,574m<sup>2</sup> communal space. Section 12.8.5.4 of the CDP also states that roof garden spaces will not normally be acceptable on a site where there is scope to provide communal open space at grade and that larger apartment schemes (50+ units) shall provide no more than 30% of the communal open space by way of a roof garden.
- 11.4.39. The application outlines that the development provides this minimum requirement for 5,574m<sup>2</sup> communal space. However, this would include rooftop space of 1,971m<sup>2</sup> (35%), which would not comply with s. 12.8.5.4 of the CDP. The application contends that s. 12.8 states that '*Roof Gardens should generally not account for more than 30%*' and that the proposal for 35% is '*generally compliant with this objective*'. However, this does not accurately reflect the CDP which clearly applies a limit by stating that '*no more than 30% of the communal open space shall be provided by way of a roof garden*'. The proposed development would materially contravene this requirement.
- 11.4.40. Third-party concerns have also been raised about the methodology for measuring communal open space. Some submissions contend that the application has incorrectly included features such as bicycle parking, vents, and privacy buffers, and that the actual provision is 23% below the minimum requirement. The application could certainly be clearer on what areas have been included and excluded in the calculations. However, it is clear to me that, for example, a large covered (undercroft) bicycle parking area has been inappropriately included in the northeast corner of Zone 2. The zones also include many marginal and unusable spaces which detract from the overall quality of the space.
- 11.4.41. In terms of accessibility, the communal space is mainly concentrated around the Bypass blocks and Zone 1 at the northern end of the site. However, Blocks 2C, 3C, and 4B do not have any directly accessible spaces as they do not have rooftop

spaces, and they are separated from the courtyard spaces by the north-south public 'street' running through the site.

- 11.4.42. In addition to footpaths and planting, the courtyards mainly contain a variety of lawn, terrace, play, and exercise areas. The rooftop areas also comprise a range of small areas dedicated to similar uses as well as BBQ spaces and dog parks. However, I consider that the communal space layout is disjointed and lacking in suitable functionality. I would also share the DLRCC concerns about provision of all courtyard space above basement/lower ground floor level and potential implications for the quality of planting.
- 11.4.43. The Apartments Guidelines and the CDP highlight the need for play areas in the form of small play spaces (about 85 – 100 sq. metres) for the specific needs of toddlers and children up to the age of six and play areas (200–400 sq. metres) for older children and young teenagers. However, the proposed formal/programmed play areas within the communal space are much smaller than those recommended, with the largest having an area of just c.60m<sup>2</sup>. And while I acknowledge that other informal/lawn spaces are proposed, I do not consider that this adequately addresses the play requirements of the development.
- 11.4.44. In conclusion, I consider that the quantitative provision of communal open space is minimal at best. It places an excessive reliance on rooftop spaces and is not easily accessible to all blocks. Furthermore, the quality of the space is substandard in terms of its design, layout, and functionality, as well as a lack of adequate play facilities. I do not consider this acceptable for a development of this scale and importance.

#### Separation Distances

- 11.4.45. Section 12.3.5.2 of the CDP outlines that apartment developments should provide for acceptable separation distances between blocks to avoid negative effects such as excessive overlooking, overbearing and overshadowing effects. It does not specify a specific separation distance between *blocks*, but states that a minimum distance of circa 22 metres, in general, is required between opposing *windows* in apartments up to three storeys, while taller blocks may require a greater separation distance having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In

all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

11.4.46. The Board will note that, consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines do not apply the 22m standard and advise against blanket restrictions on building separation distance. It highlights a need for greater flexibility in order to achieve significantly increased apartment development in cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines.

11.4.47. More recently, the Compact Settlement Guidelines outline that separation distances should be determined based on considerations of privacy and amenity, informed by the layout, design and site characteristics of the specific proposed development. SPPR 1 states that development plans shall not include an objective in respect of minimum distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. However, it also states that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

11.4.48. Having regard to the foregoing, it is clear that both local and national policy allows for appropriate flexibility in separation distances. The proposed development includes widespread examples where separation distances are less than 16 metres, both within and between all zones. Examples where the distances are most limited include:

- Directly opposing living room windows between Blocks 2A and 2C (c. 8.3m)
- Directly opposing living room windows between Blocks 3A and 3C (c. 8.3m)
- Directly opposing living room windows between Blocks 4A and 4B (c. 10.8m).

11.4.49. Therefore, while I have concerns about separation distances in general, the distances between the eastern and western blocks are particularly inadequate. And while I acknowledge the potential acceptability of less than 16m, I do not consider

that adequate design mitigation measures have been included to prevent overlooking impacts. The inadequate separation distances have other design and amenity implications, including those relating to daylight and sunlight. These matters will be addressed in later sections of this report.

### Public Open Space

- 11.4.50. The CDP (s.12.8.3.1) outlines that public open space is required as a minimum 15% of the site area. To qualify as public open space, it must be publicly accessible and useable; generally free from attenuation measures; and capable of being taken in charge. The CDP acknowledges that the above standards may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted.
- 11.4.51. This approach is generally consistent with national policy in respect of Policy and Objective 5.1 of the Compact Settlements Guidelines. This outlines that statutory development plans shall include an objective(s) for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. The Guidelines also allow for variations on this standard depending on the nature of the site.
- 11.4.52. Based on a total site area of 3.53ha, the 15% requirement equates to 5,295m<sup>2</sup>. The application outlines that the proposed development includes a total of 6,588m<sup>2</sup> (18.6%), which is made up of 5,326m<sup>2</sup> 'useable space' and 1,262m<sup>2</sup> 'transitional space'. The 'usable space' includes Church Square (2,303m<sup>2</sup>) at the southern end of the site and a range of other spaces between the proposed blocks.
- 11.4.53. However, consistent with concerns raised by the planning authority and third-parties, I would have concerns about the inclusion of much of the space as 'usable' public open space. The distinction between useable and transitional space is arbitrary and I consider that much of the space between the blocks is primarily transitional or circulation space. Although it may be accessible to the public, I do not consider that it is adequately designed to function as successful public space and would more likely be primarily used by residents given the lack of 'public' uses within the development.
- 11.4.54. I would also concur with the concerns raised about the peripheral location of Church Square, which is proposed as the main public open space. It would be located in the southern corner of the site and would be largely and inappropriately bound by the busy Bypass to the west, the significant scale of the bridge retaining wall to the south, and the rear boundary of the church grounds to the east. There are significant



level challenges associated with the space, including the requirement for a lift/stairs at the southern site boundary. Accordingly, having regard to its peripheral location and substandard design and layout, I do not consider that this would function as a successful public open space.

- 11.4.55. The LAP provides more clarity on the appropriate nature and location for public open space on the site. In summary, Objective OSC7 requires a hierarchy of complementary and connected public spaces; a new community focused local public park at grade on Main Street; urban greening in front of Glenville Terrace; and a street planting strategy along Main Street and the Bypass. Objective OSC16 also requires a setback along Main Street running from the new local park northwards to the new civic space at Taney Cross, together with a green corridor running east west across the site and the bypass connecting Main Street, the new local park and an upgraded and enhanced Sweetmount Park.
- 11.4.56. As previously outlined in this report, the proposed development does not provide an appropriately sized or designed local park in accordance with the Main Street location required under OSC7 (i.e. generally coinciding with the proposed location of Block 2C). The LAP envisages this local park as the central focal point of the open space strategy. The absence of such a space materially contravenes OSC7, seriously detracts from the quality of the scheme, and consequently fails to achieve a co-ordinated network of public spaces and linkages. In particular, there are inadequate linkages with Main Street and the Bypass, which would not satisfactorily address the requirements of Objective OSC16 of the LAP or SLO124 of the CDP.
- 11.4.57. Related to the question of public open space, the LAP also identifies a Playground Opportunity on the application site and Objective P2 is to provide inclusive and accessible play facilities at such locations. Although play facilities are proposed within the public areas, I do not consider that they are of a scale or quality to satisfactorily address this objective.
- 11.4.58. In conclusion, I consider that the quantitative provision of public open space is minimal at best. Furthermore, the main space (Church Square) is inappropriately located, and the overall network of space would not be appropriately connected, either within the site or to the surrounding public realm. The overall design quality of the space is substandard in terms of its layout and functionality, and I do not consider this acceptable for a development of this scale and importance.

### Wind Impacts

- 11.4.59. The application is accompanied by a Microclimatic Wind Analysis which assesses Pedestrian Wind Comfort utilising the “Lawson Criteria” scale, which has been developed as a means of assessing the long-term suitability of urban areas for walking or sitting, accounting for both microclimatic wind effects and microclimatic air movement associated with wind forces influenced by the localised built environment forms and landscaping effects.
- 11.4.60. At ground level within the development, the courtyard spaces were generally deemed to be suitable for a range of activities such as dining, sitting and standing. Accelerated wind conditions are predicted between zones 1-2 and 3-4, but they are still predicted to be suitable for walking. However, it is noted that these areas are included as public open space for play / amenity purposes including seating, and I would therefore be concerned about their suitability for amenity purposes rather than walking / circulation.
- 11.4.61. At roof level, mitigation measures have been incorporated to limit wind impacts in zone 1. Subject to these measures, all roof terraces are predicted to be suitable for dining, sitting and standing. The private balcony areas were also assessed across all 4 zones and were generally deemed to be suitable for dining, sitting or standing. It was noted that some worst-case scenarios at the upper levels of zone 1A were deemed more suitable for walking. However, this was based on a height of 1.5m. When a more appropriate sitting height of 1m was used, the areas were deemed suitable for dining and/or sitting.
- 11.4.62. While I appreciate the third-party concerns about wind impacts, I acknowledge that the application has included an analysis in accordance with the widely accepted Lawson criteria. And while that has demonstrated results indicating that the majority of spaces within the development would be suitable for their intended uses, I would be concerned about the accelerated wind conditions in ground level public spaces which do not appear to be suitable for sitting or standing activities.

### Noise

- 11.4.63. The planning authority has queried whether noise impacts from the Bypass have been considered in relation to the proposed adjoining units. However, I note that the EIAR (Chapter 9) includes an Inward Noise Assessment. Based on the ProPG *Professional Practice Guidance on Planning and Noise*, the recorded noise levels

demonstrate that existing road related noise at the development site range between Low and Medium Risk Assessment Categories, which means that the site is likely to be acceptable from a noise perspective provided that good acoustic design process is followed.

- 11.4.64. Based on these results an Intrusive Noise Assessment Stage 3 was prepared to specify building façade sound insulation requirements to ensure that the internal residential units comply with the recommended internal sound levels as specified in British Standard BS 8233:2014: Guidance on Sound Insulation and Noise Reduction in Buildings. The EIAR then outlines the Façade Performance Requirements and the associated acoustic specifications to comply with the BS 8233:2014 internal noise levels design criteria.
- 11.4.65. Ultimately, I am satisfied that residential development is acceptable within this built-up area and should not reasonably be restricted on the grounds of adjoining traffic noise. Furthermore, I consider that the potential internal noise impacts have been adequately assessed and mitigated in the EIAR.

#### Management & Maintenance

- 11.4.66. Third-party submissions have also raised concerns about a lack of clarity on proposals for taking in charge, management and maintenance. And while I have previously outlined concerns about a lack of clarity and suitability with regard to some proposed 'public' spaces, I consider that this matter could be satisfactorily agreed by condition if the Board was minded to grant permission.

#### Conclusions on Residential Standards

- 11.4.67. Having regard to the foregoing, I do not consider that the proposed development would provide an acceptable standard of residential amenity or comply with a range of relevant site standards. In particular, I consider that proposals are deficient with regard to an inadequate mix of housing units; substandard arrangements for single aspect north-facing units; inadequate supporting resident amenities/services; inadequate separation distances between blocks; and a substandard quantity and quality of communal and public open space. I consider that a refusal of permission is warranted on this basis.

11.4.68. Further assessment of residential amenity/standards will be outlined separately in other sections of this report, including sections 10.6 (Daylight and Sunlight) and 10.7 (Traffic and Transport).

## 11.5. Impacts on existing properties

### Overlooking & Privacy

- 11.5.1. The third-party submissions raise widespread concerns that surrounding properties will be severely overlooked by the proposed development. In this regard, I acknowledge that CDP Policy Objective PHP20 is to ensure that the residential amenity of existing homes in the built-up area is protected where they are adjacent to proposed higher density and greater height infill developments. I also acknowledge that a significant extent of surrounding land, particularly to the west, is subject to zoning objective 'A', which includes the aim of protecting existing residential amenities.
- 11.5.2. The eastern side of the site bounds onto Main Street which mainly comprises commercial use on the opposite side of the street. The proposed separation distances vary but would appear to be at least 16 metres in all instances. I have previously discussed the requirement for 16-metre distances as per the Compact Settlement Guidelines. And while I acknowledge that this relates to new development and opposing residential units, I consider that it would establish an adequate distance for commercial properties across a busy Main Street. Accordingly, I do not consider that there would be significant impacts on the amenities of the properties opposite Main Street by reason of overlooking.
- 11.5.3. On the western side of Main Street, the proposed development (Block 4B) would also wrap around Nos. 16/17 and 11 Main Street. I acknowledge that these are currently commercial properties, and the Design Statement aims to demonstrate how their existing amenities and future development potential will be protected. However, given that Block 4B will immediately adjoin these properties and includes corridor windows over several levels, I consider that the overlooking and privacy impacts on these properties would be unacceptable.
- 11.5.4. To the north of the site, the proposed development would again adjoin Main Street. On the opposite side is Waldemar Terrace, which mainly accommodates Rosemount Family Resource Centre and a gym to the rear. In this case there would be a

separation distance of c. 23 metres, and I am satisfied that this is adequate to prevent any unacceptable overlooking or privacy impacts.

- 11.5.5. The highest concentration of residential development is to the west of the site. However, the intervening roads and open spaces create a significant buffer to ensure long separation distances to Sweetmount Avenue (55 metres), The Laurels / Sweetmount Park (67 metres), and Dundrum View (39 metres). Accordingly, despite the concentration of existing residences to the west, I am satisfied that the separation distances would be adequate to prevent any unacceptable overlooking or privacy impacts.
- 11.5.6. To the south, the site is bound by the Holy Cross Church and Parochial House, together with the Ballinteer Road/bridge and the existing 'Dundrum Town Centre' development on the opposite side. This area generally comprises community/commercial uses which would not be unacceptably affected by overlooking or privacy impacts. However, the parochial house appears to retain a residential use and Blocks 4A and 4B would overlook the private gardens associated with this property, including a wide range of windows and balconies over several levels less than 10 metres from the boundary wall.

#### Overbearing Impacts

- 11.5.7. Related to the matter of separation distances, many third-party submissions have outlined concerns that properties will suffer severe overbearing impacts as a result of the height and scale of the development.
- 11.5.8. Again, I consider that this is most relevant to residential properties where the level of amenity and the outlook from properties is more sensitive to overbearing impacts. I have already acknowledged the significant separation distances between the proposed development and the major concentration of residential development to the west of the site. Notwithstanding this however, I consider that the height and scale of the proposed development would result in significant overbearing impacts for these properties. This is evident from my inspection of the site and from the drawings and details submitted, including the Landscape and Visual Impact Assessment (Verified Views 17, 13, 24, and 25).
- 11.5.9. In addition to the above, an examination of overbearing visual impacts on the wider environment will be considered in section 11.9 of this report.

### Construction Impacts

- 11.5.10. The third-party submissions have raised concerns about excessive construction disruption over a period up to 10 years. The concerns include impacts relating to air pollution, traffic congestion, water pollution, noise, and waste generation.
- 11.5.11. At the outset, I would highlight that the redevelopment of the site is supported by CDP and LAP policy. The third-party submissions also express widespread support for the principle of redevelopment. It is a large, central site that requires redevelopment on a significant scale. Accordingly, it is inevitable that there will be construction-related disturbance if the site is to be comprehensively redeveloped in accordance with the proper planning and sustainable development of the area.
- 11.5.12. The construction-related impacts are outlined in detail in the EIAR and are assessed in section 13 of this report. In conclusion, I would concur with the planning authority's conclusion that the construction stage impacts could be adequately addressed through the agreement of a Construction Environmental Management Plan and Demolition Management Plan as a condition of any permission.

### Ownership

- 11.5.13. It has been stated that demolition/underpinning and other work adjoining No. 16/17 Main Street does not have consent of the owners.
- 11.5.14. Section 5 of the Design Statement addresses the relationship between the proposed development and Nos. 16/17. It acknowledges that they are in separate ownership, but that No. 16/17 includes an adjoining basement to the south (incorrectly stated as 'east') within the site boundary. It states that no buildings are proposed above the basement but also indicates that the basement level adjoining No. 16/17 will be largely removed. I note that Appendix D of the OCMP outlines more detailed drawings for interface relationships, including this property.
- 11.5.15. I have previously outlined concerns about the scale and proximity of development adjoining No. 16/17, and I consider that the precise details of the interface relationship and ownership issues are not entirely clear. However, as outlined in Section 5.13 of the Development Management Guidelines for Planning Authorities (DoEHLG, 2007), the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are matters to be resolved between the relevant parties, having regard to the provisions of s.34(13) of

the Planning and Development Act 2000 (as amended), which outlines that a person shall not be entitled solely by reason of a grant of permission to carry out any development. Furthermore, I have outlined a wide range of other more fundamental concerns regarding the proposed development.

#### Operational Noise

- 11.5.16. In response to concerns about noise from the proposed apartments, I note that Chapter 9 of the EIAR considers outward 'Neighbourhood Noise' generated by everyday domestic activities including waste collection activities, pedestrians, children, and use of open spaces, as well as noise generated from the commercial/creche facilities.
- 11.5.17. It concludes that the domestic activities are part of everyday living and are not considered "noise" as a potential nuisance that would have any potential to cause an adverse impact. It also concludes that the commercial/creche uses would not result in adverse noise levels at any receptor.
- 11.5.18. Consistent with the above, I consider that the proposed uses are acceptable within this town centre site, and I do not consider that they would generate any unacceptable noise impacts.

#### Wind Impacts

- 11.5.19. The third-party submissions have also raised concerns about potential wind-tunnelling effects for existing properties. In this regard, I note that the applicant's Microclimatic Wind Analysis demonstrates predicted ground level wind conditions for the wider area surrounding the application site.
- 11.5.20. The analysis demonstrates that surrounding properties will generally not be significantly affected as they will remain suitable for a range of activities such as dining, sitting, and standing. I note that some public areas along the Bypass and the northern end of Main Street will experience accelerated wind conditions which would only be suitable for pedestrian/business walking. However, conditions are not predicted to be uncomfortable or unsafe and the analysis highlights that this is not a pedestrianised area.
- 11.5.21. I acknowledge that the applicant's analysis has been carried out in accordance with the widely accepted Lawson criteria and that the results indicate that surrounding property/space would remain suitable for intended uses. However, although it did not

exist at the time of the analysis, I note that a bus interchange facility has since been provided at the northern end of the Bypass and that this area appears to be within/adjoining areas not deemed suitable for pedestrian standing. Accordingly, I would have concerns that the wind conditions would detract from the attractiveness and accessibility of this important public transport facility.

#### Reflected Light

- 11.5.22. Third-party concerns have been raised about inadequate information regarding reflected light impacts from the solar PV panels at roof level. The applicant's Energy & Sustainability Report outlines that there is no statutory requirement to include Solar Photovoltaics but that they have been allowed for on the roof of buildings where practical. The Engineering Services Report outlines that the detailed provision of PV panels has not been developed at this stage but will be incorporated within the areas identified for plant and ventilation.
- 11.5.23. Having reviewed the architectural drawings, I note that the PV panels have not been detailed. However, the plant/ventilation areas are to be screened by the parapet walls, and I consider that a similar approach could apply to any PV panels. Therefore, having regard to their significant rooftop height and the potential for parapet wall screening, I do not consider that there would be any significant impacts related to reflected light.

#### Vacancy

- 11.5.24. The third-party submissions raise concerns that the proposed development will be left incomplete and/or vacant. However, despite such instances having previously occurred as a result of wider economic conditions, I do not consider it reasonable to suggest that this would occur in the current case.

#### Conclusion

- 11.5.25. This is a large, central site which should be subject to comprehensive redevelopment in accordance with the proper planning and sustainable development of the area. It is inevitable that any such redevelopment will have significant impacts for surrounding property/space, both temporary and permanent, and I have identified instances where I would have concerns. In particular, having regard to significant height and scale of the proposed development, I consider that the overbearing impacts for the residential properties to the west would be unacceptable. I consider



that a refusal of permission is warranted on this basis. The daylight and sunlight impacts on surrounding property are also considered further in the following section.

## 11.6. Daylight and Sunlight

11.6.1. This section considers the daylight and sunlight standards/impacts for both the proposed development and existing properties/spaces.

### Policy & Standards

11.6.2. Section 3.2 of the Building Height Guidelines outlines that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion.

11.6.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2023) also highlight the importance of providing acceptable levels of natural light. Planning authorities are advised to weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development. Planning authorities should ensure appropriate expert advice and input where necessary and '*have regard*' to quantitative performance approaches to daylight provision outlined in guides like A New European Standard

for Daylighting in Buildings EN17037 or UK National Annex BS EN17037 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future guidance specific to the Irish context. Again, where an applicant 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, which planning authorities should apply their discretion in accepting.

- 11.6.4. More recently, the Compact Settlement Guidelines also acknowledge the importance of daylight and sunlight, both within the proposed development and in the protection of existing residential amenities. In cases where a technical assessment of daylight performance is considered necessary, '*regard should be had*' to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. In drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development.
- 11.6.5. At local policy level, the Development Plan also acknowledges the importance of good levels of sunlight and daylight in relation to communal open space (s. 12.8.5.3), house design (s. 12.3), and block separation (s. 12.3.5.1). Section 12.3.4.2 requires a daylight analysis for all proposed developments of 50+ units, which should also consider the impact on existing habitable rooms. It states that development '*shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE Report, 2011) and/or any updated, or subsequent guidance.*
- 11.6.6. More specifically, Objective OSC14 of the LAP outlines that any redevelopment of the application site shall ensure increased heights do not have a negative impact on residential amenity and on the proposed new public park on Main Street and the proposed Civic space to the north of the OSC site by way of overshadowing and/or overbearing.

Information submitted

- 11.6.7. The application includes a Daylight and Shadow Impact Assessment. The assessment of daylight was prepared using the methodology outlined in BS 8206-2: 2008 'Lighting for Buildings Part 2', whilst the impact of overshadowing was prepared using the methodology set out in BRE 209, 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (Second Edition 2011).
- 11.6.8. The applicant's assessment acknowledges that BS 8206-2:2008 was replaced in the UK with BS EN 17037:2018, which includes a "National Annex" with requirements for dwellings that mean it is comparable with the previous standard. In Ireland, it notes that IS EN 17037:2018 does not contain a National Annex and offers only a single target for new buildings (there are no space-by-space targets). Furthermore, it notes that the IS EN 17037:2018 standard does not address the assessment of impact on sunlight and daylight access, such as the impact of proposed development on sunlight and daylight received in the surrounding area. It contends that these limitations make the Irish implementation currently unsuitable and highlights that the CDP, Apartments Guidelines (the 2020 version in place at the time of the application), and Building Height Guidelines do not mention, address or require compliance with the European Standard (published 12 December 2018) or the Irish implementation (published 28 January 2019).
- 11.6.9. I acknowledge that the standards applied by the applicant are consistent with those referenced in the Building Heights Guidelines (2018) and the CDP (2022). The Apartments Guidelines (2023) and Compact Settlements Guidelines (2024) reference more recent versions of the BRE Guide and associated lighting standards. However, the references in the Guidelines are to guides 'like' the examples cited, rather than a mandatory requirement to comply with the more recent guide/standards. Accordingly, I am satisfied that the earlier guidance and standards used in the application are 'like' those later documents cited in the Apartments Guidelines (2023) and Compact Settlements Guidelines (2024), and I consider it appropriate to apply these standards in my assessment.
- 11.6.10. At the outset, I would also highlight that the standards described in the BRE guide allow for flexibility in terms of application. Paragraph 1.6 of the guide states that the advice given '*is not mandatory*', '*should not be seen as an instrument of planning policy*', and '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'.

11.6.11. I have considered the report submitted by the applicant and have had regard to the BRE Guide (2011) and BS 8206-2:2008. I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3<sup>rd</sup> parties and the reports of the planning authority.

#### Daylight to Proposed Dwellings

11.6.12. British Standard 8206-2:2008 is referred to in the BRE 209 Guide. This standard provides advisory numerical targets that represent good practice daylight levels for dwellings. The standard recommends a minimum Average Daylight Factor (ADF) of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%. Consistent with this approach, the applicant's assessment adopts ADF targets of 1% for bedrooms and 2% for Living / Kitchen (LK) spaces. It should be noted that the proposed design does not include any separate or 'galley' type kitchens.

11.6.13. Out of a total of 2,359 spaces assessed, the report outlines that 96% met or exceeded the recommended ADF targets. The results are generally consistent throughout the 4 zones and the report concludes that this is a very commendable result. All bedrooms exceed the guidance target and the open plan LK areas that were not meeting the targets were on the lower levels and generally within the corners of the building facing into internal amenity space which can prove very difficult to overcome. Alternative 'handed' arrangements were considered but it was concluded that it would result in excessive levels of light contrast.

11.6.14. Therefore, a decision was made to provide compensatory design solutions to address the requirements of the Building Height Guidelines. A range of solutions are outlined for both individual units and the scheme as a whole. The applicant's report outlines that several of these measures apply to each individual unit which has not met the ADF targets. The measures can be summarised as follows:

CDS1 - Minimum internal floor to ceiling height of 2.5m or above.

CDS2 - Provision of both Internal and external communal amenity spaces.

CDS3 - A very good building form which maximises efficiency and energy savings.

CDS4 - Space faces in to landscaped open space.

CDS5 - Larger than required Balcony / Private amenity space.

CDS6 - Apartment exceeds the minimum area requirement by 10% or more.

CDS7 – Living/Kitchen space meets or exceeds the BS 8206-2:2008 requirement of 1.5% ADF for a living space.

- 11.6.15. I acknowledge that the higher target of 2% ADF has been applied to combined LK areas. However, this target is more appropriate in a traditional house layout. In apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Therefore, there are often challenges in urban schemes in meeting the 2% target in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 1.5% target is commonly considered to be more appropriate. When the 1.5% target is applied, I note that c. 97.5% of all spaces would comply with the targets.
- 11.6.16. Accordingly, some LK spaces would still not meet the 1.5% ADF target. However, this comprises a minor portion (c.2.5%) of the total spaces. Compensatory solutions have been included for all LK spaces which do not meet the higher 2% ADF target and I am satisfied that these measures satisfactorily address the requirements of the Apartments Guidelines and the Building Heights Guidelines. Furthermore, as previously outlined, the Apartments Guidelines, the Building Heights Guidelines, and Compact Settlement Guidelines allow for discretion in balancing daylight results against wider planning objectives. The BRE Guide itself is also intended to be interpreted flexibly and the principle of the BRE Guide are supported in the CDP.
- 11.6.17. Having regard to the foregoing results as outlined in the applicant's assessment; the compensatory measures within the proposed scheme; and the need to achieve wider planning objectives on this site such as regeneration and streetscape solutions; I am satisfied that the proposed daylight standards are acceptable in accordance with BRE guidance, section 28 guidance, and CDP policy.

#### Sunlight to proposed open spaces

- 11.6.18. The BRE 209 guide recommends that in all relevant amenity spaces at least half of the area should receive at least two hours of sunlight on 21st March. This is the standard assessed in the applicant's report.

- 11.6.19. Figures 7 & 8 in the report show the ground level and roof level spaces divided into boxes of 1m x 1m. This includes the proposed communal and public open space, the proposed rooftop amenity spaces, and the existing public space associated with Main Street to the east and north of the site. The figures attempt to demonstrate a colour-coded indication of boxes which exceed 2 hrs of sunshine on the 21<sup>st</sup> of March (stated to be shown 'in Orange'). However, I consider that the figures contain a variety of shades of orange and the accompanying 'legend' indicates that some shades of orange would actually be less than 2 hours.
- 11.6.20. I do note that the report confirms that '*All private amenity spaces and new public streetscape exceed the BRE 209 (2011) requirement by receiving direct sunlight over 50% of the space on the 21st of March*'. This is attempted to be illustrated in an accompanying table which cumulatively assesses each courtyard and roof amenity area as well as the 'public streetscape'. Again however, I consider that this is unclear and would require a definition and separate assessment of each individual space. The numbering of courtyards (1-4) is also unclear as Church Square is referenced as '4' earlier in the report but is clearly not a 'courtyard' as otherwise referenced in the application (i.e. communal amenity spaces).
- 11.6.21. Overall, while I acknowledge the applicant's conclusion that the BRE standards are easily achieved, I consider that the results outlined in the report are unclear.

#### Sunlight to the proposed living spaces

- 11.6.22. Section 3.1 of the BRE Guide outlines that a dwelling will appear reasonably sunlit provided at least one main window wall faces within 90° of due south and the centre of at least one window to a main living room can receive 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in the winter months between 21 September and 21 March. Where groups of dwellings are planned, site layout design should aim to maximise the number of dwellings with a main living room that meets these recommendations. The applicant's report does not include an assessment of compliance with these provisions of the BRE guide.

#### Sunlight to existing properties

- 11.6.23. Section 3.2 of the BRE Guide outlines that if a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of

the existing dwelling may be adversely affected. This will be the case if the centre of the window:

- receives less than 25% of annual probable sunlight hours (APSH), or less than 5% of annual probable sunlight hours between 21 September and 21 March and
- receives less than 0.8 times its former sunlight hours during either period and
- has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

11.6.24. While the applicant's report acknowledges the above criteria, it focuses on whether or not sunlight would be reduced to less than 0.8 times its former sunlight hours (cited as Criterion 1) and whether windows would receive less than 25% of APSH (cited as Criterion 2).

11.6.25. The assessment primarily considers the residential properties to the west of the site (i.e. Dundrum View, The Laurels, and Sweetmount Avenue). It also considers Holy Cross Church and Parochial House. It outlines that only properties in Sweetmount Avenue would receive less than 0.8 times their former sunlight hours as they would be reduced by 23-25% (criterion 1). However, the results indicate that all of these properties would comply with APSH requirements (criterion 2). In this regard, I would accept that compliance with just one of the criteria would indicate that sunlight would not be adversely affected in accordance with the BRE Guidance criteria.

11.6.26. The assessment also considers potential sunlight impacts on the Mulvey's / Lisney's property at 16/17 & 11 Main Street. However, it highlights the absence of existing or planned residential use and contends that conditions would be acceptable for commercial use.

11.6.27. Taking into consideration the definitions from the Guidelines on the Information to be Contained in Environmental Impact Statements prepared by the Environmental Protection Agency (2017 Draft), the applicant's report classifies sunlight effects as being 'slight' - An effect which causes noticeable changes in the character of the environment without affecting its sensitivities.

11.6.28. In conclusion, I would accept that the BRE Guide primarily concentrates on residential development and that development to the east and north of the site is predominantly non-residential. As is evidenced by the shadow study diagrams, the

residential properties to the west (particularly Sweetmount Avenue) would experience overshadowing in the early morning hours. However, due to the location of the development to the east of these properties and the significant separation distances involved, these properties would generally not be significantly affected from the late morning onwards. Therefore, consistent with the applicant's assessment results and BRE guidance, I do not consider that there would be unacceptable effects in this regard.

#### Daylight to existing properties

11.6.29. As per the BRE Guide, loss of daylight to existing dwellings is assessed by calculating Vertical Sky Component (VSC), which is the ratio of the direct sky illuminance falling on the outside of a window, to the simultaneous horizontal illuminance under an unobstructed sky. The Guide states that the diffuse daylighting of an existing building will be adversely affected if either:

- The VSC measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value
- The area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value.

11.6.30. The applicants report includes a VSC assessment of 15 no. dwellings in Sweetmount Avenue to the west of the site. It does not address the need for assessment of other properties in the area. The results demonstrate that the average VSC in all cases would exceed 27% but does not clarify whether this would be less or greater than 0.8 times its former value. I would accept that the room layouts are not known in this case and therefore I am satisfied that an assessment of the working plane is not required.

11.6.31. In conclusion, I acknowledge that the predicted VSC for the Sweetmount Avenue properties has been assessed and has been found to be acceptable by exceeding 27%. However, there is no comparison to existing VSC levels as recommended in the BRE Guide. And while I acknowledge that the Sweetmount Avenue properties may represent a worst-case scenario, I consider it would be appropriate to address other properties in a more comprehensive manner.

#### Sunlight to existing amenity areas



- 11.6.32. For existing outdoor amenity areas (including public and private areas), the BRE guide recommends that at least half of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21<sup>st</sup> March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- 11.6.33. Apart from general references to the Shadow Plans (Appendix A), the applicant's report does not include a detailed assessment of all such spaces. It states that, following a thorough review, it was determined that all existing amenity spaces within the vicinity of the site still receive well in excess of 2 hours of direct sunlight on the 21st March, thereby meeting the BRE 209 guidelines (2011).
- 11.6.34. While I acknowledge the Shadow Plans submitted, I consider that the application would benefit from a more detailed and quantified assessment of such spaces. This would include the private residential gardens to the west and the significant public open space at Sweetmount Park. I acknowledge that Main Street is not primarily an 'open space'. However, it does include smaller amenity spaces and has an important amenity function. Therefore, consistent with many third-party concerns, I consider that it would benefit from more detailed assessment. As previously outlined, I do not consider that the illustration provided for Main Street (i.e. Figure 7 of applicant's report) is sufficiently clear.
- 11.6.35. I acknowledge that Objective OSC14 of the LAP aims to avoid negative overshadowing impacts on the proposed new public park on Main Street and the proposed Civic space to the north of the application site. The application obviously preceded the publication of the LAP and does not include the proposed public park on Main Street. Regarding the proposed civic space to the north, the Shadow Plans indicate that there would be overshadowing in the late afternoon and early evening. Again, I consider that more detailed assessment would be needed to assess compliance with Objective OSC14.

#### Conclusions on Daylight and Sunlight

- 11.6.36. Having regard to the foregoing, I consider that there are several aspects of the application where information is lacking. This includes matters relating to: the levels of sunlight available to existing and proposed open spaces; sunlight to the proposed living spaces; and daylight impacts for existing properties. This contributes to the

overall concerns I have raised in relation to the residential amenity of existing and proposed properties.

## 11.7. Traffic and Transport

### Public Transport

- 11.7.1. The site is located within 100 metres of the Dundrum Luas Stop where services between the City Centre and Cherrywood (Bride's Glen) are offered. The services run at frequencies of 3-5 mins during peak hours. There is also a range of bus stops within 500 metres of the site offering regular routes. The main services can be summarised as follows:

**Table No. 3: Summary of Bus Services**

No.	Route	Peak Frequency (~mins)
74	Dundrum Luas – Eden Quay	30
14	Dundrum Luas - Beaumont	10-15
L25	Dun Laoghaire – Dundrum Town Centre	15
44	Enniskerry - DCU	30
S6	Blackrock - Tallaght	15

- 11.7.2. Notwithstanding the central location of the site and the proximity and frequency of these services, I note that third-party submissions have raised concerns about the capacity of services to accommodate the additional population associated with the proposed development and other developments in the wider area. It has been submitted that the services are commonly full to capacity at peak times.
- 11.7.3. The applicant's Transport Assessment (TA) estimates that 24% of trips generated by the proposed development will be by public transport, resulting in an additional 134 no. 2-way AM Peak Hour trips and 124 no. 2-way PM Peak Hour trips. It contends that the additional demand will be accommodated by the significant public transport enhancements that will be delivered in the Dundrum area over the next few years. In particular, it outlines that the Bus Connects project will deliver a step change in bus

service provision in the area which will provide new services, increased frequency and significantly enhanced capacity. It also highlights planned capacity enhancements for the Luas green line through fleet enhancements and infrastructure upgrades. The assessment concludes that there will be adequate capacity and that the approach would be in keeping with the CDP aspirations for the Dundrum area which support high density development next to strong public transport links.

- 11.7.4. I consider that public transport capacity can be a difficult standard to definitively quantify, particularly given the significant potential for fluctuations in demand and changes to service levels. However, I would highlight that relevant Section 28 guidance takes a broader approach towards the quantification of capacity. For example, the Apartments Guidelines simply classify Luas stops as being '*high capacity urban public transport stops*'.
- 11.7.5. Similarly, the Compact Settlement Guidelines (Table 3.8) defines a High Capacity Public Transport Node or Interchange as '*Lands within 1,000 metres (1km) walking distance of an existing or planned high capacity urban public transport node or interchange, namely an interchange or node that includes DART, high frequency Commuter Rail, light rail or MetroLink services; or locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop*'. The application site is within 100 metres of the high-frequency Luas stop and, accordingly, I am satisfied that it is classified as a '*high capacity urban public transport node or interchange*' as defined in the Compact Settlement Guidelines. And while a Core Bus Corridor Scheme is not proposed for the area under BusConnects, the Network Redesign includes a major 'Terminus' at the northern end of the application site.
- 11.7.6. At a more specific local level, the Dundrum LAP is accompanied by an Area Based Transport Assessment (ABTA). It refers to a review of 2019 Luas Census data which suggests that the Dundrum Luas station is starting to operate over capacity, particularly during peak commuter travel times. It acknowledges that only c. 5% of work trips generated within the study area are undertaken by bus, with Luas representing the vast majority of public transport demand (78%). However, it highlights that the bus network is set for a major overhaul with the implementation of the BusConnects network redesign. The Dundrum area will be served by the A2 and A4 branch routes (12 minute headways) connecting Dundrum with local residential areas, the city centre and Dublin Airport. The S6 orbital route will connect Dundrum

with Tallaght, UCD and Blackrock (15 minute headway) while the L25 will connect Dundrum with Stillorgan and Dun Laoghaire (15 minute headway). The new bus interchange zone will also connect services to the Green Luas Line. The ABTA SWOT analysis identifies significant planned improvements, including the Luas capacity enhancement and the BusConnects network redesign, as an 'opportunity'. The key 'threats/constraints' do not include any reference to public transport capacity.

11.7.7. Accordingly, I would accept that the third-party concerns about capacity are reflected in relevant planning policy (i.e. the LAP). I would also acknowledge that this includes concerns about the cumulative effects of other planned developments in the wider area, particularly those planned along the Luas line.

11.7.8. However, I consider that public transport capacity is a strategic and evolving issue which requires ongoing examination at a wider level. Periodic pressures on public transport services are common and the National Transport Authority (NTA) is continually working on the capacity of these services to meet changing demands. This is reflected in the Transport Strategy for the Greater Dublin Area 2022-2042 which contains measures which support and promote the upgrade of the existing Luas Green Line. Measure LRT9 seeks the delivery of significant additional capacity on the Green Line through the provision of additional fleet and necessary infrastructure to meet passenger demand. Measure LRT11 also targets enhancing tram priority in order to ensure efficient use of the available capacity on the Luas network. Regarding bus services, Measure BUS5 confirms the intent of the NTA to continually monitor the demand for services as part of the roll-out of the new service network and as part of the periodic review of the Strategy, and to enhance or amend the network as appropriate. In this regard, I note that the Green Line Capacity Enhancement project commenced in 2019 and is ongoing, while some elements of the BusConnects Network Redesign have already been implemented (e.g. S6 and L25 routes, and improvements to bus interchange). Based on Luas and BusConnects services, the NTA submission on file also supports the development in principle as it aligns with the principles of Land Use and Transport Integration as set out in national and regional planning policy.

11.7.9. In conclusion regarding public transport capacity, I am satisfied that the site is well serviced in terms of the proximity and frequency of bus and Luas services, and that the location is deemed to be a high-capacity public transport node in accordance

with national guidelines. Notwithstanding the identified pressures at peak periods, the nature of public transport planning requires ongoing monitoring and adaption to changing demands, and I am satisfied that the proposed development would benefit from being developed in tandem with a range of planned improvements.

- 11.7.10. In addition to the question of capacity, I note that the NTA and the planning authority have raised serious concerns about the proposed Bypass access arrangements conflicting with a critical bus transport interchange planned at the time of the application. At that time, it had been indicated that a 75-80m layby facility was planned at the northern end of the site near the Main Street junction.
- 11.7.11. In an effort to address this matter, the application indicates that a lay-by of c. 29m could be provided, although this does not form part of the application. The application outlines that the elimination of the proposed northern access is not an option and that the extension of the potential 29m facility would not be possible to deliver. It therefore explores alternative locations along the Bypass including: to the west (rear) of Waldemar Terrace; further south between the proposed central and southern access points; and further south adjoining Dundrum Town Centre. However, I note that the NTA has concluded that it has not been demonstrated that an alternative location is feasible.
- 11.7.12. In any case, the layby has actually been constructed as planned in the intervening period. It has a length of c. 80m stretching from the Bypass/Main Street Junction at the northwest corner of the application site and accommodates the Luas Bus Stop (7981) serving the 44, 44B, and L25 routes. The proposed northern access arrangements would clearly and significantly conflict with this important public transport facility and, accordingly, would be contrary to CDP Objective T7 which is to facilitate quality public transport interchanges at Luas stations. It would also not satisfactorily address LAP Objective OSC5 for the site, which requires the consideration of bus stop locations in any proposed layout in consultation with the NTA. Consistent with the applicant's opinion, I would accept that alternatives to the northern access would require significant revisions to the proposed development and I do not consider it appropriate to address this matter by condition in the event of a grant of permission.

#### Traffic and road capacity

- 11.7.13. The applicant's TA uses the industry standard TRICS database to predict that there will be a total of 560 2-way trips generated in the AM Peak and 518 2-way trips generated in the PM Peak. It then uses Irish Census data (2016) regarding modal share to predict that 39% of trips would be classified as 'vehicle driver', resulting in car trips of 219 no. 2-way in the AM Peak and 202 no. 2-way in the PM Peak.
- 11.7.14. Some submissions have suggested that there will be a high reliance on private car transport and that demands have been underestimated. As outlined in the ABTA, I would accept that there is still a high reliance on private car transport in the study area. The ABTA uses the POWSCAR database to demonstrate that car trips account for 58% of 'employment trips' and 41% of 'education trips'. However, it also highlights that car usage is higher at the edge of the study area and is substantially lower closer to the town centre. Therefore, having regard to the central location of the site and the high proportion of smaller units proposed in this case, I consider that the 39% car usage figure is reasonable.
- 11.7.15. The TA also considers the net impact of vehicle trips compared to the existing baseline situation, i.e. the existing Dundrum Village development. This is based on new traffic surveys carried out in November 2021 and it indicates that the proposed development would result in an increase in the AM peak period of 139 vehicle trips whilst there is a net gain of just 8 trips in the PM peak period. However, the TA acknowledges that previous survey data for 2006 indicated a much higher number of trips, which suggests that the existing site had not yet returned to pre-Covid levels of traffic activity in 2021.
- 11.7.16. To estimate the distribution and assignment of trips onto the local road network, the TA produced a 'gravity model' which assumes that the likelihood of a trip to/from a particular destination is directly proportionate to the number of potential trip attractors at a given destination and the overall distance by road to that destination. This showed that the majority of trips would be north towards the majority of employment opportunities in Dublin City. The methodology for assigning trips was by shortest journey time using the open route service (ORS) extension of QGIS software. This predicts that the majority of trips (94%) will route north on the Dundrum Bypass and distribute at the Taney Cross junction. The remaining 6% will route south, with the majority of these trips heading south via Sandyford Road.

- 11.7.17. Nine junctions were also surveyed in the November 2021 period. An annual growth in network traffic of 1.4% was then applied up to the 'Assessment' / 'Opening' year of 2024. It is generally accepted that a percentage impact of 5% or greater for congested junctions would trigger the requirement for detailed junction analysis. It was predicted that there would be no negative traffic impacts on junctions 3, 5 and 6 (i.e. along Main Street) so they were excluded from the Threshold Assessment. However, it was concluded that detailed assessment was required for the junctions of the Dundrum Bypass with: (1) Churchtown Road Upper / Taney Road; (2) Main Street; (3) Central access to the development; and (4) Southern access to the development.
- 11.7.18. The LinSig (version 3) software has been used to undertake junction modelling of the signal-controlled junctions within the study area (i.e. (1) and (2) above). The junctions have been tested under two separate scenarios, i.e. '2024 + committed development' and '2024 + committed development + proposed development'.
- 11.7.19. For junction (1) Bypass / Churchtown Road Upper / Taney Road, the Transport Assessment establishes that the junction will operate over capacity in the AM and PM Peak periods for the '2024 + committed development' scenario, even before the proposed development is considered. It will continue to operate above capacity when the proposed development is added, although the TA concludes that there will be no significant change in the operation of the junction. For junction (2) Bypass / Main Street, it concludes that the junction will operate within capacity across all arms in the AM and PM peak periods, both without and with the impact of development traffic.
- 11.7.20. The ARCADY extension of the Junctions 9 transport planning software is the industry standard tool for assessing the capacity of priority junctions and been used to assess the performance of Junctions 3 & 4 (i.e. proposed accesses to the development). As these are new junctions, only the 2024 "With Development" scenario has been modelled. The results indicate that both junctions will operate within capacity during both AM and PM peak periods.
- 11.7.21. I note the TA findings that Junctions (1) & (2) will be over capacity in all scenarios, but that the proposed development is certainly predicted to exacerbate capacity issues. Furthermore, although the TA has acknowledged that the November 2021 survey figures were likely to be underestimated due to Covid restrictions, this factor

has not been satisfactorily resolved in the Traffic Impact Assessment. The impact on the surveyed junctions may therefore be greater than predicted.

- 11.7.22. I also note that the planning authority has raised concerns about the methodology adopted. In this regard, I note that only the assessment / opening year of 2024 has been considered. This does not satisfactorily address the TII Traffic and Transport Assessment Guidelines (2014) which state that the assessment should incorporate an analysis of the road network traffic flows for: the base year; opening year (with/without development); opening year + 5 year forecast (with/without development); and opening year + 15 year forecast (with/without development).
- 11.7.23. The planning authority has also raised concerns about lack of compliance with the TII Guidelines in relation to the cumulative impact of other development. And while I would acknowledge that this matter is not specifically addressed in the TA, the EIAR contends that cumulative impacts have been included in the assessment. Although there is still a lack of clarity as to how this has been done, it would appear that cumulative impacts have been factored into the overriding growth forecasts of 1.4% per annum.
- 11.7.24. In conclusion, I note that the TA has identified capacity issues for road network in the opening year (2024) and has not appropriately assessed potential impacts for future years in accordance with the TII guidelines for TTAs. Accordingly, I am not satisfied that the suitable capacity of the local road network has been appropriately demonstrated in this case.

#### Car Parking

- 11.7.25. At the outset, I note that third-party submissions have raised concerns about the loss of the existing car-parking spaces on site. However, I consider that the extent of existing surface parking represents an inefficient use of a central and accessible site that is zoned as 'Major Town Centre'. It is an inappropriate use which fails to adequately contribute to the vitality of the town centre and would be contrary to national and local policy which supports compact brownfield development and alternatives to private car transport. Accordingly, I have no objection in principle to the replacement of the existing parking spaces.
- 11.7.26. The site is located within car-parking 'zone 1' as per the CDP, where 'maximum' car parking standards have been set for all uses including residential. Although the



precise nature of all retail/commercial units is not known, an approximate analysis of the parking standards for the proposed uses is outlined in the table below.

**Table 4 – Car Parking Standards**

Unit Type	No. of Units / floorspace	Zone 1 Standard	Maximum Spaces	Proposed Spaces
Apartment	881	Max. 1 space per unit	881	318
Retail (Foodstore)	2028m <sup>2</sup>	Max 1 per 60m <sup>2</sup>	33	52
Retail (Comparison)	1,396m <sup>2</sup>	Max. 1 space per 200m <sup>2</sup>	7	
Café / Restaurant	403.5m <sup>2</sup>	Max 1 per 100m <sup>2</sup>	4	
Creche	523m <sup>2</sup>	Max 1 per 80m <sup>2</sup>	6	3
<b>Total</b>			<b>931</b>	<b>373</b>

11.7.27. As per the above table, the proposed development would be generally consistent with the non-residential parking standards and the overall parking proposals would not exceed the maximum limit for the development. The most significant issue is in relation to residential parking which is proposed at a rate of 0.36 times the maximum.

11.7.28. Section 12.4.5.2 of the CDP outlines that in Zones 1 and 2, the Planning Authority may allow a deviation from the maximum number of spaces or may consider that no parking spaces are required. Brownfield residential schemes in Zone 1 (i.e. as proposed) are cited as an example of such an instance, dependant on criteria outlined in section 12.4.5.2 (i). In response to those criteria, I would state the following:

- As previously outlined, I am satisfied with the proximity to public transport services and level of service and interchange available.
- This is a town centre site which benefits from good levels of walking and cycling accessibility. The proposed alterations to same are discussed later in this report.

- The proposal for reduced parking provision would promote modal shift and safeguard investment in sustainable public transport.
- There are 4 no. 'GoCar' car-sharing locations within c. 600m of the site and it is proposed to provide 11 shared spaces within the development. It is also stated that provision will be made for bike share facilities within the development.
- I have noted that existing on-site parking availability will be removed by the proposed development. However, it should also be noted that the Dundrum Town Centre development includes parking for c. 3,000 spaces with significant capacity for dual use outside peak times.
- Section 12.4.5.2 outlines that brownfield residential schemes in Zone 1 may be allowed reduced/zero parking. The proposed development also includes a high proportion (c.91%) of smaller 1- & 2-bed units, which are less likely to generate parking demands compared to larger units.
- The site is within a Major Town Centre with a wide range of services, which reduces the need for car travel/parking.
- Significant concerns have been raised by third-parties about traffic safety and amenity issues. The proposal for reduced parking would restrict the volume of traffic generated and would therefore positively address these concerns.
- As previously outlined, I am not satisfied that the TA has adequately assessed the impact on the capacity of the road network.
- The reduction of car parking facilitates more open space and active uses at street level. The proposed development is assessed from an urban design perspective in section 11.9 of this report.
- The application includes a Mobility Management Plan (MMP) which includes a package of integrated initiatives which seek to encourage and embed sustainable travel choices.
- This is a town centre location where suitable on-street parking controls apply. Parking controls also apply to adjoining residential areas and this could be extended if appropriate.

11.7.29. Having regard to the above, and consistent with the planning authority opinion, I am satisfied that the proposed development generally addresses the criteria to warrant a deviation from the parking standards in a satisfactory manner.

11.7.30. The Apartments Guidelines also addresses the issue of car-parking requirements, with section 4.21 referring to developments such as that proposed, i.e. *'larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport'*. In such cases, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.

11.7.31. In cases where reduced parking is sought, the Apartment Guidelines states that it is necessary to ensure, where possible, compliance with certain criteria. Many of these have already been covered by the criteria in section 12.4.5.2 of the CDP. In relation to the other criteria, I would state the following:

- The proposed development will be serviced primarily from the Dundrum Bypass and provision has been made for circulation and set down.
- An internal reception will provide a delivery point for courier deliveries and a series of short-stay loading bays will be created along the service road to cater for residential and small-scale commercial deliveries.
- An internal access road running parallel to the Dundrum Bypass allows for off-street servicing of the retail and residential aspects of the development.
- It is proposed to provide a new loading/set-down/short stay bay along Main Street and an existing loading bay would also accommodate drop-offs etc.
- The allocation of resident spaces is proposed on a needs-basis rather than spaces being sold with particular units, and there would not be appear to be designated visitor parking. However, it is noted that Table 12.5 of the CDP does not require visitor parking provision in Zone 1.
- 18 of the 373 spaces (4.8%) are proposed as 'disabled spaces', which would comply with the CDP requirement for 4% as per s. 12.4.5.3 of the CDP.

11.7.32. In addition to the Apartments Guidelines, SPPR 3 (i) of the Compact Settlement Guidelines outlines that in urban neighbourhoods such as this, car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate

of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling. This is consistent with the CDP standards as previously discussed. And consistent with the Guidelines recommendations for such instances, I have already outlined the rationale and justification for the proposed parking standards.

11.7.33. Having regard to the foregoing, I consider that local and national policy supports reduced car-parking provision at such central and accessible locations. And having regard to the nature of the development involving only a limited number of larger units, I would concur in principle with the planning authority’s view that car-parking proposals are generally acceptable.

Cycle Parking

11.7.34. The Apartment Guidelines state that reduced car-parking proposals should include facilities for cycle parking and storage, while the Compact Settlement Guidelines highlight the need for high quality cycle parking and cycle storage facilities for both residents and visitors in areas of high and medium accessibility. SPPR 4 (i) of the Compact Settlement Guidelines outlines that a general minimum standard of 1 cycle storage space per bedroom should be applied. A mix of parking types and visitor cycle parking should also be provided but no specific ratio is stated. Design criteria is also outlined to ensure that facilities are safe and accessible.

11.7.35. The table below outlines a comparison between the requirements of the Development Plan (i.e. ‘Standards for Cycle Parking & Associated Cycling Facilities for New Developments’ (2018)), the Apartments Guidelines, the Compact Settlement Guidelines, and the proposed cycle provision.

**Table 5 – Cycle Parking Standards**

Unit Type	Development Plan		Apartment Guidelines		Compact Settlement Guidelines		Proposed	
	Long term	Short stay	Long term	Short stay	Long term	Short Stay	Long term	Short stay
<b>Residential</b>	881 (1 per unit)	176 (1 per 5 units)	1508 (1 per bed room)	440 (1 per 2 apts)	1508 (1 per bed room)	Not stated	1508	242
<b>Café / Restaurant</b>	Unknown (@ 1 per 5 staff)	4 (1 per 100m <sup>2</sup> )	N/A	N/A	N/A	N/A		
<b>Retail</b>	Unknown (@ 1 per 5 staff)	34 (1 per 100m <sup>2</sup> )	N/A	N/A	N/A	N/A		

<b>Childcare</b>	Unknown (@ 1 per 5 staff)	14 (@ 1 per 10 children)						
<b>Sub Total</b>	<b>881</b>	<b>228</b>	<b>1508</b>	<b>440</b>	<b>1508</b>	<b>Not stated</b>	<b>1508</b>	<b>242</b>
<b>Total</b>	<b>1109</b>		<b>1948</b>		<b>1508</b>		<b>1750</b>	

11.7.36. As per the above table, I am satisfied that the proposed spaces significantly exceed the minimum CDP requirements. I acknowledge that there is a lack of clarity about staff numbers and that the CDP states that minimum requirements should be exceeded in Zone 1. I am satisfied with the significant exceedance proposed in this case, particularly given the town centre location; the proximity of bus/rail services; and the existence of other cycle stands in proximity of the site.

11.7.37. I note that the visitor requirements of the Apartments Guidelines are not met. However, I consider that these requirements are superseded by SPPR 4 (i) of the Compact Settlement Guidelines and that this allows for discretion by stating only that '*Visitor cycle parking should also be provided*'. Given that the CDP requirements for visitor parking are met, I am satisfied that proposals are acceptable in this regard.

11.7.38. In addition to the quantum of cycle spaces, I note that the CDP, Apartments Guidelines, and the Compact Settlement Guidelines outline the need to ensure that facilities are properly designed to be safe, convenient and accessible. The vast majority of spaces (1586) would be provided as secure internal spaces, with 610 spaces at podium level accessible at grade from Main Street/Sweetmount and 976 spaces at mezzanine level and lower ground floor level accessed from the Bypass. The majority of internal spaces (1430) would be provided in 'two-tier' arrangements, with the remainder as 'Sheffield' type racks. There would be 164 external spaces (Sheffield type racks) accessible at grade from Main Street/Sweetmount and spread throughout the development. Overall, I would be generally satisfied with the design and layout of cycle storage facilities at the podium level. However, access from the Bypass is adversely affected by a lack of activity at the lower ground level and the presence of the proposed service access road. The majority of spaces are proposed at this level, and I do not consider that this would create a suitable environment for cycle access.

#### Pedestrian & Cycle Links

- 11.7.39. I acknowledge that Main Street has benefited from significant improvements to walking and cycling infrastructure in recent years. The proposed development would provide several linkages to Main Street as well as the removal of vehicular entrances to reduce vehicular traffic volumes. It is also proposed to upgrade the pedestrian infrastructure on Main Street, including a new raised table crossing at the junction with the access road to the LUAS station at the north-east corner of the development boundary. The proposed uses at street level would be mainly active commercial uses which would contribute to the pedestrian environment.
- 11.7.40. In contrast to Main Street, the Bypass presents a more challenging environment for pedestrians and cyclists. Traffic volumes are significantly greater, footpaths / cycleways are narrow, and cycle lanes are largely unsegregated. It is noted that the application includes proposals to improve pedestrian and cycle infrastructure along this western side of the site. However, I would have concerns about a lack of active frontage and the concentration of vehicular activity along the Bypass. It would include 3 vehicular access/egress points and a new parallel service road, resulting in significant disruption to the proposed pedestrian/cycle routes along the Bypass. And as previously outlined, I consider that the lack of active frontage along this route would raise concerns about security, safety, and amenity for vulnerable road users. Accordingly, I do not consider that the proposed pedestrian/cycle arrangements along the Bypass are suitably designed.
- 11.7.41. At the southern end of the site, it is proposed to provide linkages in the form of a basement vehicular access to Dundrum Town Centre and a lift/stair access from Church Square to Dom Marmion Bridge. And while I accept that the significant level changes at this location are challenging, I do not consider that the proposed stair/lift linkage is a satisfactory solution.
- 11.7.42. Within the site itself, two main connections are proposed. The south-north route runs from Church Square towards the northern end of Main Street and onwards to the Luas and is proposed to provide an alternative environment to Main Street. However, I would have concerns about the suitability of its design and the likelihood of its success as a new public route. As previously outlined, I am not satisfied that Church Square would be a successful public space to attract people along this route. The route is also dominated by residential uses and lacks a suitable level of commercial/community uses to attract footfall and activity.

11.7.43. The east-west route would link Main Street and Sweetmount. And while I acknowledge that there is significant third-party opposition to this proposal, I note that the principle of a potential bridge link is supported in the LAP (including OSC3). The LAP also sets out a range of walking/cycling improvements to be achieved on the site under OSC2 and OSC4, but I do not consider that they would be successfully achieved having regard to my aforementioned concerns. Furthermore, SLO 124 of the CDP requires that permeability through all developments on the west side of Main Street should ensure pedestrian/ cycle links between Main Street and the Dundrum Bypass. The proposed layout has a distinct lack of such linkages, and I consider this significant given the need to improve the environment along the Bypass.

11.7.44. Having regard to the foregoing, I do not consider that the proposed development has been appropriately designed to integrate with existing and planned walking and cycling linkages surrounding the site.

#### Conclusion

11.7.45. In conclusion regarding traffic and transport, I consider that the redevelopment of the site is supported by local and national policy which encourages high-density development with less dependence on car travel at central and accessible locations such as this. And while I acknowledge that genuine concerns have been raised about the capacity of public transport to cater for the proposed development, I consider that this matter should be considered as part of a wider assessment of the quantum of development proposed, as is outlined in section 11.9 of this report.

11.7.46. Otherwise, I am not satisfied that the traffic impacts on the local road network have been adequately assessed, or that the proposed development has been appropriately designed to integrate with and promote sustainable transportation. In particular, the proposal would not integrate with the public transport interchange (bus stop and layby) at the northwest corner of the site and would not provide suitable pedestrian and cycle infrastructure and linkages along the Bypass or at the southern end of the site (Dom Marmion Bridge). I consider that a refusal of permission is warranted on this basis.

### **11.8. Water Services, Drainage, & Flooding**

#### Water & Wastewater

- 11.8.1. A large number of third-party submissions have raised concerns about the impact of the development on water supply, largely on the basis that water pressure is currently not satisfactory.
- 11.8.2. The water supply and fire hydrants for the proposed development has been designed based on the Irish Water Code of Practice for Water Infrastructure. The average and peak hour water demand of the existing development (0.5l/s & 0.63l/s respectively) have been compared to the increased demand for the proposed development (4.47l/s & 5.59l/s respectively). A pre-connection application was submitted to Irish Water and the Confirmation of Feasibility is included with the application. A detailed Design Acceptance Submission was submitted to Irish Water and a copy of the Statement of Design Acceptance is also included.
- 11.8.3. Consistent with the above approach, the Uisce Eireann submission on file does not raise any objection to the proposed development but outlines requirements for the water connection arrangements. I also note that the matter has been considered in the LAP and it concludes that existing and future populations should continue to have access to adequate high quality drinking water. Consultation with Uisce Eireann indicates that there are no high-level constraints and the LAP concludes that the provision of water services will not be a limiting factor of growth.
- 11.8.4. Wastewater flows have been calculated based on design standards as per the Irish Water Code of Practice Wastewater and will include flows from Parochial House and Holy Cross Church which pass through the site at present. The average and peak flows of the existing development (0.99l/s & 4.36l/s respectively) have been compared to the increased flow associated with the proposed development (5.21l/s & 15.51l/s respectively). A pre-connection application was submitted to Irish Water and the Confirmation of Feasibility is included with the application. A detailed Design Acceptance Submission was submitted to Irish Water and a copy of the Statement of Design Acceptance is also included.
- 11.8.5. Consistent with the above approach, the Uisce Eireann submission on file does not raise any objection to the proposed development. It outlines requirements for the agreement of separate storm water arrangements and strict wastewater flow management via the proposed pumping station as part of the development. The matter was also considered in the LAP and consultation with Uisce Eireann indicated that there are no high-level constraints.



11.8.6. Having regard to the foregoing, I am satisfied that the proposed development should not be constrained by any capacity concerns relating to water supply or wastewater. Any grant of permission would be subject to connection agreements with Uisce Eireann, and I am satisfied that any detailed requirements could be addressed through that process.

#### Surface Water & Flooding

11.8.7. The third-party submissions and reports from the planning authority have raised serious concerns about the impact of the development on the Slang River (much of which is culverted) and the potential for flooding within the site and in the wider surrounding area.

11.8.8. The applicant's Engineering Service Report outlines that surface water drainage design is based on the Greater Dublin Regional Code of Practice for Drainage Works, the CIRIA SUDS Manual C753 2015, and the CDP (including Appendix 7 on Sustainable Drainage System Measures). It consists of a north and south catchment and incorporates a 2-stage treatment approach. Stage 1 includes a range of green/blue roofs; hard landscaping with sub-base storage; infiltration planters and tree pits; and a dry swale located between Phase 1 and the Bypass at the northern end of the site. Stage 2 includes attenuation storage; petrol interceptors; outlet flow control to the Slang in the form of Hydrobrakes to limit the discharge rate to greenfield runoff rate; 2 no. outfalls to the Sland culvert serving the southern and northern parts of the site. A minor catchment serving Sweetmount Bridge will also drain to a bioretention area in Sweetmount Park.

11.8.9. The design of the surface water drainage system has been undertaken using InnoVize InfoDrainage Software to simulate its performance across a range of storm events comprising 1 in 2-year, 1 in 30-year and 1 in 100-year return period, with synthetic rainfall generated based on the location of the site for summer and winter storm profiles. It is designed not to flood in a 1 in 30-year event and any flooding occurring during a 1 in 100-year event will be retained on site in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) design criteria. Allowance has been made for climate change (20%) and urban creep (10%).

11.8.10. The applicant's report outlines GDSDS Criterion Compliance as follows:

1. River Water Quality Protection - Satisfied by providing SUDS components which replicate the runoff characteristics of an undeveloped site.
2. River Regime Protection - Discharge will be equal to the peak greenfield runoff rate and a range of storm event durations have been simulated at 1-year, 30-year and 100-year return periods to establish the site critical duration and associated attenuation volume requirement.
3. Site Flooding - No flooding predicted on the site in any 30-year events and no internal property flooding predicted in any 100-year return period event. Planned flood routing for short duration high intensity events are demonstrated. The minimum proposed finished floor level of 46.00mOD at Lower Ground Floor level is in excess of 500mm above the flood levels predicted in the Slang in the vicinity of the site. The proposed development does not give rise to any flooding of adjacent properties. The systems surcharges, but does not flood, in the 30-year return period events.
4. River Flood Protection - The surface runoff flow rate discharged from the site will not exceed  $Q_{BAR}$  at any outfall. Therefore, long-term storage is not required to limit the impact on the higher return period events on the receiving watercourse (the Slang).

11.8.11. The applicant's report also outlines proposals for the inspection and maintenance of SUDS features and components within the proposed surface water design.

11.8.12. The application is also accompanied by a Site Specific Flood Risk Assessment (SSFRA). It outlines that the site and adjacent land is located within Flood Zones B and C, with 16.7% of the site (at the northern and northwestern corner) within Flood Zone B which represents a moderate probability of flooding (between 0.1% and 1% Annual Exceedance Probability). The flood risk to the site is from fluvial and pluvial flooding including overland flood flows. The report classifies the proposed residential and creche uses as 'Highly Vulnerable', while the retail units, cafes and restaurants are 'Less Vulnerable'.

11.8.13. The SSFRA outlines that the SFRA contained in the CDP 2022-2028 is based on the Dundrum Slang Integrated Catchment Model (ICM) Study. I note that section 6.2.1 of the SFRA outlines that a Justification Test for the Dundrum MTC Phase 2 lands is

satisfactorily passed. The JT outlines a summary of risks and development constraints for the lands (which is also reflected in Objective OSC18 of the LAP) and the applicant's SSFRA outlines that these issues are addressed as follows:

- The sequential approach has been adopted with residential development located at podium level and above and "Less Vulnerable" development located at Lower Ground Floor level.
- Regarding the potential for any basement excavated below flood level, the lower ground floor level and all associated substations are located above the predicted 0.1% AEP flood level in the area with an allowance for freeboard to protect against the effects of climate change and other residual impacts.
- An emergency plan has been included to provide access and egress to the Main Street.
- Regarding residual risk related to spill over the road at Taney Cross, the lowest level of the road at Taney Cross is noted as 45.70mOD. The lowest level within the lower ground floor is proposed to be 46.00mOD in the northern part of the development, with higher levels in the lower ground floor in Zones 3 and 4 in the southern part of the site.
- The lower ground floor levels will step from 46.00m OD in Zones 1 and 2 to 46.5m OD in Zone 3 and 47.00mOD in Zone 4, corresponding to the rise in the levels along the Dundrum Bypass.
- Overland flow routes along the northern end of Main Street and from the Ballinteer Road to the Dundrum Bypass are facilitated without increasing flood risk to other properties.
- Regarding potential impacts outside the site boundary, the SSFRA includes details of modelling of flood volumes in the pre- and post-development scenarios. It demonstrates that the provision of compensatory flood storage, including a storage reservoir under the lower ground floor slab in Zones 1 and 2 (i.e. the northern part of the site), will mitigate the risk of flooding outside the site boundary. The proposed development will not increase flood risk to other properties downstream of the site. The implementation of SUDS will help to reduce flood risk to downstream areas by attenuating the flows that would have otherwise discharged directly into the storm network.

- 11.8.14. The SSFRA contends that DLRCC would not provide access to the Dundrum Slang Integrated Catchment Model (ICM) hydraulic model. Therefore, a strategy of providing the equivalent volume of compensatory storage within the development has been pursued, based on the fact that the site does not flood in the 1%AEP or 1% AEP plus 20% Climate Change events. It contends that any model which would have produced would have been benchmarked against the Dundrum Slang ICM study model and would have neither the complexity nor the spatial extent of that model. It outlines that careful consideration has been afforded to the factors associated with below ground storage and a cautious approach has been adopted, providing approx. 26.6% excess flood storage volume at the 0.1% AEP Flood level, including storage volume at a lower level than would be the case in the existing scenario.
- 11.8.15. The applicant's SSFRA has been subject to an Independent Review carried out by JBA Consulting (also consultants for the SFRA in the CDP 2022-2028). The review concludes that the requirements of the Planning Authority in terms of the scale and nature of the mitigation measures has been met. On the key mitigation measure of floodplain storage, it is JBA's opinion that the level of detail provided on the design, operation and maintenance of the compensatory storage solution is sufficient to demonstrate the proposed system will mitigate flood risks to the development and will not increase risks to third party lands. Overall, it considers that these measures allow the development to pass the Justification Test for Development Management and is in agreement with the core principles of the Planning System and Flood Risk Management Guidelines, and the 2022 DLR Development Plan SFRA.
- 11.8.16. The DLRCC Drainage Planning report outlines significant concerns in relation to flood risk, which can be summarised as follows:
- SSFRA is inadequate on the basis that it does not include a detailed hydraulic model.
  - Flood Risk to Life has not been adequately clarified.
  - Compensatory storage risks should incorporate much greater safety factors.
  - Proposals to address Irish Water network exceedances (i.e. the sealing of manholes) could result in spillages elsewhere.
  - The maintenance proposals for the proposed system are inadequate.

- The report outlines the relevant Flood Risk policies and provisions as per the CDP 2022-2028, including Appendix 15 – Strategic Flood Risk Assessment.
- The report concludes that it would be impossible to adequately assess the flood risk within and adjacent to this site without a detailed hydraulic model.

11.8.17. The report states that the preparation of a detailed hydraulic model by means of a condition of any permission would be inappropriate as the results could require significant and substantial redesign. However, conditions are recommended in the event that the Board should decide to grant permission.

11.8.18. The DLRCC Drainage Planning report also outlines significant concerns in relation to drainage design, which can be summarised as follows:

- The application is severely lacking in detail.
- Placement of petrol interceptors after attenuation.
- Location of flow control devices remote from attenuation systems.
- Lack of clarity regarding containment of 1 in 100-year event.
- Varying parameters make it difficult to assess the drainage system and attenuation design.
- The design and access/maintenance for the attenuation system is unclear.
- Green roof provision is unclear but appears inadequate

11.8.19. It concludes that these issues cannot be resolved in the absence of further information, but conditions are recommended in the event of a grant of permission.

11.8.20. Following on from the Drainage Planning report, the DLRCC CE Report highlights certain sections from the JBA Review of the applicant's SSFRA, which can be summarised as follows:

- Section 1.3 identifies 'Detailed Modelling' as a 'key requirement' in reviewing the CDP SFRA. No such modelling has been carried out.
- Section 2.3 acknowledges that '*Risk to life is discussed but due to the absence of detailed hydraulic modelling, it cannot be fully quantified in the post development condition*'.

11.8.21. The CE Report highlights that the Drainage Planning report considers that the application takes a novel approach to compensatory storage that does not appear to

have been tested previously in Ireland and does not have the benefit of the support of a robust hydraulic model. It concludes that, in the absence of satisfactory and robust evidence regarding flooding risk, the proposed development is deemed to materially contravene the requirements of Section 12.9.6 of the County Development Plan 2022-2028 and would not meet the requirements of the SFRA Policy Objective EI22.

11.8.22. Those particular provisions highlighted in the CE Report are as follows:

- Section 12.9.6 – ‘Only permit development when satisfied that new and existing developments are not exposed to increased risk of flooding and that any loss of flood storage is compensated for elsewhere in the catchment’.
- Policy Objective EI22 - It is a Policy Objective to support, in cooperation with the OPW, the implementation of the EU Flood Risk Directive (2001/60/EC) on the assessment and management of flood risks, the Flood Risk Regulations (SI No 122 of 2010) and the Department of the Environment, Heritage and Local Government and the Office of Public Works Guidelines on ‘The Planning System and Flood Risk Management’ (2009) and relevant outputs of the Eastern District Catchment and Flood Risk Assessment and Management Study (ECFRAMS Study). Implementation of the above shall be via the policies and objectives, and all measures to mitigate identified flood risk, including those recommended under part 3 (flood risk considerations) of the Justification Tests, in the Strategic Flood Risk Assessment set out in Appendix 15 of this Plan.

11.8.23. In conclusion regarding surface water and flood risk, I acknowledge that the site is already developed and that its potential for redevelopment has passed the Justification Test in accordance with the CDP and LAP. The proposed development includes a range of SuDS and flood risk mitigation measures which would, in principle, assist in limiting surface water flow from the site and flood risk within and around the application site.

11.8.24. I acknowledge that the planning authority has highlighted a wide range of surface water and flood risk issues which cumulatively constitute a significant gap in the understanding of the proposed approach and potential impacts. In particular, and as

has been highlighted in the audit of the applicant's SSFRA, I would concur that the lack of detailed hydraulic modelling and 'risk to life' consideration is a key omission which presents an unacceptable flood risk. Accordingly, I am not satisfied that it has been demonstrated that new and existing developments will not be exposed to increased risk of flooding in accordance with the requirements of section 12.9.6 of the CDP and OSC18 of the LAP. I consider that a refusal of permission is warranted on this basis.

## 11.9. **Building Height, Density, Visual Amenity, & Built Heritage**

### Proposed Height & Density

- 11.9.1. The proposed development comprises 881 residential units on a stated net site area of 3 ha, resulting in a stated net density of 294 units per hectare. However, concerns have been raised about the methodology of calculating the net site area for density with reference to the Sustainable Residential Development Guidelines (2009). The Compact Settlement Guidelines (2024) have now replaced the 2009 Guidelines and, therefore, the proposed net density should be calculated in accordance with the provisions of same.
- 11.9.2. Appendix B of Guidelines addresses 'Measuring Residential Density' and outlines the elements of a site that should be included or excluded from the net site area. The applicant's Planning Statement outlines that the calculated net site area of 3ha is based on the exclusion of the areas of public roads on Main Street, Dundrum Bypass and Ballinteer Road. Otherwise, I am satisfied that the proposed streets, open spaces, and other services/amenities are of a local scale and incidental nature that would not warrant exclusion from the net site area.
- 11.9.3. However, the Guidelines also outline that the net site area for density purposes should be reduced commensurate with the residential GFA as a portion of the overall GFA. The residential GFA (83,983.3sqm) is c. 95% of the GFA (88,442m<sup>2</sup>), which would translate to a reduced net site area of 2.85 ha. Accordingly, it is my calculation that the net residential density should be measured as 309 uph.
- 11.9.4. In relation to building height, the proposed development incorporates a variety of heights as outlined in Table 1 of this report. This includes heights of 13 to 16 storeys at the northern end of the site adjoining Main Street and the Bypass; generally 5

storeys along Main Street to the east; and 9-12 storeys along the Bypass to the west.

### National Policy & Guidance

- 11.9.5. Chapter 3 of the *Building Height Guidelines* (2018) outlines a presumption in favour of buildings of increased height in urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.
- 11.9.6. Section 2.4 of the *Apartments Guidelines* states that 'Central and/or Accessible Urban Locations' include sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas). Given the close proximity of the site to the Dundrum Luas stop, I am satisfied that the site can be categorised as a 'Central and/or Accessible Urban Location'. The Guidelines state that such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments.
- 11.9.7. More recently, the *Compact Settlement Guidelines* (2024) set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. It is intended that the Guidelines should be read in conjunction with other guidelines (including the Building Height Guidelines and the Apartments Guidelines) where there is overlapping policy and guidance. Where there are differences between these Guidelines and Section 28 Guidelines issued prior to these guidelines, it is intended that the policies and objectives and specific planning policy requirements of these Guidelines will take precedence.
- 11.9.8. Policy and Objective 3.1 of the Guidelines is that the recommended residential density ranges set out in Section 3.3 are applied within statutory development plans and in the consideration of individual planning applications, and that these density



ranges are refined further at a local level using the criteria set out in Section 3.4 where appropriate.

- 11.9.9. Table 3.1 of the Guidelines outlines the areas and density ranges for Dublin and Cork City and Suburbs. The 'City – Urban Neighbourhoods' category includes '*(iii) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8)*'. It should be noted this does not exclude suburban areas as it includes all relevant areas '*within the city and suburbs area*'.
- 11.9.10. Table 3.8 defines a High Capacity Public Transport Node or Interchange as '*Lands within 1,000 metres (1km) walking distance of an existing or planned high capacity urban public transport node or interchange, namely an interchange or node that includes DART, high frequency Commuter Rail, light rail or MetroLink services; or locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop*'.
- 11.9.11. Accordingly, based on the foregoing definitions and the location of the site within 1km walking distance of the Dundrum Luas stop, I am satisfied that the site is on '*lands around existing or planned high-capacity public transport nodes or interchanges*' which comes within the 'City – Urban Neighbourhoods' category as per Table 3.1 of the Guidelines. It is a policy and objective of the Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in such areas.
- 11.9.12. Section 3.4 of the Guidelines recommends that the density ranges should be further considered and refined. Step 1 in the refining process is the 'consideration of proximity and accessibility to services and public transport', which encourages densities at or above the mid-density range at the most central and accessible locations, densities closer to the mid-range at intermediate locations, and densities below the mid-density range at peripheral locations.
- 11.9.13. Table 3.8 outlines further guidance on accessibility and I have already outlined that the site would be within a high-capacity public transport node or interchange based on its location within 1km walking distance of the Dundrum Luas stop. Table 3.8 also states that highest densities should be applied at the node or interchange and decrease with distance. Given that the site is less than 100 metres from the Luas stop, I would accept that the Guidelines would support densities at the higher end of

the 50-250 range. However, the proposed density of 309 uph would significantly exceed the recommended range.

- 11.9.14. Otherwise, there is also a presumption in the Guidelines (s. 3.3.6) against very high densities that exceed 300 dph (net) on a piecemeal basis. It states that densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan. The relevant local statutory plans (i.e., the LAP and CDP) are considered later in this section. And while they do not place a maximum limit on density, I also consider that they do not outline a plan-led basis which would support densities that exceed 300 dph (net).
- 11.9.15. Notwithstanding the above, I acknowledge that the recommended density ranges in the Guidelines are not supported by an SPPR. Accordingly, the Board is required to 'have regard' to the recommended density ranges as opposed to their mandatory application. Therefore, while the proposed density (309 uph) would significantly exceed the recommended density range of 50-250 uph, I consider that further consideration of density based on other relevant criteria is also necessary.
- 11.9.16. Step 2 in the refining process is the consideration of character, amenity and the natural environment with regard to the following criteria.

(a) Local character -

It is acknowledged that the vast majority of the existing site contributes little to local character and is in need of redevelopment. However, it is important to ensure that new development is appropriately designed to respect its context.

The existing Main Street area plays a critical role in establishing the character of the local area. It benefits from good overall design quality, largely by virtue of the presence of a number of unique buildings, including the Holy Cross Church and Parochial House, Maher's Terrace, Pembroke Terrace and Glenville Terrace, which along with several other buildings form part of the Dundrum Architectural Conservation Area (ACA), giving Dundrum Village its special character. Main Street displays a fine urban grain and predominantly consists of low-rise 2-storey buildings.

The design approach along Main Street predominantly consists of 4 no. 5-storey buildings clad in red brick with angled building lines and parapets. It aims to provide active frontage with a series of ground floor shop fronts with a darker red brick.

I consider that the proposed height, scale, and massing of the four large blocks is excessive and does not appropriately respect the existing character and proportions of Main Street. And while I acknowledge that a contemporary design approach could be successful at this location, I consider that the proposed building lines and forms are inappropriate and would not sensitively respond to the existing urban grain. At ground floor level, I would be concerned that the continuous large-scale shop fronts would not positively contribute to a pedestrian scaled streetscape.

I acknowledge that local character is not as strongly defined along the bypass and at the northern end of the site. Notwithstanding this, I would also have serious concerns about the height, scale, and massing of development. Although openings are proposed between blocks and there are variations in roof heights, building lines, and finishes, I do not consider that there is appropriate variation and modulation to successfully integrate the development on site. The western façade to the bypass would result in a continuous monolithic appearance of excessive scale and height and would have an overbearing impact on the area and surrounding properties. As previously outlined, I would also be concerned that the lack of activity and connections at street level along the bypass would not positively contribute to the character of the area.

The applicant's aim to create a 'marker building' at the northern end of the site is noted. Again, I consider that the proposal for 13-16 storeys is excessive in height and scale. Furthermore, I consider that the 16-storey element is effectively embedded in the larger block and its form, massing, and design is not of sufficient quality to create a distinctive landmark design that would positively contribute to the character of the area.

(b) Historic environments –

The site is located within a sensitive historic environment. The Glenville Terrace portion of the site is included within Dundrum ACA, while other portions of the

ACA also adjoin the southern site boundary and the eastern side of Main Street. Holy Cross Church, its Gates and Railings, and the Parochial House to the south of the site are Protected Structures, as are the library building and the Usher Monument at the northern end of the site.

I have previously outlined my concerns about the impact of the development on Main Street. This applies particularly to the inappropriate relationship between the development as it adjoins the ACA and protected structures, resulting in an overbearing impact which detracts from the character and setting of the Holy Cross Church complex, Glenville Terrace, and the east side of Main Street.

The proposal to retain and refurbish 1-3 Glenville Terrace is positive in principle, although I note that the DLRCC Conservation Report has highlighted the need for further information on the impacts on the particular heritage interests/features of the buildings. Moreover however, I would have serious concerns about the proposal to demolish existing buildings within the ACA. To the north of Glenville Terrace, the Former Post Office (Joe Daly Cycles) retains much of its architectural form and composition and its presence enhances the special character and appearance of the ACA. Consistent with the applicant's EIAR, I would also accept that despite modern alterations and extensions, No. 4 Glenville Terrace & 13/13A Main Street are of architectural importance which contributes to the street character. Accordingly, I consider that the proposal to demolish these buildings would seriously detract from the character and value of the ACA.

(c) The environment and protected habitats and species -

These matters are discussed in detail in sections 12 and 13.7 of this report. I do not consider that there would be any unacceptable impacts in this regard.

(d) The amenities of residential properties -

As outlined in sections 11.5 & 11.6 of this report, I consider that the excessive height and scale would have unacceptable overbearing impacts for the residential

properties to the west, and information is lacking in relation to daylight impacts on existing properties.

(e) Water supply and wastewater networks -

As outlined in section 11.8 of this report, I do not consider that there would be any unacceptable impacts on water supply and wastewater networks.

11.9.17. In conclusion regarding density policy/guidance in the Compact Settlement Guidelines, I consider that in addition to exceeding the recommended quantitative density ranges for the application site as per 'Step 1' of the 'refining density' process, the proposed development would not satisfactorily address the 'Step 2' criteria in respect of impacts on local character, the historic environment, and residential amenity.

#### LAP Policy

11.9.18. The Dundrum LAP 2023 contains several provisions relating to design and layout, which will be discussed in the following paragraphs.

11.9.19. Objectives OSC8, OSC9, and OSC10 outline requirements in respect of Street Character, which are assessed as follows:

OSC8 -

- Continuous building frontage is generally provided along Main Street, but openings are not consistent with the required locations for new civic and green spaces.
- A new Local Park has not been provided as required and therefore it cannot be surrounded by active ground level frontage. I do not consider that the proposed Church Square space at the southern end of the site is appropriately surrounded by such active frontage.
- Entrances are not provided at 5-10m intervals along Main Street, and it has not been demonstrated that longer distances are required.

- It is proposed to provide a residential route parallel to Main Street. However, I consider that the design and layout lacks active frontage and I do not consider that it would successfully function as a 'street'.
- Ground floor residential units are not provided along the Bypass.
- Architecture does not reflect the existing character of the town.

OSC9 –

- Main Street and the pedestrian street would have a finer urban grain compared to the bypass, and there would be strong permeability between the pedestrian street and Main Street.
- However, the blocks along Main Street would not incorporate an appropriate vertical design emphasis and entrances to achieve the fine urban grain which reflects the historic character of the Main Street.

OSC10 –

- Development along the Bypass lacks suitable activity and pedestrian/cycle connections at ground level. It would be dominated by vehicular access and servicing requirements and would not read as an urban street.

11.9.20. Objective OSC11 deals with Built Form Objectives. The proposed development would not be generally in accordance with the indicative block layout and ground floor and land uses shown on figure 2.9. of the LAP 'Built Form Strategy'.

11.9.21. Objective OSC12 outlines requirements for Heritage and Building Character, and I would state the following:

- The proposed development does not maintain or enhance existing character along Main Street.
- The proposed development does not reflect the character of the existing protected structures or the ACA.
- While it is proposed to retain and refurbish 1-3 Glenville Terrace and associated railings, the proposal to demolish the former Post office, no. 4 Glenville Terrace and 13 - 13a Main Street would materially contravene this objective.

11.9.22. Objective OSC13 states that '*An overall general plot ratio of 1:2.25 shall be achieved*'. Objective H1 is that redevelopment proposals for the site shall 'generally accord' with this Plot Ratio parameter. The proposed plot ratio (net) is stated to be 1:2.9, which would materially contravene the stated ratio.

11.9.23. Objective OSC14 outlines building height requirements for any redevelopment of the site. In this regard, I would state the following:

- As previously outlined, I do not consider that the proposed heights along Main Street are sensitive to the original streetscape, its character, scale and Architectural Conservation Area status.
- It is a requirement to '*Ensure heights along Main Street are generally 4 storeys with a potential 5th floor setback for blocks adjoining the proposed new local park*'.<sup>3</sup> Although the local park is not proposed in the designated location in the first instance, the proposed heights are not consistent with this provision as they are generally 5 storeys along Main Street (5<sup>th</sup> storey is not a 'setback'). Furthermore, it is proposed to significantly exceed the LAP requirements by providing buildings of 13-16 storeys at the northern end of Main Street. I consider that both the 5-storey and 13-16-storey elements would materially contravene the LAP.
- The proposed height of Block 4B (to the north of Holy Cross Church & Parochial House) would be 5 storeys with a lower 6<sup>th</sup> floor to the rear. The LAP states that heights immediately adjacent may be required to be lower than 4 storeys and/or incorporate a graduation in heights. While the proposed development would clearly exceed this, I do not consider that it constitutes a mandatory limit given that it only 'may be' a requirement. Notwithstanding this, as previously outlined, I consider that the proposed height and scale of development adjoining Holy Cross Church and Parochial House is excessive and would detract from their setting.
- The LAP allows for increased building height at a designated point adjoining the north side of the new local park. This point generally coincides with the southern end of Block 1C, which is up to 5 storeys at this point. As discussed above, this would constitute increased height in the context of the LAP

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<sup>3</sup> The designated location for the new Local Park generally coincides with the proposed location of Block 2C

requirements for Main Street. However, it would be generally consistent with the height approach for the remainder of Main Street in the current application, which would not achieve the desired effect of improved definition / legibility through increased height at this important point.

- Along the Bypass, the LAP allows for up to 11 storeys in alternating heights to create visual interest. The increased heights shall be sited in the general location of designated points unless a more favourable alternative location can be demonstrated. It is my understanding that these 'increased heights' are still subject to the overall 11-storey limit. In this regard, the proposal for 13-16 storeys at the northern end of the Bypass would significantly exceed this limit. It is also proposed to exceed the limit through the provision of 12 storeys in Blocks 1B and 2B. Overall, contrary to the LAP allowance for increased heights of up to 11 storeys at 6 designated points along the Bypass, I consider that 11 storeys can be considered the average height rather than the maximum height. The instances where heights are less than 11 storeys are very much the exception, and the proposals to exceed 11-storeys would materially contravene the LAP.
- I consider that the proposed height and scale would have negative impacts on residential amenity and planned public spaces by reason of overbearing impacts, and that information is lacking in relation to overshadowing impacts.
- As previously outlined, I do not consider that the proposed heights achieve a balance between height and scale, contribute to variety in design or avoid against monolithic and monotonous buildings.

11.9.24. Policy DLAP17 confirms support for CDP Policy Objective PHP18. It elaborates on this in relation to the application site by stating that proposals for net densities in excess of 80 uph shall demonstrate several requirements, which are discussed as follows:

- As outlined in section 11.3 of this report, I am not satisfied that the application provides adequate social and community infrastructure.
- As previously outlined, the design does not appropriately respond to the characteristics of the site, development constraints and prevailing character.



- As outlined in sections 11.3 & 11.4 of this report, I am not satisfied with the proposed mix of uses or housing typologies.
- As outlined in section 11.4, I do not consider that the proposed development would adequately provide high quality public open space or amenities.

11.9.25. Policy DLAP18 is that building height shall generally accord with Chapter 2 (i.e. including OSC13 and OSC14 as outlined earlier). However, this is qualified by the proviso of '*subject to Policy Objectives BHS1 and BHS2*' of the CDP. In circumstances where compliance with Policy Objective BHS1 and BHS2 of the CDP can be demonstrated, additional height may be appropriate subject to complying with: the safeguards outlined in the CDP; the policies and objectives of the local area plan; and the performance-based criteria as set out in Table 5.1 of the BHS.

11.9.26. In conclusion on LAP policy, I do not consider that the proposal would satisfactorily address the requirements in respect of street character, built form, or heritage and building character, as is outlined in Policy Objectives OSC 8 to 12. Furthermore, I consider that the quantum and density of development would be contrary to the standards and criteria outlined in Objective OSC13 and Policy DLAP17. And while I also consider that the proposed building height would not comply with the standards and criteria outlined in Objective OSC14, I consider that Policy DLAP18 outlines the need for consideration of a wider range of issues and criteria. In particular, I consider that Policy DLAP18 confirms that the CDP (including the BHS) sets out the overriding policies for the assessment of building height.

#### CDP Policy

11.9.27. The CDP (including Policies PHP18 & PHP20) generally supports proposals to optimise density on suitable sites subject to suitable design and the protection of residential amenity and area character. It does not prescribe a maximum density standard for the area/site but supports minimum densities of 50 units per hectare at locations such as the appeal site (i.e. within 1km walking/10min walking distance of the Luas and/or the Town Centre).

11.9.28. Appendix 5 of the CDP contains the Building Height Strategy (BHS) for DLRCC. Policy Objective BHS 1 supports increased height / taller buildings where appropriate in the Dundrum Major Town Centre and in suitable areas well served by public transport links (i.e. within 1000m / 10-min walk of a Luas stop, which is applicable to

the appeal site). BHS1 is subject to further assessment of height impacts, including the criteria outlined in table 5.1 of the strategy.

- 11.9.29. Accordingly, the proposed development would significantly exceed the specified minimum density of 50 dph and CDP policy does not place any specific maximum limit on building height or density for this site. However, the question of height and density requires further consideration in terms of qualitative criteria as outlined in Table 5.1 of the BHS, which would also address objectives PHP18 and PHP20.
- 11.9.30. The Development Plan BHS has been prepared having regard to the provisions of the national Building Height Guidelines and the performance criteria outlined in Table 5.1 satisfactorily incorporates the criteria associated with SPPR 3 and section 3.1 of the Guidelines. Accordingly, this assessment of the Table 5.1 criteria (see Table 6 below) adequately covers the question of compliance with SPPR 3 and section 3.1 of the Building Height Guidelines.

**Table 6 – Assessment of BHS (Table 5.1) Criteria**

<b>At County Level</b>	
<b>Criterion</b>	<b>Assessment</b>
NPF Objectives	The principle of a high-density proposal in a Major Town Centre zone would assist in securing objectives regarding key urban centres, brownfield / infill development, and compact growth.
Public Transport	As outlined in section 11.7 of this report, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.
Character and Public Realm	As outlined earlier in this section, I do not consider that the proposal would successfully integrate into/enhance the character and public realm of the area.  This criterion includes a requirement for a Landscape and Visual Impact Assessment (LVIA), which has been included in the current application. Having reviewed the LVIA, I would highlight particular concerns in relation to the following views:

	<p>3 – Excessive height and scale and cumulative impact with the existing Dundrum View apartments.</p> <p>4b, 8a – Excessive height and scale and impact on the setting of Holy Cross Church and Parochial House (Protected Structures) and Main Street.</p> <p>5 – Excessive height and scale and the monolithic / continuous appearance of the development along the Bypass.</p> <p>7 – Excessive height and scale of the 13-16 storey feature and its domineering impact on Main Street.</p> <p>8d, 8e, 8f – Excessive height and scale and inappropriate building form and detailing, overbearing impact on Glenville Terrace and Main Street.</p> <p>13, 14, 16, 17a, 17b, 24a-e, 25 – Excessive height and scale, monolithic / continuous appearance of the development along the Bypass, and overbearing impacts for Sweetmount residential area.</p> <p>18 – Excessive scale, height and inappropriate massing results in a monolithic appearance from the prominent Luas route.</p> <p>20, 20a, 21, 22 – Excessive height, scale and inappropriate massing and design detailing fails to achieve an appropriate landmark design quality on the northern approaches to Dundrum.</p>
Views and Prospects	<p>Table 8.1 of the Development Plan outlines the views and prospects to be preserved, and Zoning Map 1 does not indicate any objectives to preserve views / prospects in the vicinity of the site. I do not consider that the proposed development would interfere with any protected views or prospects.</p>
Infrastructural Capacity	<p>I consider that the principle of high-density development is supported within this Major Town Centre. However, I have outlined capacity concerns in various sections of this report as follows:</p> <p>Section 11.3 – The inadequate mix of uses does not appropriately contribute to employment, social, &amp; community infrastructure.</p> <p>Section 11.4 – Substandard communal and public open space would not adequately contribute to recreational infrastructure.</p>

	<p>Section 11.7 – The application has not adequately demonstrated road network capacity, and the proposed development would not adequately integrate with walking/cycling infrastructure.</p> <p>Section 11.8 - It has been demonstrated that new and existing developments will not be exposed to increased risk of flooding.</p>
<b>At District/Neighbourhood/Street Level</b>	
<p>Response to natural and built environment and contribution to neighbourhood / streetscape</p>	<p>Table 5.1 of the BHS outlines the need to demonstrate compliance with the 12 criteria set out in the Urban Design Manual of the Sustainable Residential Development Guidelines (2009), as well as DMURS. The 2009 Guidelines have been replaced by the Compact Settlement Guidelines (2024), which are to be accompanied by an updated but yet unpublished Design Manual. In advance of the updated manual, I consider it appropriate to consider the ‘Key Indicators of Quality Design and Placemaking’ as outlined in the Compact Settlement Guidelines.</p> <p>Sustainable and Efficient Movement – Although the proposed development benefits from a central and accessible location with good public transport services, I do not consider that the walking/cycling links have been appropriately designed to integrate with the surrounding area in accordance with DMURS principles, particularly along the bypass and at the southern end of the site.</p> <p>Mix and Distribution of Uses – Having regard to the central and accessible nature of the site, the proposed development would not provide an appropriate range of uses to serve the existing and proposed residents.</p> <p>Green &amp; Blue Infrastructure – The substandard design of public open space and walking/cycling network would not create an integrated network of spaces.</p> <p>Public Open Space – The quantity of space is minimal, and its location and design does not positively contribute to the area.</p> <p>Responsive Built Form – As previously outlined, I do not consider that the proposed design responds positively to its sensitive context.</p>

Building Form	The excessive scale and density of the proposed development would result in a monolithic appearance of continuous development with inadequate separation and modulation.
Materials	The Design Statement outlines that a range of materials, finishes, textures and colours are proposed. However, I do not consider that this is adequate to address the over-riding concerns about excessive height, scale and massing.
Public spaces, thoroughfares, and water frontage.	The proposed design would not enhance the urban design context for Main Street, the Bypass, Don Marmion bridge, or Sweetmount Park. Furthermore, I am not satisfied that flood risk has been adequately addressed in accordance with the requirements of the Flood Risk Guidelines.
Legibility	The scale and massing of the development is excessive and results in a monolithic appearance and a lack of legibility in the wider landscape / townscape. Within the development, there would be inadequate activity at ground/street level and the substandard design of public open space and walking/cycle routes would not provide adequate legibility.
Mix of Uses / Buildings	As previously outlined, there would be an inadequate mix of uses and building/dwelling typologies.
Enclosure	The height and scale would not be proportionate to Main Street and would result in excessive enclosure. The public open space and main walking/cycle routes within the development would not benefit from adequate levels of activity and overlooking to feel appropriately enclosed. The lack of appropriate activity and connections along the Bypass would result in isolation and a lack of enclosure.
Urban Grain	The inadequate mix of uses and inactive uses at ground level does not allow for meaningful human contact between all levels of buildings and the street or spaces. The excessive scale of the blocks is out of character with the fine urban grain of Main Street.
Character and Identity	As previously outlined, the proposal does not make a positive contribution to the character and identity of the neighbourhood.
Neighbouring Properties	As outlined in sections 11.5 & 11.6 of this report, I consider that the excessive height and scale would have unacceptable overbearing

	impacts for the residential properties to the west, and that information is lacking regarding daylight impacts on existing properties.
<b>At Site/Building Scale</b>	
Daylight, ventilation, views, and sunlight	Section 11.4 of this report outlines concerns about substandard arrangements for single aspect north-facing units and inadequate separation distances between blocks. Section 11.5 outlines concerns about overbearing impacts on residential properties to the west. Section 11.6 addresses daylight/sunlight and highlights gaps in information relating to: the levels of sunlight available to existing and proposed open spaces; sunlight to the proposed living spaces; and daylight impacts for existing properties.
BRE Guidance on Daylight and Sunlight	As above and section 11.6 of this report.
Overlooking, overbearing, overshadowing	As outlined in sections 11.5 & 11.6 of this report, I consider that the excessive height and scale would have unacceptable overbearing impacts for the residential properties to the west, and that there are gaps in information relating to daylight and sunlight impacts.
Built Heritage	As outlined earlier in this section, I consider that the proposed development would negatively impact on the Dundrum ACA and the setting of the Holy Cross Church complex of protected structures.
Carbon Emissions	The application includes an Energy & Sustainability Statement which outlines aims to minimise environmental impact by targeting low embodied carbon buildings and significantly reducing energy and water consumption. Key performance targets include: a Net Zero Carbon strategy; buildings will meet and exceed the new NZEB (Nearly Zero Energy Buildings) requirements; buildings will achieve a BER "A" rated energy certificate; reduction in mains water consumption of up to 60%; progressive targets for embodied carbon based on LETI (London Energy Transformation Initiative) targets for 2030; buildings have been benchmarked against the Sustainability Assessment tool BREEAM; and assessment against the CRREM Risk Assessment tool.

<b>County Specific Criteria</b>	
Coastal Character	The proposed development will not impact on the character of the coastline or its architectural heritage.
Mountain Landscape	Given the significant distance from the mountain foothill landscape, I do not consider that there would be any unacceptable effects.
Specific Requirements	I have identified some areas where information is lacking, e.g. in relation to daylight/sunlight; traffic capacity; and flooding. However, in light of the other fundamental and over-riding concerns that I have raised, I consider that the application contains sufficient information for the purposes of the Board's decision.
Microclimatic Impacts	In addition to the sunlight/daylight assessment (section 11.6 of this report), a Microclimatic Wind Analysis has been completed. As outlined in sections 11.4 and 11.5, I have concerns about accelerated wind conditions in ground level public spaces within the development and at the Bypass bus stop/interchange.
Bird and Bat Flight Lines	Chapter 5 of the EIAR addresses this matter and includes a 'Winter Bird and Flightlines Survey' (Appendix 5A). It concludes that no issues arise in relation to any ecological receptors via the disruption of flight lines for birds or disruption to commuting or foraging bats.
Telecommunication Channels	The application includes a Telecommunications Report which concludes that the application allows for the retention of important Telecommunications Channels such as radio frequency and microwave links. The application did not identify any such links that would require specific allowances/mitigation. Nonetheless, a dedicated allocation of space is proposed at the top of Block 1A, if required. I note that third-party concerns have been raised about impacts on digital terrestrial television signals broadcast from Three Mountain Rock by 2RN. However, given the applicant's provisions for mitigation and my other fundamental and over-riding concerns about the proposed development, I do not consider that further assessment is required at this stage.
Safe air navigation	The application outlines that the proposed development does not impact on the standardised approaches\departures to Dublin airport, Casement aerodrome or Westin Airport, and does not impact on any of the Dublin hospitals where a helipad is used. I note that the Irish

	Aviation Authority submission outlines that there would be no objections subject to provision of obstacle warning lighting.
Environmental Assessments	As addressed in sections 12 and 13 of this report, the application includes an AA Screening Report, a Natura Impact Statement, and an Environmental Impact Assessment Report.
<b>Additional criteria for larger redevelopment sites with taller buildings</b>	
Place Making	For the reasons previously outlined in this report, I do not consider that the proposed development would make a positive contribution to place making.
BRE standards for daylight and sunlight	As outlined in section 11.6 of this report, the development would not meet all of the recommended daylight and sunlight standards, and information is lacking in relation to some matters.

11.9.31. Having regard to the above table, I do not consider that the proposed development satisfactorily meets the performance-based criteria for increased height in accordance with the CDP BHS policy. Following on from this regarding other related CDP policies/objectives, I would conclude as follows:

**SLO9** – The development does not take appropriate cognisance of the character and streetscape of the Old Main Street. The proposed extent of demolition within the ACA does not adequately maintain existing buildings and/or facades. Building Heights alongside Main Street are not sensitive to the original streetscape and are not in keeping with its character, scale and Architectural Conservation Area status.

**PHP18** – While higher residential densities are encouraged, the proposal would not provide for high quality design or protect existing residential amenities and the established character of the surrounding area.

**PHP20** – The residential amenity of existing homes would not be protected.

**PHP42** – The proposal would not provide high quality design in compliance with the BHS for the County.

**MFC3** – The proposal would not create a high-quality public realm and sense of place and would not enhance the unique character of Main Street.



**HER8** – The excessive height and scale of the proposed development would detract from the setting of adjoining Protected Structures (Holy Cross Church, Parochial House, and gates/railings).

**HER13** - The excessive height, scale and inappropriate design of the proposed development would detract from the setting of the adjoining ACA.

**HER14** – The demolition of the Former Post Office, No. 4 Glenville Terrace, & 13/13A Main Street would materially contravene this Policy Objective which prohibits the demolition of a structure(s) that positively contributes to the character of an ACA.

### Conclusion

11.9.32. This section of my report has considered the design and layout of the proposed development, particularly with regard to building height and density and the impact of the development on the built heritage and character of the area. Having reviewed local and national policy, I consider that the proposed development would fail to satisfactorily address the relevant standards and criteria outlined therein, would constitute an excessive height and density of development in an inappropriate design and layout, and would be seriously injurious to the character and built heritage of the area. A refusal of permission is warranted on this basis.

11.9.33. Related to the question of design and building height, I note that some third-party submissions have raised concerns in relation to universal accessibility, building standards, and fire safety. However, I am satisfied that these matters will be addressed through compliance with the Building Regulations as part of a separate legal code. Therefore, these matters need not concern the Board for purposes of this application and decision.

### 11.10. **New Policy Issues**

11.10.1. I am conscious that the Board may wish to consider the implications of changes to planning policy since the making of the application. This section considers the new policies that I have identified as being material to the assessment of this application.

### Dundrum Local Area Plan 2023

11.10.2. As is required by legislation, the LAP is consistent with the CDP. It includes a wide range of policies / objectives which outline a more detailed framework for the development of the site and surrounding area. The policies / objectives that are material to my assessment are discussed in the following table.

**Table 7 – Implications of relevant Policies / Objectives in the Dundrum LAP 2023**

<b>Issue No.</b>	<b>Policy / Objective</b>	<b>Issues</b>	<b>Comment</b>
1	OSC2 OSC4 OSC16	Walking Cycling Accessibility Permeability Climate	The CDP includes a wide range of policies which support such improvements and 'Quality of linkage and walking and cycling permeability' is one of the Design Criteria for the assessment of all applications (s. 12.3.1.1). The issue is also fundamental to the assessment of compliance with national Guidelines such as DMURS and the Compact Settlement Guidelines (s. 4.4 (i)).
2	OSC5	Bus stop location	The CDP (T7) seeks to facilitate the provision of quality public transport interchanges and liaison with the NTA as a Prescribed Body is a fundamental aspect of the assessment of such applications.
3	OSC7 OSC16	Public Spaces, Climate	The requirements for specified location/size of spaces (e.g. a local public park (2000m <sup>2</sup> ) along Main Street) are new provisions. However, the overriding requirement for public open space of sufficient quantity and quality is already outlined in the CDP (s. 12.8.3 & 12.8.5) and Compact Settlement Guidelines (Policy & Objective 5.1 and s. 4.4 (iv)).
4	OSC8 OSC9 OSC10	Street Character	The requirements to protect/create street character are generally consistent with CDP requirements under PHP18, PHP42, MFC3, HER 8, HER13, HER14, & SLO9, as well as national guidance under the Architectural Heritage Protection Guidelines, the Building Height Guidelines (SPPR3) and Compact Settlement Guidelines (s. 4.4 (v)).
5	OSC11	Street Character & Built Form	The requirement to generally accord with the indicative block layout and ground floor and land uses shown on figure 2.9 'Built Form Strategy' is a

			new requirement. However, the over-riding requirements for an appropriate layout and built form is already outlined in the CDP and national Guidelines, as per my comments regarding Issues 1, 3, and 4 above. Furthermore, the requirement for an appropriate mix of uses is already outlined in the CDP (CS7, PHP3, MFC1, RET5, & SLO8) and Compact Settlement Guidelines (s. 4.4 (ii)).
6	OSC12	Heritage and Building Character	The requirements are generally consistent with CDP requirements under HER8, HER13, HER14, & SLO 9, as well as the Architectural Heritage Protection Guidelines, the Building Height Guidelines (SPPR3) and Compact Settlement Guidelines (s. 4.4 (v)).
7	OSC13 H1	Plot Ratio	The specification of a general plot ratio of 1:2.25 is a new provision. However, the over-riding requirements for appropriate building height and density is already outlined in the CDP (PHP18, PHP20, PHP42, and the Building Height Strategy) and national Guidelines in the form of the Building Height Guidelines (SPPR3) and the Compact Settlement Guidelines (Policy & Objective 3.1).
8	OSC14	Height, heritage, residential amenity	The requirements are generally consistent with those already outlined in the CDP and national Guidelines. Refer to my comments in relation to Issues 4-7 above.
9	OSC15 H2	Mix of Uses	Refer to my comments in relation to Issue 5 above. Furthermore, the requirement for a range of suitably designed residential units is generally consistent with the CDP (PHP27 & SLO123).
10	OSC18	Flood Risk	The requirements are consistent with s. 6.2.1 of the SFRA contained in the County Development Plan.
11	DLAP17	Density	The requirements are consistent with the provisions of the CDP (PHP18, PHP20) and the Compact Settlement Guidelines (Policy & Objective 3.1).
12	DLAP18	Building Height	The policy is qualified by the CDP Building Height Strategy (BHS1 and BHS2) and other CDP policies / objectives such as PHP42.

13	MTC1 - 2 MTC4 - 6	Mix of Uses	Refer to my comments in relation to Issues 5 and 9 above.
14	P2	Play Facilities	The requirement for play facilities is consistent with the CDP (s. 12.8.9) and the national Guidelines on Design Standards for New Apartments.

11.10.3. In conclusion, I acknowledge that the LAP includes new provisions which have had implications for my assessment of this application. I consider that some of these provisions would be materially contravened by the proposed development, as will be discussed in the following section (11.11). However, notwithstanding the policies and objectives therein, the LAP would not impact on the basis for my recommendation as the substantive concerns regarding the nature, scale, and design of the scheme would already be covered by the provisions of the County Development Plan and national Guidelines, and by my fundamental assessment of the quality/design of the scheme.

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities

11.10.4. Since the making of the application, these Guidelines (2024) have replaced the former Sustainable Residential Density Guidelines (2009). The material provisions of the new Guidelines raised in my assessment are discussed in the table below.

**Table 8 – Implications of the Compact Settlement Guidelines**

<b>Provision</b>	<b>Issues</b>	<b>Comment</b>
Policy & Objective 3.1	Density	While I have acknowledged that the proposed development exceeds the recommended density ranges in the Guidelines (s. 3.3), my conclusion was ultimately based on the qualitative criteria outlined in section 3.4.2 of the Guidelines, particularly impacts on local character, the historic environment, and residential amenity. These criteria are already comprehensively covered in the CDP (PHP18, PHP20, PHP42, HER8, HER 13, HER14, & SLO9) and in the Building Height Guidelines.

Policy & Objective 4.1	DMURS	It was already a requirement to have regard to the principles, approaches and standards set out in DMURS prior to the introduction of the Guidelines.
Policy & Objective 4.2	Quality urban design and placemaking	The 'Key Indicators' in s. 4.4 set out guidance in relation to 'Sustainable and Efficient Movement', 'Mix and Distribution of Uses', 'Green & Blue Infrastructure', 'Public Open Space', and 'Built Form'. These are fundamental issues which are comprehensively covered in CDP policy and national Guidelines. Refer to my comments in Table 7 above.
SPPR 1	Separation Distances	The general standard of 16m is less onerous than the 22m standard in the CDP. Accordingly, the application is not adversely affected by SPPR 1.
Policy & Objective 5.1	Public Open Space	The range required (10-15%) is less than the minimum CDP requirement (15%). Accordingly, the application is not adversely affected by Policy & Objective 5.1.
SPPR 3	Car Parking	The maximum rate (1 space per dwelling) and the potential for reduced rates are consistent with the CDP.
SPPR 4	Cycle Parking	Although the standards are higher than CDP standards, I am satisfied that the requirements of SPPR 4(i) have been complied with.
Section 5.3.7	Daylight	As outlined in section 11.6 of my report, I am satisfied that the daylight standards used in the application are acceptable as they are 'like' those referenced in the Guidelines.

11.10.5. In conclusion, I acknowledge that my assessment has considered new provisions contained within the Compact Settlement Guidelines, some of which have provided more flexibility compared to pre-existing standards. However, notwithstanding any SPPRs or policies and objectives therein, the Guidelines would not impact on the basis for my recommendation as the substantive concerns regarding the nature, scale, and design of the scheme would already be covered by the provisions of the County Development Plan and other national Guidelines, and by my fundamental assessment of the quality/design of the scheme.

Sustainable Urban Housing: Design Standards for New Apartments (2023)

11.10.6. The application was lodged at a time when the 2020 version of the Apartments Guidelines applied. The main changes in the 2023 version relate to 'Build To Rent' and 'Co-Living' developments, which are not relevant to the current application. As outlined in section 11.6 of my report, I am satisfied that the daylight standards used in the application are acceptable as they are 'like' those referenced in the updated 2023 Guidelines. Accordingly, I am satisfied that there are no significant changes that would affect my recommendation on the proposed development.

#### North-west Irish Sea Special Protection Area

11.10.7. Since the making of the application on 5<sup>th</sup> of April 2022, the North-West Irish Sea Special Protection Area (SPA) was designated under the EU Birds Directive. It covers more than 230,000 hectares of important marine waters for a range of bird species throughout the year and increases the percentage of Ireland's marine waters which are protected under the EU Birds and Habitats Directives to over 9%. The site extends offshore along the coasts of counties Louth, Meath and Dublin, and is of special conservation interest for the following species: Common Scoter; Red-throated Diver; Great Northern Diver; Fulmar; Manx Shearwater; Shag; Cormorant; Little Gull; Kittiwake; Black-headed Gull; Common Gull; Lesser Black-backed Gull, Herring Gull, Great Black-backed Gull, Little Tern, Roseate Tern, Common Tern, Arctic Tern, Puffin, Razorbill and Guillemot.

11.10.8. The SPA site adjoins several existing SPAs already designated for the protection of birds along the coast. These are: Lambay Island SPA, Skerries Island SPA, Ireland's Eye SPA, Howth Head SPA, Rockabill SPA, South Dublin Bay and River Tolka Estuary SPA, Boyne Estuary SPA, River Nanny Estuary and Shore SPA, Rogerstown Estuary SPA, Malahide Estuary SPA, and Baldoyle Bay SPA and North Bull Island SPA.

11.10.9. I refer the Board to section 12 and Appendices 2 and 3 of this report. I do not consider that the introduction of the North-west Irish Sea SPA since the submission of the SHD application has any impact on the ultimate determinations reached in Appropriate Assessment Screening or Appropriate Assessment. In my opinion, those determinations would not be changed by the North-west Irish Sea SPA designation.

#### Conclusion

11.10.10. I have acknowledged that new policy has been introduced since the making of the application and I am conscious of the need for justice and fairness for all parties in

the assessment of the application. However, I do not consider that any new issues have been raised that would not otherwise be raised by the County Development Plan, national Guidelines, Appropriate Assessment requirements, or in the fundamental assessment of the quality/design of the scheme. Furthermore, my assessment raises fundamental concerns about the nature, scale, and design of the development which could only be addressed by a comprehensive redesign of the scheme. Accordingly, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

#### 11.11. **Material Contravention**

##### Legislative Provisions

11.11.1. Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 outlines that the Board may grant permission for an SHD even where the proposed development materially contravenes the Development Plan or LAP concerned, except in relation to the zoning of land. In any such case, the Board must be satisfied that the provisions of section 37(2)(b) of the Act of 2000 would apply, which are as follows:

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

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

*or*

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

*or*

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

11.11.2. The application includes a 'Material Contravention Statement' (MCS) as outlined in section 6.6 of this report. The statement has been referenced in the public notices for the application in accordance with the requirements of the Act of 2016 and the Regulations of 2017. It outlines that a material contravention would be involved only in respect of 'Unit Mix'. As outlined in section 4 of this report, I concur that there would be a material contravention of the CDP in respect of PHP27 and section 12.3.3.1 (Table 12.1). Therefore, the provisions of section 37(2)(b) of the Act of 2000 are discussed in the following paragraphs.

S. 37(2)(b)(i)

11.11.3. In this regard, I firstly note the classification of the proposed development as 'strategic housing development' as per the definition in section 3 of the Act of 2016, as well as its significant scale comprising 881 residential units and 4,458 m<sup>2</sup> of non-residential gross floor space including a replacement food store, a crèche and complementary commercial space along Main Street, a creche, and an office block.

11.11.4. At national level, the NPF supports the future growth and success of Dublin as Ireland's leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. NPO 3 (b) aims to deliver at least 50% of all new homes targeted for Dublin within the existing built-up footprint.

11.11.5. At regional level, the Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The proposed development would be along the 'Metrolink – Luas Corridor' which involves upgrades to the Luas Green Line and will support development in the south of the county. RPO 4.3 supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within Dublin City and suburbs, while RPOs 6.12-6.14 outline support for town centre renewal and placemaking.

11.11.6. At county level, the CDP designates Dundrum as a 'Major Centre' in accordance with the Core Strategy. Major Town Centres are also considered 'Strategic Employment Locations' with potential for the development of key strategic urban regeneration sites for employee-intensive development on strategic transport corridors, aligning



employment growth with both existing and new residential communities. Section 2.6.2.1(ii) of the CDP also identifies the site as a 'Strategic Regeneration Site'.

11.11.7. Having regard to the foregoing, I consider that the strategic importance of Dublin, Dundrum, and the application site is reflected at national, regional, and local policy level. Together with the nature and scale of the development; the current national housing shortage; and national policy to substantially increase national housing output as set out in 'Housing For All' and the NPF; I consider that the proposed development would be of strategic and national importance in accordance with section 37(2)(b)(i) of the Act of 2000. However, I am not relying on this provision for the purposes of justifying a material contravention.

S. 37(2)(b)(ii)

11.11.8. The applicant's MCS has not identified any conflicting or unclear objectives in the development plan, and I am not aware of any such instances.

S. 37(2)(b)(iii)

11.11.9. The applicant's MCS outlines that the proposed development is consistent with key aims and guiding principles of the Dublin MASP as set out in the RSES. However, it does not refer to any relevant provisions relating to 'Unit Mix', and I am not aware of any such provisions.

11.11.10. The MCS also refers to a range of provisions in the Building Height Guidelines, the Apartments Guidelines, and the Flood Risk Guidelines. While the vast majority of these provisions are not relevant to 'Unit Mix', the MCS does address the issue in respect of SPPR1 of the Apartments Guidelines. However, I have addressed this matter in section 11.4 of this report. I am satisfied that the provisions of the CDP have been specified further to an evidence-based HNDA and that, therefore, the CDP approach is supported by SPPR 1.

S. 37(2)(b)(iv)

11.11.11. The applicant's MCS has not identified any basis for granting permission relating to the pattern of development or permissions granted. Similarly, I am not aware of any such instances.

Other Material Contravention Issues

11.11.12. While the applicant's MCS has only identified one material contravention of the Development Plan (i.e. 'Unit Mix'), I consider that there are others as follows:

- **Policy Objective HER14** is *'to prohibit the demolition of a structure(s) that positively contributes to the character of the ACA'*. As outlined in section 11.9 of this report, I consider that the proposed demolition of the Former Post Office, No. 4 Glenville Terrace, & 13/13A Main Street would materially contravene this Policy Objective.
- **Section 12.8.5.4** states that *'For larger apartment schemes in excess of 50 units no more than 30% of the communal open space shall be provided by way of a roof garden'*. As outlined in section 11.4 of this report, I consider that the proposal to provide 35% of the communal open space in the form of roof gardens would materially contravene this element of the CDP.

11.11.13. It is my understanding that the application has an obligation to describe and address these matters of material contravention in the application. The application does not comply with this obligation, and this raises issues relating proper procedure and public participation. However, in light of the fundamental concerns this assessment has raised regarding the nature, scale, and design of the development, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

11.11.14. In addition to the CDP, I consider that the proposed development would materially contravene the Dundrum LAP in respect of the following:

- **OSC7** – This includes a requirement to *'Provide a new community focused local public park at grade on Main Street at the location shown on drawing 2.8 with a minimum size of 2000 sq metres'*. As outlined in section 11.4 of this report, I consider that the absence of such a facility would materially contravene this objective.
- **OSC12** – This includes a requirement to *'Retain and refurbish the former Post office (also known as former Joe Daly Cycles) which is the building which directly abuts the shopping centre on the Mains Street, nos 1-3 and no 4 Glenville Terrace and 13 - 13a Main Street'*. While it is proposed to retain 1-3 Glenville Terrace, section 11.9 of this report outlines that the proposed demolition of the other structures would materially contravene this objective.

- **OSC13** – This states that ‘*An overall general plot ratio of 1:2.25 shall be achieved*’. As outlined in section 11.9 of this report, the proposed plot ratio (net) is stated to be 1:2.9, which would materially contravene this objective.
- **H1** – ‘*It is an Objective that any proposals for significant redevelopment on the OSCs and the former CMH site generally accord with the Plot Ratio parameters set out in the individual site frameworks in Chapter 2*’. This is effectively another reference to OSC13 and would again represent a material contravention.
- **OSC14** – This outlines a range of requirements relating to building height. As outlined in section 11.9 of this report, I consider that the proposed development would materially contravene this objective.

11.11.15. I am conscious that these LAP objectives were introduced after the application was made. However, as outlined in section 11.10 of this report, I consider that the issues would be raised in any event through an assessment of compliance with the County Development Plan and national Guidelines, or in the fundamental assessment of the quality/design of the scheme. Furthermore, in light of the fundamental concerns this assessment has raised regarding the nature, scale, and design of the development, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

#### Conclusions on Material Contravention

11.11.16. Having regard to the foregoing, I consider that the application would materially contravene the ‘Unit Mix’ provisions as outlined in PHP27 and section 12.3.3.1 (Table 12.1) of the CDP. This is the only material contravention of the CDP 2022-2028 identified and addressed in the application. In the event that the Board is considering a grant of permission, I consider that the application would comply only with sub-section (i) of section 37(2)(b) of the Act of 2000, i.e., that the proposed development is of strategic or national importance.

11.11.17. I have also identified several other CDP and LAP provisions which would be materially contravened by the proposed development. I understand that this raises issues in relation to the procedural requirements and public participation. However, having regard to the significant scope and overlapping nature of policy outlined in the

County Development Plan and national Guidelines, together with the fundamental concerns this assessment has raised regarding the nature, scale, and design of the development, which would require a comprehensive redesign of the proposed development, I do not consider that an Oral Hearing would be warranted under s.18(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).

## 11.12. The Local Authority Recommendation

11.12.1. Section 8.4 of this report outlines the Planning Authority's recommendation that the proposed development should be refused. I have considered the issues raised and the recommended reasons for refusal in the foregoing assessment, and I would generally concur with the planning authority concerns. However, I would address some of the reasons for refusal as follows:

**4(a)** – As outlined in section 11.3 of this report, I consider that an alternative location for a Community, Cultural and Civic Centre facility is supported by the LAP and that, accordingly, refusal would not be warranted on the basis of SLO114. The requirement for a 'civic square/plaza area' is otherwise addressed in the context of public open space.

**5(d)** – As outlined in section 11.4 of this report, I consider that 54.8% of the proposed units would be dual aspect, which would exceed the requirements of the CDP and the Apartments Guidelines.

## 12.0 Appropriate Assessment

### 12.1. Introduction

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

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.

- Appropriate assessment of implications of the proposed development on the integrity of each European site.

## 12.2. **Compliance with Article 6(3) of the EU Habitats Directive**

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 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).

## 12.3. **Screening the need for Appropriate Assessment**

An AA Screening exercise has been completed (see Appendix 2 of this report for further details). In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, it has been determined that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of North Dublin Bay SAC; South Dublin Bay SAC; South Dublin Bay and River Tolka Estuary SPA; North Bull Island SPA; and North-west Irish Sea SPA cannot be excluded.

I note that the applicant's AA Screening exercise was prepared in advance of the designation of the North-west Irish Sea SPA. However, I consider that its nature and location is similar to the other sites mentioned above, and that the likelihood of significant effects can similarly not be excluded.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.

This determination is based on:

- Objective information presented in the applicant's reports;

- The zone of influence of potential impacts having regard to hydrological pathways to Natura 2000 Sites;
- The potential for construction-related impacts on surface water and groundwater quality;
- The potential for operational stage impacts associated with surface water disposal;
- The flood risk associated with the site and the proposed development;
- The application of the precautionary approach; and
- The nature and extent of predicted impacts, which could affect the conservation objectives of European Sites.

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment on the basis of the significant separation distances and lack of connectivity to the application site:

- Rockabill to Dalkey Island SAC
- Howth Head SAC
- Howth Head Coast SPA
- Dalkey Island SPA
- Wicklow Mountains SPA
- Wicklow Mountains SAC
- Glemasmole Valley SAC
- Knocksink Wood SAC
- Ballyman Glen SAC.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

#### 12.4. **The Natura Impact Statement (NIS)**

As outlined in Appendix 3 of this report, a Natura Impact Statement (NIS) has been submitted with the application. It considers the potential effects of the project on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA.

I acknowledge that the NIS was prepared in advance of the designation of the North-west Irish Sea SPA. However, I consider that its nature and location is similar to the other sites included in the NIS and that similar assessment criteria would apply.

The NIS concludes that no significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives, and that the proposed project will not will adversely affect the integrity of European Sites.

#### 12.5. **Stage 2 Appropriate Assessment of implications of the proposed development**

Appendix 3 of this report outlines the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. The European Sites considered are:

- North Dublin Bay SAC
- South Dublin Bay SAC
- South Dublin Bay and River Tolka Estuary SPA
- North Bull Island SPA, and
- North-west Irish Sea SPA.

Following an Appropriate Assessment, it has been ascertained beyond reasonable scientific doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA, or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation

Objectives of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

- Detailed assessment of cumulative and in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

## 13.0 Environmental Impact Assessment

### 13.1. Statutory Provisions

13.1.1. The proposed development mainly involves the construction of 881 no. apartments and 4,458 m<sup>2</sup> of non-residential gross floor space including a replacement food store, a crèche and complementary commercial space along Main Street. The site has a stated overall gross area of 3.5 hectares.

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

*i) Construction of more than 500 dwelling units*

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

13.1.3. The proposal for 881 no. residential would exceed the 500-unit threshold and would, therefore, be a project as described at 10(b)(i) above. I also consider that the site is located within a 'business district', would exceed the 2-hectare threshold, and would, therefore, also be a project as described at 10(b)(iv) above. Accordingly, EIA is required, and an Environmental Impact Assessment Report (EIAR) has been submitted with the application.



## 13.2. EIA Structure

13.2.1. This section of the report comprises the EIA of the proposed development in accordance with the Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on EIA (Directive 2011/92/EU as amended by 2014/52/EU). It firstly assesses compliance with the requirements of Article 94 and Schedule 6 of the Planning and Development Regulations, 2001. It then provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on defined environmental parameters, having regard to the EIAR and relevant supplementary information. The assessment also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

## 13.3. Issues raised in respect of EIA

13.3.1. Any issues raised in third-party submissions, planning authority reports, and prescribed body submissions are considered later in this report under each relevant environmental parameter.

## 13.4. Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001

13.4.1. The following table outlines my assessment of compliance with the requirements of Article 94 and Schedule 6 of the Regulations.

**Table 9 - Requirements of Article 94 and Schedule 6 of the Regulations**

<b>Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1)</b>	
<b>Requirement</b>	<b>Assessment</b>
A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional information referred to under section 94(b)).	Chapter 3 of the EIAR describes the development, including a detailed description of the existing site and surrounding context; the characteristics of the project; and an outline of the construction phase including methodology and materials etc. The description is adequate to enable a decision on EIA.

<p>A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b)).</p>	<p>Chapters 4-14 of the EIAR describe the likely significant direct, indirect, and cumulative effects on the environment, including the factors to be considered under Article 3 of Directive 2014/52/EU. I am generally satisfied that the assessment of significant effects relating to the proposed development itself is comprehensive and robust and enables decision making.</p> <p>However, while section 3.10 of the EIAR briefly refers to ‘other projects’ for the purposes of considering cumulative effects, I do not consider that the specific features of these projects that may act in combination and/or cumulation with the proposed development have been adequately identified or assessed in Chapters 4-14 of the EIAR.</p>
<p>A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b)).</p>	<p>Each of the individual sections in the EIAR outlines the proposed mitigation and monitoring measures. They include ‘designed in’ measures and measures to address potential adverse effects at construction and operational stages, including a Construction and Environmental Management Plan, Construction Traffic Management Plan, an Operational Waste Management Plan, and Construction and Demolition Waste Management Plan. The mitigation measures include standard good practices as well as site-specific measures and in most cases are capable of offsetting any significant adverse effects identified in the EIAR.</p>
<p>A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option</p>	<p>Section 3.11 of the EIAR outlines the alternatives examined. Alternative locations are not considered given that the development of this site for the uses proposed is supported in relevant planning policy. Given the residential nature of the project, alternative processes were limited to construction methods. Alternative layouts/designs were</p>

<p>chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b).</p>	<p>considered, mainly with regard to basement construction, height strategy, access and linkages, daylight/sunlight analysis, and communal amenity space. The environmental effects of the main alternative scenarios have been dismissed in favour of the proposed development. I am satisfied, therefore, that the applicant has studied reasonable alternatives and has outlined the main reasons for opting for the current proposal before the Board and in doing so the applicant has taken into account the potential impacts on the environment.</p>
<p>Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2).</p>	
<p>A description of the baseline environment and likely evolution in the absence of the development.</p>	<p>Each of the EIAR sections includes a detailed description of the receiving environment, which enables a comparison with the predicted impacts of the proposed development.</p>
<p>A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved.</p>	<p>Each section of the EIAR outlines the Assessment Methodology employed, including consultations carried out, desk/field studies carried out, and any difficulties encountered. I am satisfied that the forecasting methods are generally adequate, as will be discussed throughout this assessment. However, as outlined in sections 11.7 and 11.8 of this report, I have concerns about the adequacy of modelling used in relation to traffic and flooding.</p>
<p>A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major</p>	<p>Section 1.5 of the EIAR acknowledges the need to consider the risk of major accidents and/or disasters, and outlines that relevant risks (construction accidents, fire/road traffic risk, and flood risk) are identified and mitigated throughout the EIAR. Having regard to the nature, scale, and location of the project, I consider the approach to be</p>

accidents and/or disasters which are relevant to it.	reasonable. As outlined in section 11.8 of this report, I have outstanding concerns in relation to flood risk assessment.
Article 94 (c) A summary of the information in non-technical language.	The EIAR includes a Non-Technical Summary. I have read this part of the EIAR, and I am satisfied that it is concise and comprehensive and is written in a language that is easily understood by a lay member of the public.
Article 94 (d) Sources used for the description and the assessments used in the report.	The sources used to inform the description, and the assessment of the potential environmental impact are set out in each section, including references. I consider the sources relied upon are appropriate and sufficient.
Article 94 (e) A list of the experts who contributed to the preparation of the report.	Section 1.8 of the EIAR outlines the Project Team / Contributors and each chapter outlines the qualifications, experience, and expertise of the contributors.

### Consultations

13.4.2. The EIAR outlines details of consultations carried out as part of its preparation. The application has been submitted in accordance with legislative requirements in respect of public notices. Submissions received from statutory bodies and third parties are considered in this report, in advance of decision making. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

13.4.3. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the developer is sufficient to comply with article 94 of the Planning and Development Regulations, 2001. However, I have concerns about the adequacy of the information submitted in respect of the assessment of cumulative effects, traffic, and flood risk. These matters are considered in my assessment of likely significant effects, below.

### 13.5. **Assessment of the likely significant direct and indirect effects**

13.5.1. This section of the report sets out an assessment of the likely environmental effects of the proposed development under the environmental factors as set out in Section 171A of the Planning and Development Act 2000. It includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these effects.

## 13.6. Population and Human Health

### 13.6.1. Issues Raised

The third-party submissions and planning authority reports raise concerns about inadequate assessment and impacts relating to:

- Increased pressure on existing services and facilities
- Inadequate residential standards for existing and future residents
- Negative impacts relating to construction activity
- Flood Risk
- Air pollution associated with increased traffic emissions & construction
- Fire Safety.

### 13.6.2. Examination, analysis and evaluation of the EIAR

Chapter 4 of the EIAR deals with Population and Human Health and outlines a detailed description of the existing environment and context, including population, demographics, human health, and land use receptors.

#### Construction Effects & Mitigation / Monitoring

Section 4.5 outlines the main likely significant effects, which can be summarised as:

Land Use – cessation of existing commercial uses on site; negative impacts associated with the phased removal of parking; disruption to existing buildings and services; and alterations to access arrangements through/around the site.

Population and Demographics – Impacts will be neutral, imperceptible and short – medium term.

Economy – The direct employment of c.200-300 workers will be a significant positive short – medium term impact and will have further indirect multiplier effects for the wider local economy.

Human Health - Potential effects are acknowledged relating to quality of life, including air quality, climate, noise, water and hydrology, resource and waste management, potential disruption of services and the risk of major accidents/disasters. The assessment of these effects is dealt with elsewhere in the EIAR (Refer to Chapters 7-11), and it is acknowledged that cumulative negative impacts will be significant but short term.

Cumulative impacts – The EIAR states that other projects listed in section 3.10 of the EIAR have been considered.

Construction mitigation measures are proposed in the form of a Construction and Environmental Management Plan (CEMP); appointment of a Liaison Officer; and controlled working hours. Monitoring measures are also identified in Chapters 8 (Air and Climate), 9 (Noise and Vibration), and 11 (Transportation).

#### Operational Effects & Mitigation / Monitoring

Section 4.6 outlines the main likely significant effects, which can be summarised as:

Land Use: Delivery of a new residential community with supporting land uses may act as a catalyst for further development / investment in the area. The effect will be moderate, permanent, and positive.

Population: The residential population (c.2,200) will be a long term significant positive effect which will support a wide range of additional local businesses, services, transport infrastructure and employment opportunities.

Economy: Slight to moderate positive impacts on the local economy through employment and increased spending power.

Amenity & Human Health: The impact on the living environment for future residents will be neutral/positive. The main impacts on human health, associated with air quality, noise, traffic and transportation and landscape, are considered elsewhere in the EIAR (including mitigation/monitoring measures), and the cumulative negative impacts are considered to be slight to moderate long term.

#### Other Effects

Residual - Following the implementation of mitigation measures, no significant negative effects are identified.

'Do-nothing' - The site would remain in an underutilised state and an opportunity would be missed to consolidate and rejuvenate this town centre location.

'Worst Case' – The development would commence but not be completed.

Interactions – Interaction with Air Quality & Climate, Noise & Vibration, Transportation, and Landscape are considered in the relevant chapters.

### 13.6.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have acknowledged the identified impacts and the associated mitigation measures, as well as the potential for interactive impacts with other factors discussed in the EIAR, which will be addressed in later sections of this report. I have already considered a range of impacts on population and human health in section 11 of this report, which can be summarised as follows:

- Section 11.3 outlines concerns about an inadequate mix of supporting uses commensurate with the significant local population increase.
- Section 11.4 outlines concerns about a substandard level of residential amenity for the prospective future development population.
- Sections 11.5 & 11.6 consider that construction stage impacts would be acceptable subject to mitigation measures, but that the operational development would result in unacceptable overbearing, overshadowing, and overlooking impacts for existing properties.
- Section 11.7 outlines concerns about inadequate modelling of traffic.
- Section 11.8 outlines concerns about inadequate modelling of flood risk.
- Section 11.9 concludes that fire safety concerns will be addressed through compliance with the Building Regulations as part of a separate legal code.

Consistent with the applicant's assessment, I would also accept that the construction stage would result in significant positive short-term employment impacts, and that the redevelopment of the site would provide a significant quantum of additional housing. These impacts would also have indirect spending benefits for the local economy.

### 13.6.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Population and Human Health are as follows:

- Construction-related disturbance including noise/vibration, dust, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan.
- Operational pressures on local services and facilities as a result of a significant increase in population without commensurate supporting uses.
- Negative operational impacts on the existing and future residential population as a result of a substandard form of development and associated overbearing, overshadowing, and overlooking impacts.
- Positive socioeconomic effects at construction stage through increased employment and at operational stage through the availability of additional housing, together with increased spending in the local economy at both stages.

## 13.7. Biodiversity

### 13.7.1. Issues Raised

The third-party submissions have raised concerns about inadequate assessment of biodiversity impacts including:

- Loss of green space and biodiversity
- Construction stage impacts on wildlife
- The risk to bird/bat flight lines and collision.

A submission from the Department of Housing, Local Government and Heritage raises concerns about the potential for pollution within the hydrological pathway from the site to the Slang Stream, the River Dodder, the River Liffey, and Dublin Bay, and construction management mitigation measures are recommended. It also outlines that no survey of nesting birds has been carried out and the appropriate timing of works and surveys are recommended as mitigation. The agreement of a bat-friendly lighting scheme is also recommended.

A submission from Inland Fisheries Ireland highlights the importance of the Slang Stream and the River Dodder for salmon and trout populations and the need to protect water quality in considering surface water and foul water discharges.

### 13.7.2. Examination, analysis and evaluation of the EIAR



Chapter 5 of the EIAR deals with Biodiversity. It highlights that impacts on Natura 2000 Sites are addressed in the separate Appropriate Assessment Screening Report & Natura Impact Statement, which I have already discussed in Section 12 of this report. A pre-survey biodiversity search was carried out using data from the NPWS, NBDC, and EPA, in addition to mapping and aerial imagery. The potential Zone of Influence (ZOI) of the development was established having regard to hydrological pathways extending as far as Dublin Bay. Field surveys were also carried out as follows:

- Terrestrial Ecology - 17<sup>th</sup> September 2021
- Bat Fauna Survey – 15<sup>th</sup> & 17<sup>th</sup> September 2021
- Badger / Mammal Survey - 14<sup>th</sup> November 2021
- Bird Flight Lines Assessment – 12<sup>th</sup> & 19<sup>th</sup> January 2022.

The EIAR acknowledges Natura 2000 sites, National designated sites, and Ramsar sites within 15km and outside 15km with potential for a pathway. No species of conservation importance were noted on site based on NPWS and NBDC records. The site habitats consist primarily of (>90%) Built Land (BL3). An inspection of the buildings was carried out and no bat roosts or bat emergence was observed. No plant species that are rare or are of conservation value were noted, and no invasive species were noted. No terrestrial fauna of conservation importance was noted, although frogs are likely to occur proximate to the Slang River. The bird survey noted several herring gull and the Winter Bird and Flightlines Survey revealed that '*no significant target species such as Brent Geese would appear at least to pass over this site or nearby with any regularity.*' Overall, the site is evaluated as being of low biodiversity importance, but the sensitivity of the Slang River is noted as a vector for pollutants downstream and potentially to Natura 2000 sites.

### Construction Impacts

The EIAR identifies the following potential Impacts:

Designated Conservation Sites - Runoff during site works, re-profiling, dust, and localised contamination may impact on water quality due to the pathway via the Slang River.

Aquatic Ecology / Invasive Species - Due to the salmonid nature of the River Dodder and the presence of Atlantic salmon and European eel and the direct pathway via

the Slang River, negative impacts on aquatic biodiversity from surface water runoff pollution and dust are possible.

Habitats, Botany and Avian Ecology – The removal of vegetation will result in a loss of habitats and species, particularly if it occurs during nesting season. Dust and noise may also extend beyond the site and impact on bird species.

Bats – Construction lighting may impact on foraging.

Amphibians and reptiles - Frogs and newts may occur in the vicinity of the Slang River and could potentially be impacted through contaminated surface water runoff.

Construction mitigation measures are proposed to include: appointment of an ecological consultant; preconstruction surveys for bats, mammals, amphibians, and herring gull; and vegetation removal will be restricted to non-breeding season. A wide range of measures are also included in chapters 6-8 to protect aquatic biodiversity and designated sites located downstream of the site as a result of waste, water, and other construction emissions. The project will comply with Water Pollution legislation to ensure that there are no contaminated discharges from the site. A robust surface water runoff prevention strategy is proposed to protect the Slang River. Monitoring will be carried out in relation to dust, land and soils, water, air, and biodiversity.

### Operational Impacts

The EIAR identifies the following potential Impacts:

Designated Conservation Sites - Foul water will discharge to existing mains services. Runoff will comply with the Water Pollution Acts and SuDS requirements and will be attenuated and discharged at greenfield rates to the public surface water network. The development will not impact on bird flightlines. As a result, no negative impact on conservation sites is foreseen.

Aquatic Ecology / Invasive Species – The development will improve the quality of surface water discharges, but petrochemical runoff could have negative impacts.

Habitats, Botany and Avian Ecology – Increased disturbance (noise and light) could impact on birds. Landscaping will improve with maturity, and it would be expected that the biodiversity value of the site to birds and flora would also increase.

Bats – Operational lighting may impact on foraging.

Cumulative – A review of other listed projects indicates that impacts would be unlikely, neutral, not significant and localised.

Operational mitigation measures will include the inspection of the attenuation and surface water connections by the project ecologist, as well as a range of other measures outlined in chapter 6 and 7 relating to waste, water and other emissions.

#### Other Effects

Residual – Following the proposed mitigation measures, no significant adverse residual effects are predicted.

Do-nothing - Biodiversity would increase due to scrub encroachment.

Worst-Case - Fire or building collapse would be seen as the main potential risk, but the negative impacts are considered unlikely, slight, localised, and temporary.

Interactions – Impacts are identified in association with Lands and Soils, Water, Air and Climate, Noise and Vibration, Built Services, and Transportation. These impacts are addressed in other chapters of the EIAR, and post-mitigation impacts are not deemed to be significant.

#### **13.7.3. Assessment: Direct, Indirect, and Cumulative Effects**

I acknowledge that the EIAR was prepared in advance of the designation of the North-west Irish Sea SPA. However, I am satisfied that there would be no unacceptable impacts on this or any other Natura 2000 sites as outlined in section 12 of this report.

I would concur with the EIAR classifications regarding the limited/local importance of the site and surrounding lands in terms of habitats and species, and that the hydrological connectivity with the Slang River is the most sensitive element of the development. I note that Chapter 7 (Water) of the EIAR includes a range of measures to protect water quality at construction and operational stage. However, as outlined later in section 13.9 of this report, I am not satisfied that the water regime and quality will be adequately protected having regard to potential flood risk impacts. I acknowledge that the construction stage has the potential for other disturbance impacts with regard to dust, waste material, habitat loss/damage, noise, and lighting. However, I am satisfied that the proposed mitigation and monitoring measures will satisfactorily address any potential for significant environmental effects, including

measures outlined in the CEMP, ecological supervision, pre-construction surveys, lighting design, proposed planting, and the timing of works and vegetation removal. At operational stage, I am satisfied that there would be no significant impact on bird/bat flight lines; appropriate lighting designs can be installed; and that matured planting would improve the biodiversity value of the site.

#### 13.7.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Biodiversity are as follows:

- Potential significant construction and operational impacts on the water regime and water quality, which have not been adequately mitigated having regard to outstanding flood risk concerns.
- Disturbance and displacement of fauna at construction and operational stage, which will be mitigated by a Construction and Environmental Management Plan, ecological supervision, pre-construction surveys, lighting design, proposed landscaping, and the appropriate timing of works.

### 13.8. **Land & Soil**

#### 13.8.1. **Issues Raised**

None.

#### 13.8.2. **Examination, analysis and evaluation of the EIAR**

Chapter 6 of the EIAR deals with land and soils. Ground investigations were carried out in 2021, which supplemented previous investigations between 2004 and 2007, and desktop study sources included the OSI and GSI groundwater databases. Geotechnical investigation indicates that the site and surrounding area generally consists of 1.2 to 4.6m of made ground underlain by deposits of brown boulder clay, sand and gravel, and weathered rock over granite bedrock at a depth of 1.5 to 16.3m below ground level. Two aquifers underlie the site. The Overburden Aquifer has likely hydraulic continuity with the Slang River and the Bedrock Aquifer is classed as a 'Poor Aquifer'. Aquifer vulnerability is classed as moderate and groundwater recharge rates are indicated to be at the lower end of the scale. There is no evidence to suggest that the previous lands had any significant potential for contamination, although further testing will be required around an underground storage tank.

#### Construction Impacts

The main potential impacts identified in the EIAR can be summarised as follows:

- Exposure of workers to contaminated ground.
- Contamination of groundwater and associated impacts on human health and biodiversity.
- Damage/disturbance to adjoining properties and road network.
- Dewatering and impacts on groundwater levels / flow regime.
- Noise and vibration impacts associated with rock excavation.

The EIAR includes a range of mitigation/monitoring measures to address the above. In summary, these include the separation of hazardous materials and proper waste management / recording; proper storage of potential pollutants; drainage arrangements along the Main Street retaining wall; water management system within the site; pre-commencement survey of ground water levels; installation of temporary retaining structures to immediate adjacent buildings; water quality monitoring; and maintenance of adequate flood storage volume.

#### Operational Impacts

No long-term significant impacts are predicted based on the proposed SUDS strategy and closed drainage system with oil/petrol interception. Mitigation measures are proposed in relation to waste management and compliance with Irish Water standards for the foul pumping station.

#### Other Impacts

Cumulative – Construction impacts on adjoining underground structures due to the lower ground floor construction and the potential to impact ground water levels / flow patterns. Construction soil disposal will also have impacts for landfill facilities.

Residual – None.

Do-nothing – The baseline conditions will remain in their current state.

Worst Case – In the absence of mitigation, there may be damage to third-party properties; soil contamination; and contamination of the Slang River.

Interactions – These are identified in relation to water, air & climate, noise & vibration, built services, and population & human health.

### **13.8.3. Assessment: Direct, Indirect, and Cumulative Effects**

In relation to land as a resource, I have considered the principle and density of the proposed development in section 11 of this report, and I am satisfied that a high-density proposal would, in principle, make efficient use of the site.

I would also accept that the loss of land, soil and geology is an inevitable aspect of such planned urban development, and I am satisfied that appropriate mitigation measures have been incorporated to prevent unacceptable impacts in respect of health & safety; structural protection of adjoining property; and management of waste, noise and vibration. However, having regard to outstanding flood risk concerns, there is potential for impacts of land and soils and associated in-combination effects on water regime and quality, particularly at construction stage.

#### 13.8.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Land, and Soils are as follows:

- Potential significant construction stage impacts having regard to outstanding flood risk concerns, which would have potential in-combination effects on the water regime and water quality.

### 13.9. **Water**

#### 13.9.1. **Issues Raised**

As outlined in section 13.7 of this report, prescribed body submissions have raised concerns about impacts on water quality in the context of biodiversity. Third-party submissions have also raised concerns about impacts on the Slang River flow/quality; excessive pressure on sewerage and water supply; and flood risk. A submission from Irish Water outlines that the proposed water/wastewater connections are acceptable subject to conditions.

The planning authority has also raised serious concerns in relation to flood risk.

#### 13.9.2. **Examination, analysis and evaluation of the EIAR**

Chapter 7 of the EIAR assesses the impact on water, surface water, and flooding aspects having regard to relevant guidance and legislation, including the Water Framework Directive, the River Basin Management Plan, and the Flood Directive. A desktop study was carried out on the local and regional surface water and drainage network and a Site-Specific Flood Risk Assessment (SSFRA) was compiled. In summary, the receiving environment is described in the EIAR as follows:

Hydrology - The site adjoins the route of the Slang River which is highly channelised/culverted and is a tributary of the Dodder which enters the tidal reaches of the River Liffey at Ringsend. The Slang is included in Dodder\_050 River Sub

Basin for the purpose of the WFD. The Dodder\_050 WFD Sub-catchment was assessed as moderate status for the 2013-2018 reporting cycle and is classed as being At Risk. Identified pressures include urban wastewater along with anthropogenic pressures and diffuse sources run-off.

Surface Water Drainage - There is currently no evidence of attenuation or petrol interception on any part of the site. The existing system drains to the Slang River and to the 300mm diameter combined sewer which extends through the site.

Flooding – As previously outlined in section 11.8 of this report, the EIAR acknowledges that part of the site (16.7%) lies within Flood Zone B, with the remainder within Zone C.

Groundwater - The underlying bedrock is classed as Pi – Poor Aquifer. The site is underlain by the Kilcullen waterbody (IE\_EA\_G\_003) which was classed as being at risk in the 3rd Cycle reporting for the WFD. The GSI have assessed the area in the vicinity of the site as having moderate to high groundwater vulnerability.

#### Construction Impacts

The main likely significant effects identified can be summarised as follows:

Surface Water - Uncontrolled silt / contaminated runoff from the site may impact on water quality in the Slang River. The reduction in flows to the combined sewer is a positive slight medium-term impact.

Flood Risk - The construction of the proposed development will be undertaken without increasing flood risk within the site or elsewhere.

Groundwater – Excavation may impact on the water table and adjoining properties, while the retaining wall along Main Street may also act as a barrier to flows. Removal of overburden may increase groundwater vulnerability and contamination.

Cumulative - Culvert blockage or an exceedance event upstream of the site may give rise to overland flood flows.

A range of mitigation/monitoring measures are proposed to protect water including a CEMP to avoid discharge of silt contaminated runoff or hydrocarbons; a Water Management System; CEMP measures to address flood risk; and dedicated fuel storage areas.

#### Operational Impacts

The main likely significant effects identified can be summarised as follows:

Surface Water – Reduced loading on the combined sewer and improved SUDS measures will have a positive impact on the local drainage system. Runoff rates and quality will be improved as a result of attenuation, SUDS and landscaping measures. Overall, this is a positive significant long-term impact.

Flood Risk - The proposed development has incorporated compensatory flood storage into to ensure that there will be no reduction. Occupants of the development within the flood plain of the Slang could be exposed to risk and flood levels in the Slang could prevent discharge of surface water from the site during an extreme rainfall event. Blockage or damage to the culverts or more severe flooding could be classed as disaster events with potential for brief significant negative impact. Surface water runoff from road/yard/parking areas could result in the discharge of hydrocarbon contaminated flows to the Slang River.

Groundwater – Infiltration from subsurface attenuation and compensatory flood storage volumes. Run-off from hardstanding areas could negatively impact on water quality through infiltration of hydrocarbon and other contaminants.

Cumulative - Culvert blockage or an exceedance event upstream of the site may give rise to overland flood flows. Other developments are also required to limit runoff from new developments to the greenfield runoff rate. Therefore, the cumulative impact on flows in the Slang River is long term slight neutral for existing greenfield sites and is long term slight positive for redevelopment of brownfield sites.

A range of mitigation measures are proposed to protect water including discharge of incidental run-off to the foul sewer; petrol /oil separators; stormwater attenuation with flow control to greenfield rates; a two-stage surface water management train incorporating SUDS; compensatory flood storage volume; and minimum FFLs for plant. These measures will be subject to ongoing monitoring.

#### Other Effects

Residual – The above measures are predicted to avoid any significant adverse effects. Improvements to surface water management will have long-term positive impacts on the Slang River.

Do-nothing – The existing water services, surface water arrangements, and flood risk would remain consistent with the baseline scenario.



Worst-case – At construction stage this would include potential loss of services to the existing community or flooding events. At operational phase, impacts on surface/ground water would be minimal due to the proposed improvements and flood risks would be managed by the proposed mitigation measures.

Interactions – Impacts are identified with Land and Soils, Biodiversity and Material Assets (Built Services).

### 13.9.3. **Assessment: Direct, Indirect, and Cumulative Effects**

In section 11.8 of this report, I have considered the potential impacts of the development on water services, drainage, and flooding. I am satisfied that the proposed development should not be constrained by any capacity concerns relating to water supply or wastewater.

With regard to surface water drainage and flood risk, I have considered the proposed design, the applicant's SSFRA, and the proposed mitigation/monitoring measures in the EIAR. I acknowledge that the proposed development includes a range of SuDS and flood risk mitigation measures which would, in principle, assist in limiting surface water flow from the site and flood risk within and around the application site.

However, consistent with the planning authority concerns, I consider that there are significant gaps in the understanding of the proposed approach and potential impacts. In particular, and as has been highlighted in the audit of the applicant's SSFRA, I would concur that the lack of detailed hydraulic modelling and 'risk to life' consideration is a key omission which presents an unacceptable flood risk.

Accordingly, I am not satisfied that it has been demonstrated that new and existing developments will not be exposed to increased risk of flooding. In addition to water regime impacts, this has the potential for significant in-combination effects on water quality, land and soils, biodiversity, human health, and material assets (built services).

### 13.9.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Water are as follows:

- Potential significant construction and operational impacts having regard to outstanding flood risk concerns, which would have direct impacts on the water regime and water quality and would have in-combination effects on human health, biodiversity, land and soils, and material assets (built services).

## 13.10. Air & Climate

### 13.10.1. Issues Raised

Third-party concerns have been raised regarding the impact of additional traffic emissions on air quality. Climate concerns have also been raised in respect of the importance of green spaces and trees and a lack of measures to support renewable energy; rainwater reuse; the offset of GHG emissions including embodied carbon; and environmentally friendly design.

### 13.10.2. Examination, analysis and evaluation of the EIAR

Chapter 8 of the EIAR considers the potential air quality and climate impacts. In terms of air quality, the site is characterised as a Zone A area within the Dublin Conurbation as defined by the EPA and the thresholds outlined in the Air Quality Standards Regulations 2011 are considered. With regard to climate, micro impacts were considered with regard to the wind analysis and macro impacts were considered in terms of the change in CO<sub>2</sub> emissions associated with traffic flow. Construction air quality impacts were considered with reference to the Institute of Air Quality Management – Guidance on the Assessment of Dust from Demolition and Construction (IAQM, 2014).

The baseline air quality assessment for the site concludes that it may be characterised ‘good’ with no exceedances of the National Air Quality Standards Regulations 2011. The baseline climate is also considered with regard to European/National objectives and meteorological data.

#### Construction Impacts

It is acknowledged that construction activities have the potential to impact local air quality, as well as human health and ecology. Sensitive receptors are identified in the form of buildings on Main Street and residential properties to the west. Site traffic and plant is unlikely to make a significant impact on climate.

A range of mitigation/monitoring measures are proposed to include careful asbestos removal, dust/dirt suppression and monitoring, screening of works, and control of engines.

#### Operational Impacts

It is generally predicted that air quality impacts will be neutral as a result of the sustainable requirements for new buildings; the odour control unit installed on the foul pumping station; the change of use from retail to primarily residential will result

in a net reduction in 2-way vehicle movements during the peak AM and PM periods; and the results of the NO<sub>2</sub> impact predict values that are below the Air Quality Standards Regulations 2011 for the protection of human health and vegetation. In relation to climate, it is predicted that the proposed buildings and traffic emissions have the potential to influence climate. However, it outlines that there will be no significant impacts relating to flooding or wind.

Mitigation measures are proposed to include compliance with energy efficiency requirements and building regulations; Solar Photovoltaic Panels shall be installed at roof level, where possible; landscaping; accommodation of EVs; installation of an odour control unit on the foul pumping station; and use of heat pumps.

#### Other Effects

Residual - It is predicted that the construction and operational phases will not generate emissions that would have an adverse impact on air quality or climate.

Do-nothing – The existing buildings will continue to use fossil fuels for heating resulting in a depletion of natural resources and emissions to atmosphere.

Interactions – Compliance with ambient air quality limit values will ensure the protection of human health and the natural environment.

#### 13.10.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I would accept that the main air/climate impacts at construction stage will be restricted to dust and other emissions and that this is unlikely to be significant when the proposed mitigation measures are implemented.

At operational stage, I would accept that the proposed design will have to comply with building regulations and that, therefore, building emissions associated with heat and energy will be suitably controlled. However, as outlined in section 11.7 of this report, I am not satisfied that traffic levels have been adequately quantified for the baseline situation or future years. Accordingly, I am not satisfied that the air emissions associated with traffic have been adequately considered in the EIAR.

#### 13.10.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Air and Climate are as follows:

- Construction stage dust and plant/vehicle emissions, which will be mitigated by dust suppression mitigation measures and standard good practice measures outlined in the Construction Environmental Management Plan.

- Operational traffic emissions which have not been adequately quantified having regard to outstanding traffic modelling concerns, together with associated impacts on human health and biodiversity.

### 13.11. **Material Assets**

#### 13.11.1. **Issues Raised**

Third-party submissions have raised concerns about impacts on water services, the road network, public transport, social/community infrastructure, existing properties, and other services/utilities such as gas, broadband, electricity etc.

As previously outlined, the Irish Water submission does not raise objection to the principle of water/wastewater connections. The TII submission does not raise any significant transport-related objections, but the NTA submission raises concerns about conflict with the bus interchange facility along the by-pass.

#### 13.11.2. **Examination, analysis and evaluation of the EIAR**

Chapter 10 considers impacts on 'Built Services' including the drainage and potable water aspects of the project as well as Electricity, Gas and Telecommunications. It acknowledges that there will be additional loading and alterations to these services during construction, but no significant adverse impacts are predicted based on mitigation measures for temporary water/wastewater arrangements and the protection/improvement of existing services/utilities. The main operational impacts relate to increased wastewater loading which will be mitigated by limiting discharge to 2 times Dry Weather Flow (DWF) through the foul pumping station. Loading on water supply and other utilities is not predicted to be significant and no residual effects are predicted.

Chapter 11 deals with 'Transportation'. The operational impacts are based on the Transportation Assessment (TA) as previously discussed in section 11.7 of this report, and impacts are not deemed to be significant. In terms of construction impacts, it predicts that the maximum potential construction-related vehicle movements in either of the peak hours is 83 Passenger Car Units (PCU). This is deemed to be significantly less than operational volumes and, accordingly, junction assessment have not been conducted. It is acknowledged that there will be some temporary obstructions such as the night-time closure of the by-pass to facilitate construction of Sweetmount Bridge. Construction mitigation measures are largely

based on a Traffic Management Plan and overall impacts are deemed to be only slight adverse.

Chapter 12 considers 'Resource and Waste Management'. For the construction stage it predicts the estimated nature and quantities of demolition and construction waste, which will mainly be mitigated through a Construction and Demolition Waste Manager / Management Plan and compliance with standard procedures for the management and disposal of waste. For the operational stage it predicts the estimated nature and quantities of waste generated by the proposed development. It outlines that these impacts will be mitigated through the appointment of a Facilities Management Company, provision of dedicated waste storage/collection facilities, and implementation of an Operational Waste Management Plan. No significant residual effects are predicted at construction or operational stages.

#### 13.11.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I consider that an increased demand for 'built services' such as water services and other utilities is an inevitable effect of new residential/mixed-use development. As previously outlined in sections 11.8 and 11.9 of this report, I am satisfied that there would be no unacceptable impacts on water or telecommunications infrastructure. Similarly, I consider that the increased demand on other services such as energy, heat, and waste could be satisfactorily address in conjunction with the relevant operators.

However, as previously outlined in section 11.7 of this report, I am not satisfied that traffic levels have been adequately quantified for the baseline situation or future years. Accordingly, I am not satisfied that traffic impacts on the existing road network have been adequately considered in the EIAR.

#### 13.11.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Material Assets are as follows:

- Operational traffic impacts on the capacity of the local road network, which have not been adequately quantified having regard to outstanding traffic modelling concerns.

#### 13.12. **Cultural Heritage**

### 13.12.1. **Issues Raised**

Submissions from the planning authority, third parties, and An Taisce have raised serious concerns about the adverse impact of the development on built heritage. A submission from the Department of Housing, Local Government and Heritage recommends that archaeological monitoring should be carried out as mitigation.

### 13.12.2. **Examination, analysis and evaluation of the EIAR**

Chapter 13 of the EIAR assesses impacts on archaeological, architectural, and cultural heritage. In relation to archaeology, there are no recorded monuments on the site, with the closest (graveyard) being 45 metres away. Previous archaeological excavations in the area were also inspected and a cartographic analysis was completed. A site walkover visit found no archaeological features. In terms of Architectural Heritage, the EIAR acknowledges a range of buildings of architectural interest on site, as well as the surrounding built environment including protected structures and ACAs.

#### Construction Impacts

The potential to discover archaeological features during construction is acknowledged. A programme of archaeological monitoring will be carried out any archaeological features revealed will be resolved in agreement with relevant authorities.

The EIAR contends that there will be positive impacts relating to the provision of active frontage to Main Street and the refurbishment of 1-3 Glenville Terrace. It acknowledges that the removal of the other buildings within the ACA will represent a significant loss to the Main Street, and that works will have a moderate negative impact on the setting of Holy Cross Roman Catholic Church and Parochial House.

#### Operational Impacts

The impacts associated with the removal of 19th century buildings are predicted to alter the architectural character of Dundrum Village ACA, while the reinstatement of street frontage is predicted to have a positive effect. There will be a moderate negative impact on the setting of the Church and Parochial House and Usher Monument, as well as slight negative impacts on other features such as the Carnegie Library and Saint Nahi's Church.

#### Other Effects

Residual - The main effect is the loss of a large portion of the 19th century streetscape.

Do-nothing – It is likely that the heritage value of existing buildings would continue to deteriorate.

Worst-case – Works to 1-3 Glenville Terrace causes more damage than envisaged. Monitoring measures will avoid any such damage.

Interactions – None identified.

### 13.12.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I would accept that there is no evidence of archaeological features on or immediately adjoining the site. Accordingly, I am satisfied that the proposed archaeological monitoring measures would be acceptable as mitigation.

However, I have already considered the impacts of the development on the architectural heritage value of the areas as outlined in section 11.9 of this report. I consider that the proposed development would have unacceptable impacts in relation to the demolition of structures within the ACA, as well as the excessive height and scale of the proposed development and its impact on the setting of Main Street, Dundrum ACA, and protected structures (Holy Cross Church and Parochial House).

### 13.12.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Cultural Heritage are as follows:

- The permanent loss of architectural heritage through the demolition of several structures within the Dundrum ACA, together with the significant adverse impacts on the setting of the ACA and protected structures as a result of the excessive height, scale and inappropriate design of the proposed development.

## 13.13. **Landscape**

### 13.13.1. **Issues Raised**

Submissions from the planning authority, third parties, and An Taisce have raised serious concerns about the adverse impact of the development on landscape / townscape character.

### 13.13.2. **Examination, analysis and evaluation of the EIAR**

Chapter 14 of the EIAR considers impacts on the landscape/townscape character and views/visual amenity in the receiving environment. It is accompanied by a Verified Views booklet in Volume 2 of the EIAR. The EIAR considers the receiving environment, including the evolving townscape, the site context, and notable features in the wider study area such as recent apartment developments, Airfield Estate, and the Central Mental Hospital site. It also considers the Development Plan policy context and outlines that there are no protected views or prospects relevant to the site.

#### Construction Impacts

The EIAR acknowledges that the construction stage will involve alterations to the visual appearance of the site. It states that impacts on landscape/townscape character will be 'Short-term' and that the magnitude of impacts will be 'High' in the immediate context of the site, but reducing to Medium and Negligible at greater distances. Due to their nature, the quality of construction stage effects will be Negative, but also Short-term in duration. Mitigation is proposed in the form of construction hoarding for screening.

#### Operational Impacts

The EIAR considers townscape sensitivity in terms of several defined precincts/features surrounding the site. Sensitivity is generally considered low with the exceptions of the Sweetmount residential area (medium-low); the ACA (medium-high); and the modern elements of Main Street (medium-low). The significance and quality of townscape effect is considered having regard to the criteria outlined in section 3.2 of the Building Height Guidelines. The magnitude of change to the townscape setting is considered High with potential for significant impacts on higher sensitivity receptors (not including the site itself). In terms of quality of effect, the proposed development is deemed a considerable improvement on the existing site and will satisfy planning objectives and policies to redevelop the site. Furthermore, the EIAR considers that it accords with the 'Building Height Guidelines' criteria in



terms of justifying increased heights at particular key locations and incorporating a landmark building. Consequently, the 'quality' of townscape effect is deemed to be Positive. Overall, it is not considered that there will be any significant and negative townscape impact arising from the proposed development.

Visual Impacts are considered in the context of the Viewshed Reference Points as illustrated in the Verified Views. The EIAR assesses the visual effect for each viewpoint and generally does not identify any significant adverse impacts. Only Views 14 and 17b (from the Sweetmount area) are deemed to have a substantial-moderate negative effect.

#### Other Effects

Residual – No mitigation is considered necessary and therefore the residual impacts will be consistent with the assessment above.

Do-nothing – The site would remain as an unsustainable use given its strategic importance.

Worst-case – If the site was left unfinished there would be short-term, negative construction effects.

Interactions – Impacts are identified in relation to Cultural Heritage.

#### 13.13.3. **Assessment: Direct, Indirect, and Cumulative Effects**

I have considered the EIAR (including the Verified Views in Volume 2), the Design Statement, and all relevant drawings and design documentation on file. I have also carried out a site inspection and had regard to the nature of the site and the surrounding context. As outlined in section 11.9 of this report, I have considered the design, layout, and visual impact of the development and I consider that it would constitute an excessive height and density of development in an inappropriate design and layout and would be seriously injurious to the landscape and townscape character of the area.

#### 13.13.4. **Conclusion: Direct, Indirect, and Cumulative Effects**

I consider that the main significant direct, indirect, and cumulative effects on Landscape are as follows:

- Significant changes to landscape and townscape character as a result of the excessive height, scale and inappropriate design of the proposed development, which would be seriously injurious to the visual amenity and character of the area.

## 13.14. Reasoned Conclusion

13.14.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, as well as the submissions received from the planning authority, prescribed bodies and third parties in the course of the application, I consider that the main significant direct, indirect, and cumulative effects of the proposed development on the environment are as follows:

- Population and Human Health: Construction-related disturbance including noise/vibration, dust, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan and Construction Traffic Management Plan.
- Population and Human Health: Operational pressures on local services and facilities as a result of a significant increase in population without commensurate supporting uses.
- Population and Human Health: Negative operational impacts on the existing and future population as a result of a substandard form of development and associated overbearing, overshadowing, and overlooking impacts.
- Population and Human Health: Positive socioeconomic effects at construction stage through increased employment and at operational stage through the availability of additional housing, together with increased spending in the local economy at both stages.
- Biodiversity: Potential significant construction and operational impacts on the water regime and water quality, which have not been adequately mitigated having regard to outstanding flood risk concerns.
- Biodiversity: Disturbance and displacement of fauna at construction and operational stage, which will be mitigated by a Construction and Environmental Management Plan, ecological supervision, pre-construction surveys, lighting design, landscaping, and the appropriate timing of works.

- Land and Soils: Potential significant construction stage impacts having regard to outstanding flood risk concerns, which would have in-combination effects on the water regime and water quality.
- Water: Potential significant construction and operational impacts having regard to outstanding flood risk concerns, which would have direct impacts on the water regime and water quality and would have in-combination effects on human health, biodiversity, land and soils, and material assets (built services).
- Air and Climate: Construction stage dust and plant/vehicle emissions, which will be mitigated by dust suppression measures and standard good practice measures outlined in the Construction Environmental Management Plan.
- Air and Climate: Operational traffic emissions which have not been adequately quantified having regard to outstanding traffic modelling concerns, together with associated impacts on human health and biodiversity.
- Material Assets: Operational traffic impacts on the capacity of the local road network, which have not been adequately quantified having regard to outstanding traffic modelling concerns.
- Cultural Heritage: The permanent loss of architectural heritage through the demolition of several structures within the Dundrum ACA, together with the significant adverse impacts on the setting of the ACA and protected structures as a result of the excessive height, scale and inappropriate design of the proposed development.
- Landscape: Significant changes to landscape and townscape character as a result of the excessive height, scale and inappropriate design of the proposed development, which would be seriously injurious to the character and visual amenity of the area.
- Cumulative Effects: Significant potential for cumulative effects given that the specific features of other permitted projects that may act in combination and/or cumulation with the proposed development have not been adequately identified or assessed.

13.14.2. Having regard to the foregoing, I consider that the proposed development would result in unacceptable effects on the environment. In particular, the unacceptable effects relate to excessive pressure on local services and facilities; the substandard form of development; flood risk and associated impacts on the water regime, water quality, human health, biodiversity, land & soil, and material assets; traffic generation and associated impacts on the local road network, air quality, human health, and biodiversity; loss of and damage to built heritage; and seriously injurious impacts on landscape and townscape character.

13.14.3. I am satisfied that the substantive issues identified above have been addressed in the planning assessment section of this report (i.e. section 11) and will be incorporated into the recommended reasons and considerations (i.e. section 15 below).

## 14.0 Recommendation

Having regard to the foregoing assessments, I recommend that permission be REFUSED for the proposed development based on the reasons and considerations set out in the following Draft Order.

## 15.0 Recommended Draft Board Order

### **Planning and Development Acts 2000 to 2022**

### **Planning Authority: Dún Laoghaire-Rathdown County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended, in accordance with plans and particulars, lodged with An Bord Pleanála on the 5<sup>th</sup> of April 2022 by Dundrum Retail GP DAC (acting for and on behalf of Dundrum Retail Limited Partnership), care of BMA Planning, Taney Hall, Eglington Terrace, Dundrum, Dublin 14, D14 C7F7.

**Proposed Development comprises of the following:**

The proposed development is laid out in 11 blocks across 4 zones as follows:

Zone 1 (29,965.2sqm gfa): This zone comprises Blocks 1A, 1B and 1C ranging from 5 storey to Main Street (Block 1C) to 10-16 storeys on Dundrum By-pass and establishing a landmark 16 storey building at the northernmost point of the site. This zone will comprise 292no. apartments with a total residential gross floor area of 27,565.3sqm (comprising 1no. studio, 115no. 1 bed, 19no. 2 bed 3 person, 134no. 2 bed 4 person and 23no. 3 bed units) with ancillary accommodation and associated private balconies. The blocks are arranged around a landscaped courtyard communal amenity space above podium level and there are 4no. communal roof garden terraces on Blocks 1A, 1B and 1C. Non-residential uses in Zone 1 (2399.9sqm) comprises 1no. retail unit (330.3sqm), a retail foodstore (2028.1sqm), and other ancillary accommodation (41.5sqm). The area below podium includes 52no. car parking spaces, 2no. motorcycle spaces and 525no. bicycle spaces.

Zone 2 (23,127.8sqm gfa): This zone comprises Blocks 2A, 2B and 2C ranging from 5 storeys on Main Street (Block 2C) to 9-12 storeys to the rear on Dundrum By-pass. This zone will comprise 239no. apartments with a total residential gross floor area of 22,624.0sqm (comprising 87no. 1 bed, 40no. 2 bed 3 person, 85no. 2 bed 4 person and 27no. 3 bed units) with ancillary accommodation and associated private balconies. The blocks are arranged around a landscaped courtyard communal amenity space traversed by a public street and there are 3no. communal roof garden terraces on Blocks 2A and 2B. Non-residential uses in Zone 2 (503.8sqm) comprises 4no. retail units (482.8sqm) on Main Street and other ancillary accommodation (21sqm). The area below podium includes 144no. car parking spaces, 7no. motorcycle spaces and 425no. bicycle spaces.

Zone 3 (22,152.8sqm gfa): This zone comprises Blocks 3A, 3B and 2C ranging from 5 storeys on Main Street (Block 3C) to 9-11 storeys to the rear on Dundrum By-pass. This zone will comprise 222no. apartments with a total residential gross floor area of 21,745.1sqm (comprising 75no. 1 bed, 25no. 2 bed 3 person, 103no. 2 bed 4 person and 19no. 3 bed units) with ancillary accommodation and associated private balconies. No.'s 1-3 Glenville Terrace (585.2sqm) are to be retained, refurbished and amalgamated and will be used for resident services and amenities / resident support facilities for the overall development and the rear returns will be replaced like for like). The blocks are arranged around a landscaped courtyard communal amenity space traversed by a public street and there are 3no. communal roof garden terraces

on Blocks 3A and 3B. Non-residential uses in Zone 3 (407.8sqm) comprises 2no. retail units (218.4sqm) and a café/ restaurant (167.2sqm) fronting Main Street and other ancillary accommodation (22.2sqm). The area below podium includes 112no. car parking spaces, 5no. motorcycle spaces and 389no. bicycle spaces.

Zone 4 (13,196.2sqm gfa): This zone comprises Blocks 4B ranging from 3 to 5 storeys on Main Street (with 6 storeys to internal street) and Block 4A ranging from 8 to 10 storeys to the rear on Dundrum By-pass. This zone will comprise 128no. apartments with a total residential gross floor area of 12,049.0sqm (comprising 58no. 1 bed, 57no. 2 bed 4 person and 13no. 3 bed units) with ancillary accommodation and associated private balconies. The blocks are arranged around a landscaped courtyard communal amenity space traversed by a public street and there is a communal roof garden space on Block 4A. Non-residential uses in Zone 4 (1147.2sqm) comprises 3no. retail/ commercial units (365.1sqm), 3no. café / restaurant units (236.3sqm) and a creche (523.1sqm) with associated enclosed outdoor play area addressing Main Street and Church Square and other ancillary accommodation (22.7sqm). The area below podium includes 65no. car parking spaces, 3no. motorcycle spaces and 247no. bicycle spaces. A revised entrance arrangement to existing basement of No.16/17 Main Street is provided as part of Block 4B.

The development includes a new public street running on a north-south axis through the site and a series of new public spaces located between the 4 zones and which facilitate new street connections to Main Street. In addition, a new public open space known as “Church Square” (c. 0.2ha) is proposed to the rear of Holy Cross Church and will integrate with the lower ground floor Parish Pastoral Centre. Church Square will be connected via a new stairs and lift to Ballinteer Road and via stairs to the Dundrum Bypass. A new east-west pedestrian/cycle linkage is proposed linking Main Street to Sweetmount Park located on the western side of Dundrum Bypass via a new pedestrian/ cycle bridge. The proposed development involves closure of existing vehicular access to the old shopping centre on Main Street and entrance to carpark at rear of former Mulvey’s hardware immediately north of the Parochial House. 3no. vehicular access / egress points will be provided on Dundrum Bypass which serve an internal access road, service/ loading areas and basement parking areas. A total of 373no. car parking spaces, 17no. motorcycle parking spaces and 1,750 bicycle parking spaces are proposed. The lower ground floor car parking area has a

vehicular link under Ballinteer Road / Dom Marmion Bridge to connection to Dundrum Town Centre basement car parking area. New / upgraded pedestrian crossings are proposed on Main Street, at the entrance to Dundrum Luas station adjacent to Usher House and on Ballinteer Road connecting to Pembroke District.

Permission is also sought for demolition of all existing buildings on site (excluding No.'s 1-3 Glenville Terrace), upgrading of footpaths, pedestrian crossings, foul and surface water drainage infrastructure, compensatory flood storage and flood mitigation measures, signage and all associated site and development works

## **Decision**

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

1. Having regard to the predominant residential nature of the proposed development, which accounts for 95% of the proposed gross floor space, it is considered that the proposed development would fail to provide an appropriate range and mix of supporting uses at this location, which is designated as a Major Town Centre, a Strategic Employment Location, and a Strategic Regeneration Site in accordance with the Dún Laoghaire-Rathdown County Development Plan 2022-2028. Specifically, the proposed development would be inconsistent with Development Plan Objectives CS7 – Strategic Employments Locations; PHP3 – Planning for Sustainable Communities; MFC1 – Multifunctional Centres; RET5 – Major Town Centres; and Specific Local Objective 8.

In support of the above, the proposed development would be inconsistent with the Dundrum Local Area Plan 2023 Objectives OSC11 & OSC15 (Land Use); MTC1 - Multifunctional Dundrum; MTC2 – Retail Balance; MTC4 – Residential Uses; MTC5 – Old Dundrum Shopping Centre; and MTC6 – Convenience Floorspace.

The proposed development would, therefore, be contrary to the overall aims for the Major Town Centre and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the existing character and the prevailing pattern of development, the site location within and adjoining an Architectural Conservation Area and adjoining several Protected Structures, it is considered that the proposed development, by reason of its overall design, form, and layout, and its scale, height, and massing, would seriously detract from the character of the area generally, and particularly the character of Main Street and Dundrum Architectural Conservation Area, and the setting of Holy Cross Church and the associated Parochial House, gates, and railings.

The proposal would materially contravene Policy Objective HER14 of the Dún Laoghaire-Rathdown County Development Plan 2022-2028, which prohibits the demolition of a structures that positively contribute to the character of Dundrum Architectural Conservation Area, and would be contrary to Development Plan Objectives PHP18: Residential Density; PHP42: Building Design & Height; BHS 1 of the Building Height Strategy and the associated performance-based criteria outlined in Table 5.1 of the Strategy; MFC3: Placemaking in our Towns and Villages; HER8: Work to Protected Structures; HER13: Architectural Conservation Areas; and Specific Local Objective 9.

In support of the above, the proposed development would materially contravene the Dundrum Local Area Plan 2023 in respect of Objectives OSC12 (demolition on Main Street); OSC13 & H1 (Plot Ratio); and OSC14 (Building Height). The proposed development would also be contrary to Local Area Plan Objectives OSC8, OSC9, and OSC10 (Street Character); and Policies DLAP17 (Residential Density) and DLAP18 (Building Height).

The proposed development would, therefore, materially and seriously detract from the character and built heritage value of area and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to its excessive density, height, and scale, together with its monolithic appearance, it is considered that the proposed development would result in unacceptable overbearing impacts for properties in the residential area to the west of the site. The proposed development would also result in excessive overlooking for existing adjoining properties along the west side of



Main Street, and on the basis of information submitted the Board is not satisfied that there would not be unacceptable impacts in terms of the sunlight available to existing open spaces/amenity areas and daylight impacts for existing residential properties to the west of the site.

Having regard to these impacts, it is considered that the proposed development would be contrary to Dún Laoghaire-Rathdown County Development Plan 2022-2028 Objectives PHP18: Residential Density and PHP20: Protection of Existing Residential Amenity, as well as Objective OSC14 of the Dundrum Local Area Plan 2023.

The proposed development would be seriously injurious to the amenities of properties in the vicinity of the site and would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to its nature, design, and layout, it is considered that the proposed scheme would result in a substandard form of development and residential amenity for future occupiers. The excessive proportion of smaller residential units would materially contravene the Dún Laoghaire-Rathdown County Development Plan 2022-2028 in respect of Policy Objective PHP27: Housing Mix and section 12.3.3.1 (Table 12.1) and would be contrary to Specific Local Objective 123. The proposed communal open space would be substandard having regard to its overall quantity and quality, and the proposal to provide more than 30% of such space in the form of roof gardens would materially contravene section 12.8.5.4 of the Development Plan. The failure to provide external storage facilities would also be contrary to section 12.3.5.3 of the Development Plan.

The proposed public open space would be substandard having regard to its location, quantity, and quality, which would not comply with the requirements of the Development Plan (Sections 12.8.3.1 and 12.8.5), and the absence of a local park along Main Street would materially contravene Objective OSC7 of the Dundrum Local Area Plan 2023.

Having regard to the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2023), the proposed development would be substandard in respect of the level of

privacy afforded to private amenity spaces; the number and nature of single-aspect units; the enclosed nature of internal corridors; and a lack of quality internal resident amenities/facilities. Furthermore, the separation distances between blocks and opposing windows would be inadequate and would not include appropriate privacy mitigation to comply with Specific Planning Policy Requirement 1 of the 'Sustainable Residential Development and Compact Settlement Guidelines, Guidelines for Planning Authorities' (2024).

And in relation to daylight and sunlight standards, the Board was not satisfied on the basis of the information submitted that there would be acceptable standards of sunlight to proposed open spaces and proposed internal living spaces.

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

5. Having regard to its design and layout, it is considered that the proposed development would fail to suitably support sustainable modes of transport.

The proposed layout would fail create adequate permeability through the site and would not create a suitable pedestrian / cycle environment, particularly along the western and southern edges of the site, which would be contrary to Specific Local Objective 124 in the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and Objectives OSC2, OSC4, OSC11, and OSC16 in the Dundrum Local Area Plan 2023.

Furthermore, the proposed access arrangements along the by-pass would conflict with an existing public bus interchange, which would be contrary to Objectives T7 of the Development Plan and OSC5 of the Local Area Plan, and the Board is not satisfied on the basis of the information submitted that the impact of traffic on the local road network has been appropriately assessed and modelled in accordance with the Transport Infrastructure Ireland publication 'Traffic and Transport Assessment Guidelines' (2014).

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

6. The proposed development is in an area which is deemed to be at risk of flooding, by reference to the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the Dundrum Local Area Plan 2023. Notwithstanding the Site-Specific Flood Risk Assessment submitted with the application, the Board is not satisfied, on the basis of the information lodged with the planning application and the absence of detailed hydraulic modelling, that the proposed development would not give rise to an increased risk of flooding either on the proposed development site itself, or on other lands.

The proposed development would be contrary to section 12.9.6 of the Development Plan and Objective OSC18 of the Local Aea Plan, and would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

In coming to its decision, the Board considered new policy introduced since the application was lodged, including the coming into effect of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the making of the Dundrum Local Area Plan 2023. However, the Dún Laoghaire-Rathdown County Development Plan 2022-2028 had been adopted prior to the making of the application and the Board considered that the policies and objectives of the Dundrum Local Area Plan 2023 generally support the over-riding policies and objectives of the Development Plan. Furthermore, the Board considered that irrespective of the introduction of new plans and the policies and objectives therein, this would have no bearing on the recommendation to refuse permission having regard to the substantive concerns regarding the nature, scale, and design of the scheme.

The Board considered new Ministerial guidelines issued under Section 28 of the Planning and Development Act 2000, as amended, including the updated 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2023) and the introduction of the 'Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities' (2024). Again however, the Board considered that the Specific Planning Policy Requirements, policies and objectives, and other guidance contained therein is generally consistent with the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and would have no bearing on the recommendation to refuse permission

having regard to the substantive concerns regarding the nature, scale, and design of the scheme.

Furthermore, the Board considered the designation of the North-west Irish Sea Special Protection Area since the making of the application. However, the Board considered that this designation would not affect the ultimate determinations reached in respect of Appropriate Assessment Screening (Stage 1) or Appropriate Assessment (Stage 2).

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Stephen Ward  
Senior Planning Inspector

27<sup>th</sup> of November 2024

## Appendix 1 – List of Observers

Adrian and Geraldine Fogarty	Adrian Byrne
Adrienne Carroll	Aighleann O Shaughnessy
Aileen Cronin	Aileen Ivory
Ailish Dore and Gerard Lister	Aine and David Kelly
Aisling Davenport and Others	Aisling McGarrigle and Adam Smyth
Aisling Smith	Alan Byrne
Alana Ni Dhonncha	Alex Kinahan
Alicia Bolocco and Rodrigo Valin	Alison and Liam Bannon
Alison Kennedy	Allan and Debbie Chapman
Allen Morgan	Alyson Fitzgibbon
Amy Colgan	Andres Estevez Guersanik
Andrew Clinch	Andrew Fuller
Andrew Stewart	Andrew Thorn
Andria Parsons and family	Andy Heffernan & Maureen Siney
Angela Brady	Angela Kettle
Angela Lemass and Derry O'Donovan	Angela Noonan
Angela Norris	Angela O Broin
Anisha Khanna	Ann Breslin
Ann Kelleher	Ann Marie Freyne
Ann Mayberry	Ann Penney
Ann Rundle	Anna and Frank Kirk
Anna Cunney	Anna McDonald and Alan White
Anne and Sheila Maher	Anne Geraghty

Anne Guilcher	Anne Halion
Anne Holohan	Anne MacGabhann
Anne Mandal	Anne Marie Bermingham
Anne Mullee	Anne O'Callaghan
Anne Smith	Anne Whelan
Anne-Marie Mhic Lochlainn	Anthea & David O'Sullivan
Anthony Bermingham	Anthony Doyle, Susan Henry and others
Anthony Lilley	Antoine MacDonncha
Anya Guiney	Aodh and Judith Bourke and Nuala Gabbott
Aoife MacLochlainn	Aoife McGarrigle
Aoife Nic Reamoinn	Aoife O'Brien and Others
Aoine Devlin	Ardglas R.A. (Kieran Lewis)
Ashlawn Residents' Association	Audrey O'Neill
Austen Corcoran	Avril and Aidan Lynch
Bairbre Mullee	Bairbre O Hogan
Ballinteer E.T. National School PTA	Barbara Bailey
Barbara Dempsey	Barbara Kennedy
Barbara Lambert	Barbara Meaney
Barbara Rochford	Barry and Anne Denton
Barry and Maria Hynes	Bartosz Hacia
Beata and Cillian McMenamin	Benjamin Wold
Bernadette Whelan	Bernadette Whiteley
Bernard Murphy	Bill de hÓra
Brenda Doyle	Brenda O'Neill
Brendan Carty	Brendan Lane
Brendan Redmond	Brian and Margaret Mullins

Brian Connolly and Mary Masterson	Brian Espey and others
Brian Hagan	Brian Harte
Brian Hewson	Brian Holland
Brian Leonard	Brian McCann
Brian McMahon	Brian Purcell and Sinead McArdle
Bridie Lyons	Brigid McCullagh and others
Britt Johnson	Bronwyn O'Donnell
Cáit Neylon	Caoimhe Ui Loinsigh
Carina and Frank Folan	Carina Campbell & Richard Willis
Carmel Dermody	Carol Brill
Carol Dalton	Carol Marks
Caroline Byrne	Caroline Maguire
Caroline Thornton	Caroline Welsh
Catherine & Paul Rafferty	Catherine Lynch
Catherine Martin	Catherine McCann
Catherine Naughter	Catherine O'Dea
Cathriona McLoughlin	Chantelle Johnson
Charles Lawn	Charlie Sloane
Chris and Claire Keaney	Chris and Norah Halligan
Chris Flack	Christina Robertson
Christine McCartney	Christine Morton
Christopher Kinahan	Christopher Sheehan
Churchtown R.A (Carol Marks)	Churchtown R.A. (Gerry Finn)
Cian Mac Dhonncha	Ciara Donlevy and Ciaran Clifford
Ciara Kennedy	Ciara Noonan

Ciarán & Karen Cobbe and Others	Ciaran and Mary Rowsome
Ciaran Rowsome	Cionnaith O'Gairbhi and Aidín Ní Mhóráin
Claire and Emmett Reilly	Claire Barry
Claire French	Claire O'Neill
Clare McAndrew	Claus Kazmaier
Clive and Paula Macken	Colette and Michelle Grant
Coletto Longhrey-Grant	Colleen Melwani
Colm O_Rourke	Colman Nolan
Conor Griffin	Conor Meehan
Cormac O Sullivan	Craig Stephens
Cyril Lynch	Daire Guiney
Damian and Emma Mulvey	Damian Lawrence
Daniela Drogenik	Dara Kilmartin
Darragh Duff	David and Gillian Lynch
David and Patricia Brennan	David Douglas
David Ingoldsby	David Keane
David Kelly	David Litster
David McLoughlin	David Murphy
David O'Brien	David Reynolds
David Smith	David White
Deborah Morrissey	Declan Davis
Declan Keane	Deirdre and Aidan O'Boyle
Deirdre and John McCulloch	Deirdre Barry Stack
Deirdre Cronin	Deirdre Gahan-Suttle
Deirdre O'Higgins	Deirdre Walsh
Denis Diachenko	Denis Morgan



Denis Rice	Denise Byrne
Dermot Irwin	Des Smith, Nora Tully and Eoghan Smith
Diane Tallon	Diarmuid MacMahon
Don Tallon	Donal Fitzpatrick
Donnie Maclean	Dorothy Bergin
Dorothy Mitchell	Dudley Colley
Dympna Murray	Eamon and Creeda Mahon and others
Eamon and Dominique Le Grae	Eamon O'Brien
Eamon Regan	Eamonn and Bronwyn Ambrose
Eamonn Balmer	Ed Colleran
Edel Murphy	Edith Andrees
Eduardo Cervantes	Edward Sherry
Eileen McLoughlin	Eileen O'Neill
Eimear Berry	Eimear Shorten
Eithne Seery	Eithne Uí Fhoghlú
Elaine and Patrick Mettler	Elaine Doherty
Eleanor Kilmartin	Elizabeth Ryan
Ellen O'Reilly	Emer Hyland and others
Emer McCarthy	Emer O'Brien
Emily Guiney	Emma and Brian O'Gorman
Emma Linnane	Enda Mac Dermott
Eochaidh O Caollaí	Eoghan O Shea
Eoin and Karen Pearson	Eoin Leyden
Eoin McKiernan	Eoin Wickham
Eric and Teresa Mayrs	ESB (John Gibbons)

Eva Doyle	Evelyn and Sinead Doyle
Feadra Ryan	Fergal Magee
Fergal Reid	Fergus Glendon
Fiacra Kennedy	Finbar O'Foghlu
Fiona Egan and Nigel Power	Fiona Faherty
Fiona O'Connor	Fiona O'Reilly
Fiona Walsh	Fionn Mulligan
Fionnuala McGlade	Fionnuala Rogerson
Frank and Murette Mulvey	Frank Duignan
Frederick Healy	Gabrielle Garland
Garrett Tallon	Gavan Nolan
Gavin Keane	Gay McCarron
George Kinch	Geraldine Carroll
Geraldine Coleman	Geraldine Collier
Geraldine Durrad and Louise Connolly	Geraldine McHugh
Geraldine Neary	Geraldine Nolan
Gerard Carthy	Gerard F Manners and Others
Gerard Fitzpatrick	Gerard Gorey
Gerard Watchorn	Gerry and Stephanie Lloyd
Gillian Fischer	Gizem Kempe
Glenn, Pauline and Sorcha Ryan	Grace and Liam Hughes
Grainne Mulcahy	Gunda Dorothea Albert
Hazel Dunphy	Helen Cahill and Shane Mulcahy
Helen Carroll	Helen Little
Helen Mathews	Helen Shanahan
Helen Sharkey	Helen Shiel

Helen Ui Chonchubhair and Eibhlin Ni Chonchuir

Highfield Park and Westbrook Road Residents Association (Kieran O Grady)

Hilary Walsh

Ian and Catherine MacNeill

Ian and Maureen Duckenfield

Ingrid Masterson

Iris Rice

Ivan Rafter

Jack and Germaine Morrissey

James Grant

James Robertson

Jamie Murphy

Jamie O Connell

Jane and Simon Marriott

Jane Creaner-Glen

Jane Jehanno

Jane Lonergan and others

Jane Nolan

Jane O Donnell

Jason Doyle

Jean Morgan

Jefferson and Rebecca Cowhig

Jenny Coghlan

Jenny Rowland and Jamie Cras

Jessica Dwane

Jim and Anne Colgan

Jim Colgan

Jim O'Connell

Joan Butler

Joan Kealy

Joan Magera

Joanne Fanning

Joanne Fitzroy

Joe Lakes

John and Ailis Campion

John and Ingrid Williams

John and Karen Carleton

John Bernard Brosnan

John Brick

John D and Helen O Keeffe

John Conway and the Louth Environmental Group (Christine O'Connor)

John Egan

John Forde

John Hayden

John J Martin

John Kennedy

John Lennon

John Mac Polin and Jennifer Murray	John Parkin
John Smith	Jonathan and Laura Preston
Jonathan Lynch	Josepha Madigan
Joyce Byrne-Walsh and Pearse Walsh	Judith Kelly
Judy O'Hanlon and Michael Murphy	Julie Keating
Julie McHugh	June and Kevin Bowens
Karen de Veale	Karen Tannent
Kate & Ed Ryan	Kathryn O'Connell
Kathy and Paul Walsh	Katie Heskin
Katy Breen and Paul Kissane	Kay and Pat Reidy
Kay Vince	Kevin and Maureen Walker
Kevin and Shono O'Byrne	Kevin Cosgrave
Kevin Davenport	Kevin Harmon
Kevin McNamara	Killian Barry
Kilternan Glenamuck R.A.	Kirsha and Jeremiah McAuliffe
Larry Byrne	Laura Watters
Laurence Cox	Liam Collins and Laura Mullaney
Liam Heritage	Liam Shorten
Liebling Smith and Maurice Downes	Lisa Carty
Liz and Thomas Quinn	Liz Cunningham
Lorcan Cosgrave	Lorna and Damian Radcliffe
Lorraine McDermott	Louise Barnewell
Lucy Mullee	Lucy Walsh
Ludford Area Residents Association	Lynda Slattery
Lynwood R.A. (Gerald Farrell)	Madeline Stringer

Maeve Henson	Maeve McNally
Maire Donovan	Mairin O'Connell
Majella Stafford	Malcolm Dalton
Maolsheachlainn O Caollaí	Margaret Brosnan
Margaret Costelloe	Margaret Evoy
Margaret Marie Sherry	Margaret Murphy
Margaret Purcell	Margot and Dan Collins
Marguerite Thornton	Maria Campbell
Maria Clarke	Maria O'Sullivan
Maria Quigley	Maria Tsakiri Ryan
Marian Ryan	Marianna O'Neill
Marie Cronin	Marie McCluskey
Marie Nyhan	Marion Mhic Dhonncha
Marion Murray	Marjorie Anglim
Mark Cumming	Mark Gilgallon & Angela Daly
Mark Heffernan	Mark Johnston
Mark McCleane	Marta Gdowska
Martin and Carol Byrne	Martin and Dolores Thornton
Martin and Eithne Moran	Martin Glen
Martin Mollhoff	Martin Scott
Martina McGarrigle	Mary and Eric Sonnenstuhl
Mary and Oliver O'Reilly	Mary Doherty
Mary Esther Clark	Mary F Ryan
Mary Finegan	Mary Forrest
Mary Gibbons	Mary Harrison
Mary Hatch	Mary Nicholson and Others

Mary O'Byrne	Mary Rynne and Philippe Benaksas
Mary Taylor Smith	Mary Wharton and Joan Winston
Maryellen Greene	Mary-Rose McGeough
Maura Lynch	Maura Mckenna
Maura Young and David Halpin	Maurice and Valerie Burris
Maurice Brady	Maya Naveh
Melissa Knuttel and Marcus Flynn	Mervyn Bent
Michael and Annemarie Kealy	Michael Brown
Michael Cahill and Others	Michael Clancy and Catherine Vale
Michael Conroy	Michael Holohan
Michael McWilliams	Michael Milmoe
Michael Purcell	Michael Ryan
Michael Shields	Michael Tubridy
Michaela Gormley	Michelle Doohan
Michelle Garvey	Michelle Grant
Mike and Sue Jones	Miriam and John Wall
Miriam McDonald	Moira and Brian Breslin
Mora O'Connor	Morna Gannon
Mr and Mrs Cotter	Mr and Mrs S Barclay
Muireann O'Higgins	Myles Balfe
Naomi Heritage	Natalia Cherednikova
Natius Brewer	Neasa & Tom Bannon
Nessa Moran	Niall Durrad
Niall Mooney	Niall Phelan
Niamh Guiney	Niamh Lyons

Nichola Bardon	Nick Armstrong
Nicole Kinahan	Noel Gilmore
Noel O Neill	Noel Whelan
Noirin and Thomas Kenny	Nora Gorey
Noreen Noonan	Norma Cronin
Olga Maguire	Olive Fogarty
Orla Davis	Pádraig Shanahan
Pam McHugh	Pamela and Kerry Kirkham
Pamela Cahill	Pascal Launois
Pat Monks	Patricia & Larry Kinsella
Patricia Doran and Andrew Grehan	Patricia Fanning
Patricia Memery and Declan Murray	Patricia Murray
Patrick and Adrienne Shannon	Patrick and Sarann Byrne
Patrick Killalea	Patrick McGovern
Patrick Noonan	Paul and Jennifer Hawkins
Paul and Natalia McGough	Paul Brady
Paul Byrne	Paul Dowling
Paul Hanratty	Paul Hayes
Paul Hyland	Paul King
Paul Macgregor	Paul Naessens
Paul Neary	Paul Noonan
Paul Steinegger	Paul Wiseman and Ruth Cosgrove
Paula Gormley	Paula O Connell
Paula Quigley	Paula Thornton
Pauline Costello	Pauline Kinsella
Pauline, Matt and Lisa Callaghan	Pearse Cassidy

Peigi O'Ruairc	Peter Fitzpatrick
Peter Harper	Philip and Joan Duff
Philip O Kane	Phyllis McCarthy
Pierce Kenny	Piotr Czarnecki
Priscilla Lawrence	Rachel Barry
Rachel Cosgrove	Rachel Crean
Rachel Gerrard	Rachel McConnell
Rachel Neary	Randal Robertson
Ray Greer	Raymond Twyford
Rebecca Milne	Regina O'Keeffe
Rhona Teehan	Richard and Jeanetta Sloane
Richard and Karen O'Donnell	Richard Cox
Richard Hawkins	Richard Teehan
Rita Heskin	Robert and Jennifer Sloane
Robert Stack	Robin Andrews and Makiko Andrews
Roebuck Residents' Association	Roger and Anne Boulter
Roger and Petra O'Neill	Roger Brooks
Roisin and Paul Coyle	Roisin McLaughlin
Ronan Colgan and Christabel Scaife	Ronan Rafferty and Family
Rosalind Duke	Rosalind Lunney
Rose Mary Kirwan	Roy Finnegan
Ruth and Matthew Ward	Ruth Horan
Ruth Meredith	Ruth O'Donovan
Rynagh McCann	Samuel and Kathryn Suttle
San Hung Poi and Hairul Sarmani	Sandra and Eric Cullen
Sandra Bowen	Sandra Joyce



Sarah Grimley	Sarah Hodgins
Sarah Jackson	Sarah Kennedy
Sarah Lawn and Tadhg Whelan	Sarah Toland
Seamus and Aisling Whoriskey	Seamus and Sarah Balfe
Seamus Fogarty	Sean and June Ryan
Sean Carthy	Sean Cunningham
Sean Kettle	Sean Mac Dhonncha
Sean McCarron	Sean O'Neill
Senan Scanlan	Senan Sexton
Shanah Cauldwell	Shane Moy
Shaun Tracey and others	Shay Moles
Sheila Cosgrave and Others	Sheila O'Neill
Simon Potterton	Sinead Clair
Sinead Glennon	Sinead MacAodha
Sinead Whelehan	Siobhan Dowling
Siobhan Nic Aodha	Siobhan O'Connor
Siobhra Rush	Stan McHugh
Stefan O Connor and Thomas Mannion (Mannion Solicitors)	
Stephen Ceillier	Stephen Kinahan
Stephen O Shea	Steven Orr
Susan and Mark Fitzpatrick	Susan Barry
Susan Durrad-Emmanuelli	Susan Gallagher
Suzanne Healy	Suzanne Young
Tadhg and Patricia Donovan	Tadhg O'Neill
Teresa Flynn	Tere Duffy

Terry James	Theresa Marnane
Theresa, James and Lisa Gaffney and others	
Therese Purcell	Thomas Walsh
Tim Geraghty	Tim King
Tim, Anne and Paul Kissane	Tom and Angela Irving
Tom Conroy	Tom Merriman
Tom O'Connor	Tracey Mc Donnell
Tracie James	Trevor and Ruth Peare
Trevor Platt	Trevor Redmond
Ultan Carroll	Una Lawlor
Una Phelan	Valerie Merriman
Vanessa Pitt and Michael Ryan	Vanya McCarthy
Venkatesham Juluri	Vera Regan and Lee Komito
Victor and Margaret Smith	Victor Boyhan
Vincent and Karolina Le Duff	Vincent Walsh
Violet Byrne	Walter and Carol Newburn
Walter Kearon	Warren Logan
Wei Gao and Sandra Kenny	Wendy Cox
Wendy Zhu	William and Mary Cadwell
Winifred and Gerry Jeffers	Yvette McDonnell
Yvonne Lane	Yvonne Mannion
Yvonne Nagle	Zara Llyod
Zelie McGrath	Rebekah Fozzard

## Appendix 2

### AA Screening Determination

#### Screening for Appropriate Assessment Screening Determination

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

##### **1. Description of the project**

The subject site has a gross area of c.3.5 ha and is located in the centre of Dundrum, which is a designated Major Town Centre located c. 6km south of Dublin City Centre. The nearest Natura 2000 sites (South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA) are located c. 3.7km to the northeast of the site.

The proposed development mainly involves the construction of 881 no. apartments and 4,458 m<sup>2</sup> of non-residential gross floor space including a replacement food store, a crèche and complementary commercial space along Main Street. It is also proposed to demolish a significant extent of existing buildings on site (excluding No.'s 1-3 Glenville Terrace) and to carry out all associated site works and servicing requirements. Surface water will pass through a SuDS management train and will be attenuated prior to discharge to the Slang Stream culvert and to ground through infiltration. The foul sewerage will discharge to a proposed trunk foul sewer within the proposed service road and will connect to the Uisce Eireann network on the west side of the by-pass via a pumping station.

Third party submissions have raised concerns about impacts on wildlife and habitats, including potential impacts on bird/bat flight lines and collision. It has also been submitted that the AA Screening information is inadequate, contains lacunae, is not based on scientific expertise, and does not comply with the Habitats Directive. In particular, AA Screening concerns are raised in relation to:

- Absence of reasoning based on scientific information.
- Non-consideration of all aspects, including the construction phase.
- Insufficient surveys and assessment of bat/bird flight lines.
- Flawed consideration of the 'zone of influence'.
- Cumulative effects of other developments.
- Reliance on mitigation measures, including the hydrological connection to North Dublin Bay SAC and North Bull Island SPA.
- Insufficient site-specific surveys.
- Reliance on the Ringsend WWTP.

The Planning Authority acknowledged the applicant's NIS (including AA Screening Report) and highlights that An Bord Pleanála is the competent authority for screening and assessment purposes.

The Department of Housing, Local Government and Heritage highlights concerns about the potential for pollution within the hydrological pathway from the site to the Slang Stream, the River Dodder, the River Liffey, and Dublin Bay, including Natura 2000 sites and species protected under the Habitats Directive. It recommends that the proposed Construction Management measures should be applied. It also recommends the appropriate timing of works and surveys to protect nesting birds, as well as bat-friendly lighting design.

Inland Fisheries Ireland highlights the importance of the Slang Stream and the River Dodder for salmon and trout populations and the need to protect water quality in considering surface water and foul water discharges.

## **2. Potential impact mechanisms from the project**

### Habitats

The site is not within or directly adjoining any Natura 2000 sites. There is a significant separation distance to the nearest Natura 2000 sites, i.e., at least 3.7km to the South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA. Accordingly, I do not consider that there is potential for any direct impacts such as habitat loss / modification, direct emissions, or species mortality/disturbance.

The vast majority of the site (>90%) consists of Built Land (BL3) and does not support habitat suitable for use by field feeding bird species associated with the surrounding SPAs. Appendix I of the applicant's NIS outlines details of Winter Bird and Flightline Surveys carried out in January 2022. The surveys revealed that no significant target species such as Brent Geese would appear to pass over the site or nearby with any regularity. The applicant's check on the database 'Irishbirding.com' of sightings of Brent Geese over the last several years reveals no site known in the immediate vicinity to Dundrum with records of foraging Brent Geese. The closest sites recently documented with Brent Geese in winter are stated to be Kilbogget Park in Cabinteely, Blackrock College & Park (Blackrock), Clonkeen College (Cabinteely) and St Kevin's College (Crumlin). Having regard to the nature of the site and its surrounding, together with the surveys and searches detailed by the applicant, I am satisfied that the site is not a significant ex-situ foraging or roosting site for QI species associated with any of the surrounding Natura 2000 sites.

### Surface Water

There is a pathway in respect of the discharge to the Slang River, which connects to the River Dodder, which in turn outfalls to the River Liffey and ultimately the marine environment at Dublin Bay. There is, therefore, a hydrological pathway to several Natura 2000 sites within the Dublin Bay area. There are potential impacts at construction stage relating to construction-related pollutants, as well as operational impacts in terms of the quantity and quality of surface water discharge.

### Ground Water

There is also a potential hydrogeological pathway to the River Slang and downstream Natura 2000 sites as discussed above. During groundworks and other construction activities, the ground will be exposed and any potential accidental discharges to ground could potentially migrate vertically downward to the underlying groundwater, contributing to the hydrological pathway to the Natura 2000 sites in Dublin Bay.

### Wastewater

There is an indirect pathway to the Natura 2000 Sites within Dublin Bay via the discharge of foul water to Ringsend WWTP, which outfalls to Dublin Bay. However, according to the 2022 Annual Environmental Report (AER):

- The WWTP has a capacity of 1.64 million (P.E.) and the annual 'mean' and 'peak' hydraulic loading is less than the peak capacity.
- Discharge does not have an observable impact on water quality or the WFD status of the Liffey and Tolka Estuaries.
- The WWTP was non-compliant with ELV's set in the wastewater discharge licence, but there are other potential upstream causes of deterioration in water quality.
- Capacity at the plant was not expected to be exceeded in the next three years.

I note that the Irish Water submission on file has not raised any objection with the regard to the proposed connection to the wastewater network and discharge to Ringsend WWTP. The Irish Water Wastewater Treatment Capacity Register (June 2023) also confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading to the Ringsend WWTP, but I note that the plant capacity was upgraded to 2.1 million PE in 2023 and will be 2.4 million PE by end of 2025 while meeting the required Water Framework Directive standards. The additional PE associated with the proposed development is estimated at c. 3,478, which would not be significant when equated as a percentage (i.e., c. 0.14%) of the planned capacity at Ringsend WWTP (2.4 million).

Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. The coastal waters in Dublin Bay are classed as 'unpolluted' by the EPA and enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

Having regard to the foregoing, the potential indirect wastewater pathway to the Natura 2000 sites within Dublin Bay is not considered significant.

#### Disturbance

The construction and operational phases have the potential for species disturbance related to increased dust, noise, lighting, and human activity. However, there is a significant distance between the site and the nearest Natura 2000 sites (3.7km) and this is further buffered by the presence of significant development in the intervening area. Furthermore, the site is part of the existing built-up Major Town Centre and there is no evidence of either the use of or suitability of the site for species on an ex-situ basis.

#### Invasive Species

As outlined in the EIAR, no invasive species were recorded within the site boundaries.

### **3. European Sites at risk**

Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk are considered in the following table.

**Table 1 European Sites at risk from impacts of the proposed project**

<b>European Site(s)</b>	<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>Qualifying interest features at risk</b>
South Dublin Bay and River Tolka Estuary SPA	Surface / groundwater drainage	Discharges to the Slang River and connections further downstream via the Dodder and Liffey rivers.	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; Wetland and Waterbirds.
	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	Indirect pathway not considered significant	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.
South Dublin Bay SAC	Surface / groundwater discharge	Discharges to the Slang River and connections further downstream via the Dodder and Liffey rivers.	Mudflats and sandflats not covered by seawater at low tide; Annual vegetation of drift lines; Salicornia and other annuals colonising mud and sand; Embryonic shifting dunes.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.



	Wastewater discharge	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
North Dublin Bay SAC	Surface / groundwater discharge	Discharges to the Slang River and connections further downstream via the Dodder and Liffey rivers.	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 Ammophila arenaria (white dunes); Fixed coastal dunes with herbaceous vegetation (grey dunes); Humid dune slacks; Petalophyllum ralfsii (Petalwort).
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater discharge	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
	Surface / groundwater drainage	Discharges to the Slang River and connections further downstream via the Dodder and Liffey rivers.	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; Wetland and Waterbirds.

	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	Indirect pathway not considered significant	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.
North-west Irish Sea SPA	Surface / groundwater drainage	Discharges to the Slang River and connections further downstream via the Dodder and Liffey rivers.	Red-throated Diver; Great Northern Diver; Fulmar; Manx Shearwater; Cormorant; Shag; Common Scoter; Little Gull; Black-headed Gull; Common Gull; Lesser Black-backed Gull; Herring Gull; Great Black-backed Gull; Kittiwake; Roseate Tern; Common Tern; Arctic Tern; Little Tern; Guillemot; Razorbill; Puffin.
	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	Indirect pathway not considered significant	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.

Rockabill to Dalkey Island SAC	Surface / groundwater discharge	No significant hydrological link given the location in outer Dublin Bay and the dilution value of the intervening waters.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater discharge	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
Howth Head SAC	Surface / groundwater discharge	No significant hydrological link given the location in outer Dublin Bay and the dilution value of the intervening waters.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater discharge	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance.	None.

Howth Head Coast SPA	Surface / groundwater drainage	No significant hydrological link given the location in outer Dublin Bay and the dilution value of the intervening waters.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.
Dalkey Island SPA	Surface / groundwater drainage	No significant hydrological link given the location in outer Dublin Bay and the dilution value of the intervening waters.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	Indirect pathway not considered significant.	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.

Wicklow Mountains SPA	Surface / groundwater drainage	No significant hydrological link.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats and not suitable as ex-situ.	None.
	Wastewater	No pathway exists.	None.
	Species disturbance	Not significant given the significant separation distance and unsuitability for ex-situ use.	None.
Wicklow Mountains SAC	Surface / groundwater drainage	No significant hydrological link. The Slang River rises outside the SAC and does not provide a direct link for Otter.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater	No pathway exists.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
Glenasmole Valley SAC	Surface / groundwater drainage	No significant hydrological link.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.

	Wastewater	No pathway exists.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
Knocksink Wood SAC	Surface / groundwater drainage	No significant hydrological link.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater	No pathway exists.	None.
	Species disturbance	Not significant given the significant separation distance.	None.
Ballyman Glen SAC	Surface / groundwater drainage	No significant hydrological link.	None.
	Habitat loss / deterioration	Not within/adjoining any protected habitats.	None.
	Wastewater	No pathway exists.	None.
	Species disturbance	Not significant given the significant separation distance.	None.

Having regard to the above table, the only Natura 2000 sites that are considered to be at risk from the proposed development are: North Dublin Bay SAC; South Dublin Bay SAC; South Dublin Bay and River Tolka Estuary SPA; North Bull Island SPA; and North-west Irish Sea

SPA. I note that the North-west Irish Sea SPA was not included in the applicant's AA Screening report as the site had not been designated when the application was lodged. However, I consider that its nature, characteristics and location is similar to the other sites (above) and that similar risks would apply.

The other Natura 2000 sites in the area are distanced further from the proposed development and, having regard to the lack of connectivity based on the source-pathway-receptor model, I do not consider that they are within the Zone of Influence. The following is a brief overview of the sites at risk:

**North Dublin Bay SAC** covers the inner part of north Dublin Bay, the seaward boundary extending from the Bull Wall lighthouse across to the Martello Tower at Howth Head. The North Bull Island is the focal point of the site. The site is an excellent example of a coastal site with all the main habitats represented. It holds good examples of nine habitats that are listed on Annex I of the E.U. Habitats Directive; one of these is listed with priority status. Several of the wintering bird species have populations of international importance, while some of the invertebrates are of national importance. The site contains a number of rare and scarce plants including some which are legally protected.

**South Dublin Bay SAC** is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. It is a fine example of a coastal system, with extensive sand and mudflats, and incipient dune formations. South Dublin Bay is also an internationally important bird site for species including Oystercatcher, Ringed Plover, Sanderling, Dunlin, Redshank, Turnstones, Brent Goose, and Bar-tailed Godwit.

**South Dublin Bay and River Tolka Estuary SPA** includes the intertidal area between the River Liffey and Dun Laoghaire; the estuary of the River Tolka; Booterstown Marsh; and a portion of the shallow marine waters. It is of ornithological importance as it supports an internationally important population of Light-bellied Brent Goose and nationally important populations of a further nine wintering species. Furthermore, the site supports a nationally important colony of breeding Common Tern and is an internationally important passage/staging

site for three tern species. Four of the species that regularly occur at this site are listed on Annex I of the E.U. Birds Directive, i.e. Bar-tailed Godwit, Common Tern, Arctic Tern and Roseate Tern.

**North Bull Island SPA** covers all of the inner part of north Dublin Bay, with the seaward boundary extending from the Bull Wall lighthouse across to Drumleck Point at Howth Head. The North Bull Island sand spit is a relatively recent depositional feature. It is an excellent example of an estuarine complex and is one of the top sites in Ireland for wintering waterfowl. It is of international importance on account of both the total number of waterfowl and the individual populations of Light-bellied Brent Goose, Black-tailed Godwit and Bar-tailed Godwit that use it. Also of significance is the regular presence of several species that are listed on Annex I of the E.U. Birds Directive, notably Golden Plover and Bar-tailed Godwit, but also Ruff and Short-eared Owl.

**North-west Irish Sea SPA** is an important resource for marine birds. It extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km<sup>2</sup> in area. The estuaries and bays that open into it along with connecting coastal stretches of intertidal and shallow subtidal habitats, provide safe feeding and roosting habitats for waterbirds throughout the winter and migration periods. These areas, along with more pelagic marine waters further offshore, provide additional supporting habitats (for foraging and other maintenance behaviours) for those seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands. These marine areas are also important for seabirds outside the breeding period.

#### **4. Likely significant effects on the European site(s) 'alone'**

Taking account of baseline conditions and the effects of ongoing operational plans and projects, this section considers whether there is a likely significant effect 'alone' as a result of the surface/groundwater mechanism.

#### **Construction Stage**



Given the proposed demolition; localised contamination on site; large scale reprofiling works; the scale of the proposed development including temporal extent of works; and the fact that a culverted section of the River Slang traverses a section of the site; the applicant's AA Screening considers that there is a direct hydrological connection to the Natura 2000 sites in Dublin Bay (North Dublin Bay SAC; South Dublin Bay SAC; South Dublin Bay and River Tolka Estuary SPA; and North Bull Island SPA). I consider that the same consideration should apply to the North-west Irish Sea SPA given its similar characteristics and the fact that it directly adjoins some of these sites and in the inner section of Dublin Bay. The application concludes that mitigation measures are required to ensure that silt, dust, contamination, and petrochemicals do not enter the River Slang. I acknowledge that many of the measures could be considered standard good practice which may not necessarily have been included for the purpose of reducing or avoiding impact on European Sites (i.e. not mitigation measures). However, the applicant's approach is based on 'an abundance of caution' and I consider this to be reasonable in accordance with the 'precautionary principle'. I also consider that the same principle should apply to the possibility of construction-related groundwater contamination which could be linked to the River Slang.

### **Operational Stage**

Surface waters will discharge to the River Slang which ultimately outfalls to Dublin Bay via the Dodder and Liffey. This includes potential for contamination from hydrocarbons associated with the proposed new traffic routes and car-parking areas etc., which could impact on water quality associated with the five Natura 2000 sites in Dublin Bay (as discussed above). It is noted that the proposed surface water drainage design is based on the Greater Dublin Regional Code of Practice for Drainage Works, the CIRIA SUDS Manual C753 2015, and the CDP (including Appendix 7 on Sustainable Drainage System Measures). It involves a 2-stage treatment approach including green/blue roofs; hard landscaping with sub-base storage; infiltration planters and tree pits; a dry swale; attenuation storage; petrol interceptors; and outlet flow control to the Slang in the form of Hydrobrakes. I acknowledge that these operational surface water measures form an integral part of the scheme and may not necessarily have been included for the purpose of reducing or avoiding impact on European Sites (i.e. not mitigation measures). However, the applicant's approach is based on 'an abundance of caution' and I consider this to be reasonable in accordance with the 'precautionary principle'.

**Flood Risk**

In section 11.8 of this report, I have outlined concerns that the issue of flood risk has not been satisfactorily resolved. This has the potential to act in-combination with construction and operational stage impacts discussed above, which could impact on the water regime and water quality of the River Slang.

**Table 2: Could the project undermine the conservation objectives ‘alone’**

<b>European Site and qualifying feature</b>	<b>Conservation objective (summary)</b>	<b>Could the conservation objectives be undermined (Y/N)?</b>
<b>North Dublin Bay SAC</b>		
Mudflats and sandflats not covered by seawater at low tide; Atlantic salt meadows; Mediterranean salt meadows; Petalophyllum ralfsii (Petalwort).	To maintain the favourable conservation condition.	Yes
Annual vegetation of drift lines; Salicornia and other annuals colonising mud and sand; Embryonic shifting dunes; Shifting dunes along the shoreline with Ammophila arenaria (white dunes); Fixed coastal dunes with herbaceous vegetation (grey dunes); Humid dune slacks.	To restore the favourable conservation condition.	Yes
<b>South Dublin Bay SAC</b>		
Mudflats and sandflats not covered by seawater at low tide.	To maintain the favourable conservation condition.	Yes
<b>South Dublin Bay and River Tolka Estuary SPA</b>		
Light-bellied Brent Goose; Oystercatcher; Ringed Plover; Knot; Sanderling; Dunlin; Bar-tailed Godwit; Redshank; Black-headed Gull; Roseate Tern; Common Tern; Arctic Tern; Wetland and Waterbirds.	To maintain the favourable conservation condition.	Yes

<b>North Bull Island SPA</b>		
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; Wetland and Waterbirds.	To maintain the favourable conservation condition.	Yes
<b>North-west Irish Sea SPA</b>		
Red-throated Diver; Great Northern Diver; Manx Shearwater; Common Scoter; Little Gull; Black-headed Gull; Common Gull; Lesser Black-backed Gull; Great Black-backed Gull; Roseate Tern; Common Tern; Arctic Tern; Little Tern; Guillemot; Razorbill.	To maintain the favourable conservation condition.	Yes
Fulmar; Cormorant; Shag; Herring Gull; Kittiwake; Puffin.	To restore the favourable conservation condition.	Yes
<p><u>Conclusion</u></p> <p>I conclude that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of North Dublin Bay SAC; South Dublin Bay SAC; South Dublin Bay and River Tolka Estuary SPA; North Bull Island SPA; and North-west Irish Sea SPA cannot be excluded. The potential effects relate to construction stage impacts associated with surface water quality and ground water quality, and the operational stage effects associated with surface water disposal. In accordance with the precautionary principle, an Appropriate Assessment is required on the basis of the effects of the project 'alone'.</p> <p>Further assessment of in-combination effects with other plans and projects is not required at this time.</p>		
<b>Overall Conclusion- Screening Determination</b>		

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of North Dublin Bay SAC; South Dublin Bay SAC; South Dublin Bay and River Tolka Estuary SPA; North Bull Island SPA; and North-west Irish Sea SPA cannot be excluded. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.

This conclusion is based on:

- Objective information presented in the applicant's reports;
- The zone of influence of potential impacts having regard to hydrological pathways to Natura 2000 Sites;
- The potential for construction-related impacts on surface water and groundwater quality;
- The potential for operational stage impacts associated with surface water disposal;
- The flood risk associated with the site and the proposed development;
- The application of the precautionary approach; and
- The nature and extent of predicted impacts, which could affect the conservation objectives of the European Sites.

## **Appendix 3**

### **Appropriate Assessment**

#### **1.0 The Natura Impact Statement (NIS)**

A Natura Impact Statement (NIS) has been submitted with the application. It considers the potential effects of the project on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA, due to the direct pathway from the proposed works and the potential for downstream effects. I acknowledge that the NIS was prepared in advance of the designation of the North-west Irish Sea SPA. However, I consider that its nature, characteristics, and location are similar to the other sites included in the NIS and that similar pathways and potential effects would apply.

The NIS evaluates the potential for direct, indirect effects, alone or in combination with other plans and projects having taken into account the use of mitigation measures. The NIS is informed by the accompanying Environmental Impact Assessment Report (EIAR), including the proposed mitigation measures that are outlined to reduce the potential effects of the proposed project on species/habitats of conservation importance and the surrounding environment.

The NIS takes full account of the legislative context and outlines how it has been prepared in accordance with relevant national and European guidance. It has been carried out by Altemar Ltd. and the experience and qualifications of the author are included. I am satisfied that it has been prepared by competent experts.

NPWS site synopses and Conservation objectives of sites within 15km were examined. The most recent SAC and SPA boundary shapefiles were downloaded and overlaid on ESRI terrain maps and satellite imagery. Several site surveys were carried out to determine if the site contained possible threats to a Natura 2000 site or any Natura 2000 species or habitats. The NIS includes references to a range of information sources. Appendix I of the NIS outlines details of the Winter Bird and Flightline Survey (January 2022).

The applicant's NIS was prepared in line with current best practice and includes an assessment of the direct and indirect effects on habitats and species, as well as an assessment of the cumulative impact of other plans and projects. It concludes that no significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives, and that the proposed project will not will adversely affect the integrity of European sites.

Having reviewed the documents, submissions and consultations included within the application file, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- North Dublin Bay SAC
- South Dublin Bay SAC
- South Dublin Bay and River Tolka Estuary SPA
- North Bull Island SPA
- North-west Irish Sea SPA.

## 2.0 Stage 2 Appropriate Assessment of implications of the proposed development

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

In carrying out this assessment, I have adhered to relevant guidance including:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

### 3.0 European Sites

A description of the European Sites, their Conservation Objectives and Qualifying Interests/Special Conservation Interests has been set out in the NIS and is summarised in Appendix 2 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website. The 'Attributes', 'Measures' and 'Targets' for the QIs as set out in the Conservation Objectives (CO) for each European Site are detailed in the following table:

<b>North Dublin Bay SAC</b>		
<b>QIs - Mudflats and sandflats not covered by seawater at low tide</b>		
<b>Attribute</b>	<b>Measure</b>	<b>Target</b>
Habitat Area	Hectares	The permanent habitat area is stable or increasing, subject to natural processes.
Community extent	Hectares	Maintain the extent of the Mytilus edulis-dominated community, subject to natural processes.

Community structure: Mytilus edulis density	Individuals/m <sup>2</sup>	Conserve the high quality of the Mytilus edulis dominated community, subject to natural processes.
Community distribution	Hectares	Conserve the following community types in a natural condition: Fine sand to sandy mud with Pygospio elegans and Crangon crangon community complex; Fine sand with Spio martinensis community complex.
<b>QIs - Annual vegetation of drift lines</b>		
Habitat area	Hectares	Area increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: functionality and sediment supply	Presence/ absence of physical barriers	Maintain the natural circulation of sediment and organic matter, without any physical obstructions.
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation composition: typical species and sub-communities	Percentage cover at a representative number of monitoring stops	Maintain the presence of species-poor communities with typical species: sea rocket (Cakile maritima), sea sandwort (Honckenya peploides), prickly saltwort (Salsola kali) and oraches (Atriplex spp.)
Vegetation composition: negative indicator species	Percentage cover	Negative indicator species (including non-natives) to represent less than 5% cover.
<b>QIs – Salicornia and other annuals colonising mud and sand; Atlantic salt meadows; Mediterranean salt meadows;</b>		
Habitat area	Hectares	Area stable or increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: sediment supply	Presence/ absence of physical barriers	Maintain, or where necessary restore, natural circulation of sediments and organic matter, without any physical obstructions
Physical structure: creeks and pans	Occurrence	Maintain creek and pan structure, subject to natural processes, including erosion and succession
Physical structure: flooding regime	Hectares flooded; frequency	Maintain natural tidal regime
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation structure: height	Centimetres	Maintain structural variation within sward
Vegetation structure: vegetation cover	Percentage cover at a representative number of monitoring stops	Maintain more than 90% of area outside creeks vegetated.

Vegetation composition: typical species and sub-communities	Percentage cover	Maintain the presence of species-poor communities listed in SMP.
Vegetation structure: negative indicator species	Hectares	No significant expansion of common cordgrass ( <i>Spartina anglica</i> ), with an annual spread of less than 1%.
<b>QI - Embryonic shifting dunes</b>		
Habitat area	Hectares	Area stable or increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: Functionality and sediment supply	Presence/ absence of physical barriers	Maintain the natural circulation of sediments and organic matter, without any physical obstructions
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation composition: plant health of foredune grasses	Percentage cover	More than 95% of sand couch ( <i>Elytrigia juncea</i> ) and/or lyme-grass ( <i>Leymus arenarius</i> ) should be healthy (i.e. green plant parts above ground and flowering heads present).
Vegetation composition: typical species and sub-communities	Percentage cover at a representative number of monitoring stops	Maintain the presence of species-poor communities with typical species: sand couch ( <i>Elytrigia juncea</i> ) and/or lyme-grass ( <i>Leymus arenarius</i> )
Vegetation structure: negative indicator species	Percentage cover	Negative indicator species (including non-native species) to represent less than 5% cover.
<b>QI - Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</b>		
Habitat area	Hectares	Area stable or increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: Functionality and sediment supply	Presence/ absence of physical barriers	Maintain the natural circulation of sediments and organic matter, without any physical obstructions
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation composition: plant health of dune grasses	Percentage cover	More than 95% of marram grass and/or lyme-grass ( <i>Leymus arenarius</i> ) should be healthy (i.e. green plant parts above ground and flowering heads present).
Vegetation composition: typical species and sub-communities	Percentage cover at a representative number of monitoring stops	Maintain the presence of species-poor communities dominated by marram grass ( <i>Ammophila arenaria</i> ) and/or lymegrass ( <i>Leymus arenarius</i> )



Vegetation structure: negative indicator species	Percentage cover	Negative indicator species (including non-native species) to represent less than 5% cover.
<b>QI - Fixed coastal dunes with herbaceous vegetation (grey dunes)</b>		
Habitat area	Hectares	Area stable or increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: Functionality and sediment supply	Presence/ absence of physical barriers	Maintain the natural circulation of sediments and organic matter, without any physical obstructions
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation Structure: Bare ground	Percentage cover	Bare ground should not exceed 10% of fixed dune habitat, subject to natural processes
Vegetation Structure: sward height	Centimetres	Maintain structural variation within sward
Vegetation composition: typical species and sub-communities	Percentage cover at a representative number of monitoring stops	Maintain range of sub-communities with typical species
Vegetation composition: negative indicator species	Percentage cover	Negative indicator species (including non-native species) to represent less than 5% cover.
Vegetation composition: scrub/trees	Percentage cover	No more than 5% cover or under control.
<b>QI - Humid dune slacks</b>		
Habitat area	Hectares	Area increasing, subject to natural processes, including erosion and succession.
Habitat distribution	Occurrence	No decline, or change in habitat distribution, subject to natural processes.
Physical structure: Functionality and sediment supply	Presence/ absence of physical barriers	Maintain the natural circulation of sediments and organic matter, without any physical obstructions
Physical Structure: hydrological and flooding regime	Water table levels; groundwater fluctuations (metres)	Maintain natural hydrological regime
Vegetation structure: zonation	Occurrence	Maintain the range of coastal habitats including transitional zones, subject to natural processes including erosion and succession
Vegetation Structure: Bare ground	Percentage cover	Bare ground should not exceed 5% of dune slack habitat, with the exception of pioneer slacks which can have up to 20% bare ground.

Vegetation Structure: vegetation height	Centimetres	Maintain structural variation within sward
Vegetation composition: typical species and sub-communities	Percentage cover at a representative number of monitoring stops	Maintain range of sub-communities with typical species
Vegetation composition: cover of <i>Salix repens</i>	Percentage cover; centimetres	Maintain less than 40% cover of creeping willow ( <i>Salix repens</i> )
Vegetation composition: negative indicator species	Percentage cover	Negative indicator species (including non-native species) to represent less than 5% cover.
Vegetation composition: scrub/trees	Percentage cover	No more than 5% cover or under control.
<b>QI – Petalwort</b>		
Distribution of populations	Number and geographical spread of populations	No decline.
Population size	Number of individuals	No decline
Area of suitable habitat	Hectares	No decline
Hydrological conditions: soil moisture	Occurrence	Maintain hydrological conditions so that substrate is kept moist and damp throughout the year, but not subject to prolonged inundation by flooding in winter
Vegetation structure: height and cover	Centimetres and percentage	Maintain open, low vegetation with a high percentage of bryophytes (small acrocarps and liverwort turf) and bare ground
<b>South Dublin Bay SAC</b>		
<b>QI - Mudflats and sandflats not covered by seawater at low tide</b>		
<b>Attribute</b>	<b>Measure</b>	<b>Target</b>
Habitat Area	Hectares	The permanent habitat area is stable or increasing, subject to natural processes.
Community extent	Hectares	Maintain the extent of the <i>Zostera</i> -dominated community, subject to natural processes.
Community structure: <i>Zostera</i> density	Shoots/m <sup>2</sup>	Conserve the high quality of the <i>Zostera</i> -dominated community, subject to natural processes.
Community distribution	Hectares	Conserve the following community types in a natural condition: Fine sands with <i>Angulus tenuis</i> community complex.
<b>South Dublin Bay and River Tolka Estuary SPA</b>		

<b>QIs - Light-bellied Brent Goose; Oystercatcher; Ringed Plover; Knot; Sanderling; Dunlin; Bar-tailed Godwit; Redshank; Black-headed Gull</b>		
<b>Attribute</b>	<b>Measure</b>	<b>Target</b>
Population trend	Percentage change	Long term population trend stable or increasing
Distribution	Range, timing and intensity of use of areas	No significant decrease in the range, timing or intensity of use of areas, other than that occurring from natural patterns of variation
<b>QIs - Roseate Tern;</b>		
Passage population: individuals	Number	No significant decline
Distribution: roosting areas	Number; location; area (hectares)	No significant decline
Prey biomass available	Kilogrammes	No significant decline
Barriers to connectivity	Number; location; shape; area (hectares)	No significant increase
Disturbance at roosting site	Level of impact	Human activities should occur at levels that do not adversely affect the numbers among the post-breeding aggregation of terns.
<b>QI – Common Tern; Arctic Tern</b>		
Breeding population abundance: apparently occupied nests	Number	No significant decline
Productivity rate: fledged young per breeding pair	Mean number	No significant decline
Passage population: individuals	Number	No significant decline
Distribution: breeding colonies	Number; location; area (Hectares)	No significant decline
Distribution: roosting areas	Number; location; area (Hectares)	No significant decline
Prey biomass available	Kilogrammes	No significant decline
Barriers to connectivity	Number; location; shape; area (hectares)	No significant increase
Disturbance at breeding site	Level of impact	Human activities should occur at levels that do not adversely affect the breeding common tern population
Disturbance at roosting site	Level of impact	Human activities should occur at levels that do not adversely affect the numbers of common tern among the post-breeding aggregation of terns
<b>QI – Wetlands</b>		

Habitat area	Hectares	The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 2,192 hectares, other than that occurring from natural patterns of variation.
<b>North Bull Island SPA</b>		
<b>QIs - 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</b>		
<b>Attribute</b>	<b>Measure</b>	<b>Target</b>
Population trend	Percentage change	Long term population trend stable or increasing
Distribution	Range, timing and intensity of use of areas	No significant decrease in the range, timing or intensity of use of areas, other than that occurring from natural patterns of variation
<b>QI – Wetlands</b>		
Habitat area	Hectares	The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 1,713 hectares, other than that occurring from natural patterns of variation.
<b>North-west Irish Sea SPA</b>		
<b>QIs - Red-throated Diver, Great Northern Diver, Fulmar, Manx Shearwater, Cormorant, Shag, Common Scoter, Black-headed Gull, Little Gull; Common Gull; Lesser Black-backed Gull; Herring Gull; Great Black-backed Gull; Kittiwake; Roseate Tern; Common Tern; Arctic Tern; Little Tern; Guillemot; Razorbill; Puffin</b>		
<b>Attribute</b>	<b>Measure</b>	<b>Target</b>
Non-breeding population size	Number	No significant decline. For Fulmar, Cormorant, Shag, Herring Gull, Kittiwake, and Puffin, the target is that long term SPA population trend is stable or increasing.
Spatial distribution	Hectares, time and intensity of use	Sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population.
Forage spatial distribution, extent and abundance	Location and hectares, and forage biomass	Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target

Disturbance across the site	Intensity, frequency, timing and duration	The intensity, frequency, timing and duration of disturbance occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution
Barriers to connectivity and site use	Number; location; shape; area (hectares)	The number, location, shape and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA

Having considered the above Attributes, Measures, and Targets for each site, the NIS acknowledges that the construction and operational stages have the potential for significant impacts on each site. It acknowledges that the River Slang provides a direct hydrological pathway to the Natura 2000 sites with the potential for downstream effects on aquatic biodiversity and habitats of conservation importance, including:

- Demolition, site reprofiling, storage of topsoil or construction works in the vicinity of the River Slang or drains leading to the river could lead to dust, soil, pollution, or silt-laden run-off entering the river.
- Contaminated surface water run-off during construction/operation may lead to silt, cement or contaminated materials entering the river.
- On-site concrete production or cement works in the vicinity of the river/drains may contaminate the river.
- The use of plant/machinery and the temporary storage of construction materials, oils, fuels and chemicals could lead to pollution on site or in the river.

The NIS concludes that, in the absence of mitigation measures, the proposed development has the potential to impact on the distribution, number and range of all Qualifying Interests in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA. And given the similarities in the nature, location, and Qualifying Interests for the North-west Irish Sea SPA, I consider that this conclusion should also apply to the North-west Irish Sea SPA.

#### **4.0 Mitigation Measures**

The NIS states that the accompanying EIAR and Outline Construction Management Plan (OCMP) outline the required mitigation measures. These measures, together with ecological supervision and monitoring, are intended to ensure compliance with Water Pollution Acts to prevent impacts on the River Slang which would be seen as a vector for potential impacts on Natura 2000 sites.

EIAR Chapter 7 'Water' includes measures which can be summarised as follows:

Construction Phase

- Compliance with the OCMP to avoid discharge of silt, contaminated runoff, or hydrocarbons.
- Provision of a Water Management System to avoid polluted or silt laden surface water runoff and to direct all collected groundwater to settlement tanks and silt bags prior to discharge at an agreed rate.
- CEMP to address flood risk.
- Dedicated fuel storage areas >50m from watercourses or drains.
- Compliance with best-practice guidance documents.

Operational Phase

- Incidental run-off to be discharged to the foul drainage system.
- Petrol/oil separators for surface water drains.
- Storm water attenuation with flow control to greenfield run-off rates.
- Provision of a 2-stage surface water management train.
- Provision of compensatory flood storage volume.
- Finished floor levels of electrical substations and control kiosks to avoid flood levels.
- Ongoing monitoring of the above measures.

EIAR Chapter 8 'Air & Climate' includes measures which can be summarised as follows:

- Best practice construction methods to manage asbestos, dust, dirt, and engines.
- Dust suppression and monitoring will be conducted during construction.
- Dust deposition and particulate PM2.5 & PM10 monitoring initiated prior to demolition works.

EIAR Chapter 5 'Biodiversity' includes measures which can be summarised as follows:

- Employment of an ecological consultant to include monitoring of dust, surface water and biodiversity during construction.
- Attenuation and surface water connections to be inspected upon completion by the project ecologist.

The Outline Construction Management Plan (OCMP) includes pollution control measures which can be summarised as follows:

#### General

- Demolition and construction methods tailored to reduce dust and noise pollution.
- Management of hazardous materials, including storage with secondary containment to retain at least 110% of contents.
- Agreement of details for refuelling machinery, servicing machinery, and concrete mixing etc.

#### Surface Water Drainage & Ground Water Control

- Specific Method Statement to be agreed with DLRCC.
- Surface water to be pumped to a holding tank, then a series of settlement tanks before discharge to the existing combined sewer.
- A comprehensive range of runoff control measures will be implemented.

The NIS concludes that no significant adverse effects on the conservation objectives of Natura 2000 sites are likely following the implementation of the outlined mitigation measures. I have considered the proposed mitigation and monitoring measures. I consider that they are robust and comprehensive, and I am satisfied that they are adequate to ensure that there will be no significant water quality impacts associated with the proposed development. Although the NIS does not refer to the North-west Irish Sea SPA, I consider that this conclusion can be applied equally to this site given its similar nature and location.

In section 11.8 of this report, I have raised concerns about the level of flood risk modelling and associated mitigation, which leaves outstanding concerns regarding the potential to impact on the water regime and water quality. However, I consider that the impacts of any flooding event would be temporary and localised to the immediate site environs and would not adversely impact on the integrity of the downstream Natura 2000 sites given the significant separation distance and hydrological buffer that exists.

## **5.0 In-combination impacts**

The NIS considers the potential impacts of notable planning applications located within or in close proximity to the application site, which can be summarised as follows:

Ref No.	Location	Proposal
ABP 305261	Dundrum Town Centre	SHD (107 no. apartments)
D18A/0140	Dundrum Town Centre	Commercial development, alterations and extensions to existing buildings.
D15A/0081	Notre Dame Des Missions	Residential development of 269 no. units.
D20A/0304	Holy Cross Church and Parochial House	Temporary use of lands to the rear for use as an ice rink.
D18A/0803	Mulveys Yard, to rear of no. 17 Main Street, Parochial House and Holy Cross Church	Retention of temporary car park for a period of 5 years.

It highlights that surface water disposal will comply with the Water Pollution Acts and that wastewater treatment will take place at Ringsend WWTP which will have adequate capacity. It states that the drainage and water attenuation design will have a net beneficial impact, particularly during heavy rainfall events where attenuation will take place prior to discharge to the surface water network. It concludes that no significant cumulative or in-combination effects from other proposals in the area are likely.

I acknowledge that the report was completed in March 2022. Accordingly, I have considered the planning register and other permitted developments in the area since the making of the application. However, consistent with the applicant's assessment, I am satisfied that these projects have incorporated suitable measures for the management of groundwater, surface water, and wastewater, and that any permissions have satisfactorily considered the potential for significant effects on Natura 2000 sites through AA Screening and/or Appropriate Assessment. I also acknowledge that the site is governed by the Dundrum Local Area Plan 2023 and the Dun Loaghaire-Rathdown County Development Plan 2022-2028. These plans have undergone AA and where potential for likely significant effects have been identified, appropriate mitigation has been included. As such, it is considered that these plans and policies will not result in in-combination effects. The plans have directly addressed the protection of European sites and biodiversity through specific objectives, including those relating to the protection of the water regime and water quality.



Accordingly, I am satisfied that the potential for in-combination effects with other plans and projects has been adequately considered and that the proposed development would not result in any residual cumulative effects with regard to any European Site

## **6.0 Appropriate Assessment Conclusion**

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

Having carried out screening for Appropriate Assessment of the project, it was concluded that the likelihood of significant effects on South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA could not be excluded.

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. Where potential significant effects on Natura 2000 sites have been identified, key design features and mitigation measures have been prescribed to remove risks to the integrity of the European sites. I am satisfied based on the information available, which I consider to be adequate in order to carry out a Stage 2 Appropriate Assessment, that if the key design features and mitigation measures are undertaken, maintained and monitored as detailed in the NIS, adverse effects on the integrity of Natura 2000 sites will be avoided.

Therefore, following an Appropriate Assessment, it has been ascertained beyond reasonable scientific doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA, or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and monitoring in relation to the Conservation Objectives of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.

- Detailed assessment of cumulative and in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, and North-west Irish Sea SPA.