



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313255-22**

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#### **Strategic Housing Development**

103 no. Build to Rent apartments and associated site works.

#### **Location**

Site at the former Royal Oak Public House, Finglas Road and Old Finglas Road, Glasnevin, Dublin 11. ([www.royaloakshd.ie](http://www.royaloakshd.ie))

#### **Planning Authority**

Dublin City Council North

#### **Applicant**

Three Castle Investment Limited.

#### **Prescribed Bodies**

1. Irish Water
2. Transport Infrastructure Ireland.
3. Irish Aviation Authority.
4. Inland Fisheries Ireland.

#### **Observers**

1. Adrienne Kelly
2. Ann Lynch Mulcahy
3. Anne Boyle

4. Antionette Carr
5. Audrey Baker
6. Aventale Limited
7. Billy Hanney, Pamela Hanney, Sorcha Hanney, Pamela Hanney Jr, , Damian Hanney, Jason Hanney & Erica Hanney
8. Brendan Robertson
9. Brian and Helen Brennan
10. Brian McCoy and Liz Musiol
11. Bridget Byron
12. Caroline English
13. Caroline Gibney
14. Cat O'Driscoll and Gary Gannon
15. Catherine Halpin
16. Chris & Nora Cregan and Paddy & Liz Doyle
17. Clodagh Collier
18. Damian Mulcahy
19. Deborah Bligh
20. Deirdre Duffy
21. Denis Carr
22. Derek and Helen Roxburgh
23. Dermot and Valerie Hackett
24. Doris Moffit
25. Eileen and Liam Burke
26. Eileen Mulhair
27. Elaine Finn
28. Frances Whelan
29. Gerard and Maureen English
30. Gerry and Sandra Thomas
31. Haley and David Fegan
32. Harry and Jean Flood.
33. James and Lynda O'Donnell
34. Janette Walker
35. Jean Birchall.
36. Joan McNally
37. John and Phyllis Keane
38. Joseph Knott
39. Karen and John Grace
40. Leon Mulhall
41. Lisa Crosby
42. Lorraine Cullen
43. Maeve Dooley

44. Margaret Goodson
45. Mary Davoren
46. Mary McElroy
47. Michael and Maura Thornberry
48. Michael and Noreen Armstrong
49. Neasa Hourigan and Darcy Lonergan
50. Niamh Delaney
51. Niamh Giles
52. Olive Collier
53. Patricia Prizeman
54. Patrick and Elizabeth Doyle
55. Patrick Armstrong
56. Patrick Davoren
57. Paul Flynn
58. Peter Tuile
59. Robert McCormack
60. Sandra and Paddy Oglesby
61. Séamas McGrattan and Amy Farrell
62. Seamus Flynn
63. Sean and Leila Quinn
64. Teresa O'Donnell
65. Theresa Mulhall
66. Thomas Murtagh
67. Tom Moore
68. Ursula and Leslie Deegan
69. Veronica Elliott
70. Violet Hill Residents
71. William and Audrey Kelly
72. William Darcy
73. Dympna Murtagh

**Date of Site Inspection**

27<sup>th</sup> October 2022

**Inspector**

Daire McDevitt

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## **1.0 Introduction**

This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## **2.0 Site Location and Description**

The application site with a stated area of c. 0.3845ha is located at the junction of Finglas Road (R135) and the Old Finglas Road (R102), Glasnevin, Co. Dublin. The site fronts directly onto the Finglas Road, a dual carriageway which includes a Quality Bus Corridor (QBC) and cycle lane.

The site at present is undeveloped and has some hardstanding associated with a demolished public house (Royal Oak) , its former carpark with stockpiling of material. The rear of the site has a steep embankment which is overgrown and includes a significant number of trees. A container is located to the rear of the site. Boundaries are a mix of palisade fencing, temporary security fencing, hoarding and block wall. A residential estate (Violet Hill) is located at the top of this embankment (west) and consists of two storey semi-detached dwellings. Glasnevin Oaks bounds the north eastern portion of the site. The northern portion of the site is located on lands zoned Z9 with the remainder Z1. Access is proposed off the R235 at the north western corner.

The R135 has been the subject of redevelopment over the last 20 years and is an area in transition with a number of apartment developments. To the south is the Tolka River and its associated amenity areas, this is separated from the site by Violet Hill Park and a pumping station. The Tolka River flows under the R135 to the south of the site.

Site bounds the Zone of Archaeological Constraint for the Recorded Monuments DU018-001 (Mill) and DU018-002 (Bridge).

## **3.0 Proposed Strategic Housing Development**

Permission is sought for:

- (i) removal of existing carpark, associated areas of hard-standing surface and construction materials on site;

- (ii) construction of a Build-To-Rent residential development within a new part six, part seven, part eight, part nine storey over basement level plant room apartment building comprising 103 no. apartments (10 no. studio, 33 no. one-bedroom & 60 no. two-bedroom) all of which have direct access to private amenity space, in the form of a balcony or terrace, and shared access to 450.9sq.m of internal resident's amenities, 1,061sq.m of external communal amenity space (1st floor & 7th floor roof terraces) and 365sq.m of public open space (public terrace and landscaped area at ground level);
- (iii) provision of 48 no. vehicular parking spaces (including 3 no. mobility parking spaces and 5 no. electric charging spaces), 2 no. motorcycle parking spaces, 222 no. bicycle parking spaces, bin stores, switch room and ESB substation at ground floor/undercroft level;
- (iv) provision of 1 no. new vehicular entrance and 7 no. new pedestrian entrances to the development and associated public amenity areas from Old Finglas & Finglas Road, 3 no. pedestrian entrances will provide access to the provided public open space, 2 no. pedestrian entrances will provide direct access to 2 no. ground floor level apartments and 2 no. pedestrian entrances will provide direct access to the apartment building; and,
- (v) all ancillary works including landscaping, boundary treatments, provision of internal footpaths, provision of foul and surface water drainage, green roofs and all site services, site infrastructure and associated site development works necessary to facilitate the development.

A Natura Impact Statement has been prepared in respect of the proposed development.

The application contains a statement setting out how the proposal will be consistent with the objectives of the relevant development plan.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

#### **Development parameters:**

Site Area: 0.3845ha

No. of units: 103 BTR apartments

Density: 268 uph

Plot ratio: 2.44

Site coverage: 12% \*ground level)

Dual aspect: stated to be 71%. Based on a review of the submitted plans, a more appropriate figure is c.45%.

Part V: 10 units (6 x 1 bed and 4 x 2 bed units).

Height: 7-9 storeys (range from c.24m to a max. height of c.31.23m)

Access: via Finglas Road.

Parking: Car (48 no. spaces), Bicycle (222 no. spaces)

### Unit type and Mix

Unit Type	Studio	1 bed	2 bed	Total
No. of Units	10	33	60	<b>103</b>
% of total	9.7%	32%	58.3%	<b>100%</b>

Documentation submitted with the application includes inter alia:

- Statement of Consistency & Planning Report
- Response Report to An Bord Pleanála Opinion
- Architectural Design Statement
- Material Contravention Statement

- Social and Community Infrastructure Audit
- Housing Quality Assessment
- Building Lifecycle Report
- Verified Views & CGI's
- Daylight Analysis and Overshadowing
- Energy & Sustainability Statement
- Property Management Strategy Report
- Landscape Development Report
- Arboricultural Report
- AA Screening Report & Natura Impact Statement
- EIAR Screening Report
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001, as amended.
- Wind Microclimate Modelling
- Flood Risk Assessment
- Drainage Calculations Report
- Infrastructure report for Planning
- Transport Assessment Report; includes; Parking Management /Strategy Report; DMURS – Statement of Consistency & stage 1 Road Safety Audit & Quality Audit
- Operational Waste Management Plan
- Construction, Environmental Management Plan



- Resource & Waste Management Plan
- Outdoor Lighting report

## 4.0 Planning History

**PA Reg. Ref 458/17 (ABP Ref. PL29N.248996)** refers to a February 2018 grant of permission for (a) 69 apartments; (32 no. two bedroom units, 19 no. one bedroom units, 15 no. three bedroom units & 3 no. studio apartments) in two five storey blocks. All ground floor apartments have private open space in the form of private patios, while all of the first to fifth floor apartments have private balconies (b) Basement car park over two levels (served with separate entrance and exit ramps off Finglas Road inbound lane), providing spaces for 104 no. cars (including 6 no. wheelchair accessible), 80 no. bicycle spaces, storage lockers, bin storage and attenuation tank (capacity 110m<sup>3</sup>), (c) Communal open space, landscaping, boundary fencing, paths, signage and site development works. (permission expires 2023).

**6360/06x1** refers to a refusal for an extension to duration of permission. The reason for refusal related to the height of the development

**PA Reg. Ref. 6360/06 (ABP Ref, PL29N.224597 (invalid appeal))** refers to a 2007 grant of permission for the construction of 86no apartments in 3no seven storey blocks over 2no basement levels (123no cars) with access and egress from Finglas Road and communal open space, landscaping, boundary fencing, paths, signage and site development works.

**PA Reg. Ref. 5909/03 (ABP PL29N.208209)** refers to a decision to refuse permission for the demolition of the existing licensed premises and the construction of a mixed development comprising 51no apartments, 1no retail unit, a restaurant, a licensed public house and ancillary accommodation in 2no four storey buildings over basement car parking consisting of 76no parking spaces. Works also included 13no surface level car parking spaces, landscaping and associated site works.

**PA Reg, Ref. 1573/03 (ABP 29N.203400)** refers to a decision to refuse permission for the demolition of the existing licensed premises and the construction of a mixed use development comprising of 2 buildings ranging from 3 to 7 stories over basement car parking with 83 No. spaces. A total of 78 apartments are proposed (22 No. 1 Bed, 50 No. 2 bed, and 6 No. 3 Bed units) and ground floor accommodation comprising of: a Creche; 3 no. retail units; a restaurant; a Central Apartment Access Core; new public house licensed premises with an adjoining off licence; ancillary accommodation.

**PA Reg. Ref. 4279/00 (PL 29N.128240)** refers to a decision to refuse permission for the demolition of the existing licensed premises and construction of a part four / part five storey mixed use development, consisting of a licensed premises with adjoining 5no retail / office units and 129no apartments over 2no levels of basement car parking (111no spaces). Adjoining recreational and amenity space not affected. Associated site works including retaining walls, drainage and footpaths.

#### **SHD Applications in the vicinity:**

**301772-21** refers to a 2021 grant of permission for demolition of existing structures and construction of 191 no. apartments, childcare facility and associated site works at Finglas Road, Dublin 11 ([www.mervilleplacesshd.ie](http://www.mervilleplacesshd.ie)).

#### **BusConnects:**

**ABP 314610-22** refers to an application for Bus Connects Ballymun/Finglas to Dublin City Centre.

## **5.0 Section 5 Pre Application Consultation**

- 5.1 A section 5 pre-application consultation with the applicants and the planning authority took place online under ABP- 311744-21 on the 22<sup>nd</sup> November 2021 in respect of a proposed development of 110 BTR apartments.

I note that the applicant in their documentation referred to ABP 311696 in error as the Pre-application consultation reference.

## **5.2 Notification of Opinion**

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

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

1. Further consideration and/or justification of the documents as they relate to impact of the proposed development on the residential amenity of the existing neighbouring dwellings, having regard, inter alia, the location and height of the proposed development and the potential for a negative impact on the visual and residential amenity of existing occupants along Violet Hill. Additional Computer-Generated Images (CGIs) and visualisation/cross section drawings showing the proposed development in the context of the existing residential properties surrounding the site may further elaborate on the visual impact on these properties. This further consideration may require the submission of updated sunlight and daylight analysis detailing compliance with the requirements of BRE209/BS2011, as applicable and may require an amendment of the documents and/or design proposal submitted.

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

1. Additional Computer-Generated Images (CGIs) and visualisation/cross section drawings showing the proposed development in the context of the site at key landmark views along the Finglas Road and surrounding areas.
2. Updated contextual elevations clearly illustrating the relationship between the ground floor and the Finglas Road.
3. An updated Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
4. A Social Audit necessary to comply with Section 16.10.4 of the Dublin City Development Plan 2016-2022 and indicating the range of existing facilities in the area.
5. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the apartment buildings, landscaped areas, pathways, entrances, and boundary treatment. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development. The documents should also have regard to the long-term management and maintenance of the proposed development and a life cycle report for the apartments in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2020).
6. A detailed site layout plan clearly illustrating the proposed development and the land use zoning for the site from the statutory development plan.
7. A Microclimate Study.

8. A quantitative and qualitative assessment which provides a breakdown of the public and communal open space areas. This assessment should include a detailed landscape plan including the provision of communal amenity spaces and play facilities in line with the Sustainable Urban Housing: Design Standards for New Apartments (2020). Further details relating to a specific tree survey, tree retention report and tree planting scheme should be included in the landscaping report.
9. Submission of a Car Parking Management Strategy will provide further justification in relation to car parking strategy, the designation of parking spaces for visitor and residents, car sharing spaces, 10% electric charging and provision of motorcycle spaces.
10. Submission of detailed information indicating compliance with Section 4.15 – 4.17 of the Apartment Guidelines (2020) for bicycle parking facilities.
11. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.
12. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format. The notice and statement should clearly indicate which Planning Authority statutory plan it is proposed to materially contravene.

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

### **5.3 Applicant's Statement**

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

Opinion. It is noted that a Material Contravention Statement was also submitted with the application documentation.

In response to item 1 it is submitted that the design, height and massing of the proposed development so as to ensure any potential negative impacts on adjoining sites and the immediate environs are mitigated appropriately. Decatenation has been revised to have regard to the amended scheme.

The application has also submitted a response in an attempt to address 1-12 of the specific information requested.

## **6.0 Planning Policy**

### **6.1 National National Planning Framework 2018-2040**

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

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

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

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

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

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

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

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

### **Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

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

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

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

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

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

- to purchase or rent at an affordable price
- built to a high standard and in the right place
- offering a high quality of life

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

The policy has four pathways to achieving housing for all:

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

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

### **Section 28 Ministerial Guidelines:**

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

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

## **6.2 Regional:**

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

The RSES including the Dublin Metropolitan Area Strategic Plan (MASP) was adopted on the 3rd of May 2019.

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

RPO 4.3 supports “the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs.”

Section 5.3 identifies guiding principles for development of the metropolitan area, which include: Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs. To support a steady supply of sites and to accelerate housing supply, in order to achieve higher densities in urban built up areas, supported by improved services and public transport

## 6.3 Local

### Dublin City Development Plan 2016-2022

The bulk of the site is zoned Z1 *'To protect, provide and improve residential amenities'*, with a section of the northern portion of the site zoned Z9 Amenity/Open Space Lands/Green Network– *'To preserve, provide and improve recreational amenity and open space green networks'*.

#### Chapter 4 - Shape and Structure of the City:

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

Policy SC13: Promotes sustainable densities with due consideration for surrounding residential amenities. The Plan includes a host of policies addressing and promoting apartment developments. The Building Research Establishment (BRE) document 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) is referenced in the Plan with respect to the consideration of aspect, natural lighting, ventilation and sunlight penetration for new apartments.

SC14: 'To promote a variety of housing and apartment types which will create both a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces'.

SC16: 'To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA)'.

SC17: 'To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in chapter 15 (Guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance'.



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

SC26: 'To promote and facilitate innovation in architectural design to produce contemporary buildings which contribute to the city's acknowledged culture of enterprise and innovation, and which mitigates and is resilient to, the impacts of climate change.'

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

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

## Chapter 5 – Quality Housing Policy

QH1: To have regard to the DECLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007); 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying Urban Design Manual: A Best Practice Guide (2009).

QH5: To promote residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

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

QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

QH19: To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods supported by appropriate social and other infrastructure.

## Chapter 12 Sustainable Communities and Neighbourhoods

QH12: To promote more sustainable development through energy end use efficiency, increasing the use of renewable energy and improved energy performance of all new development throughout the city by requiring planning applications to be supported by information indicating how the proposal has been designed in accordance with guiding principles and development standards set out in the development plan.

## Chapter 16 Development Standards

### Section 16.7 Building Height

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

### Section 16.7.2 Assessment Criteria for Higher Buildings

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

- Relationship to context, including topography, built form, and skyline having regard to the need to protect important views, landmarks, prospects and vistas
- Effect on the historic environment at a city-wide and local level
- Relationship to transport infrastructure, particularly public transport provision
- Architectural excellence of a building which is of slender proportions, whereby a slenderness ratio of 3:1 or more should be aimed for
- Contribution to public spaces and facilities, including the mix of uses
- Effect on the local environment, including micro-climate and general amenity considerations
- Contribution to permeability and legibility of the site and wider area
- Sufficient accompanying material to enable a proper assessment, including urban design study/masterplan, a 360 degree view analysis, shadow impact assessment, wind impact analysis, details of signage, branding and lighting, and relative height studies
- Adoption of best practice guidance related to the sustainable design and construction of tall buildings
- Evaluation of providing a similar level of density in an alternative urban form.

#### Map J - Strategic Transport and Parking Areas

The site is located in 'Parking Area 3' of Map J (Strategic Transport and Parking Areas). Table 1.61 set out a maximum of 1.5 no. of car parking spaces for residential developments located in this area.

Section 16.3.4 Public Open Space – All Development: There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1: 'In new residential developments, 10% of the site area shall be reserved as public open space...A landscaping plan will be required for all developments, identifying all public, communal (semi-private) and private open space. The design and quality of public open space is particularly important in higher density areas... Public open space will normally be located on-site, however in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a neighbourhood park or pocket park) or the upgrading of an existing park. In these cases, financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality, as set out in the City Council Parks Programme, in fulfilment of this objective'.

Section 16.5 - For Z1 zoned lands, the CDP identifies an indicative plot ratio standard of 0.5-2.0.

Section 16.6 - For Z1 zoned lands, the CDP identifies an indicative site coverage standard of 45-60%.

Section 16.10.1 and 16.10.3: Residential Quality Standards – Apartments and Houses.

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

Section 4.5.3 - Making a More Compact Sustainable City;

Section 4.5.9 – Urban Form & Architecture;

Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);

Section 16.2 – Design, Principles & Standards;

#### **6.4 Applicant's Statement of Consistency**

The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which states how the proposal is consistent with the policies and objectives of section 28 guidelines and the Dublin City Development Plan 2016-2022.

## **6.5 Statement on Material Contravention**

The application documentation includes a report titled Statement of Material Contravention, which relates to issues of building height and quantum of car parking as set out in the Dublin City Development Plan 2016-2022.

The submitted report is summarised as follows:

### **Height:**

Section 16.7.2 of the current Development Plan identifies building heights for the city and identifies a building height cap of 16m for development in this outer city location. The proposed scheme comprises a part six, part seven, part eight, part nine storey over basement apartment block with a maximum height of c.31.23m (from street level to top of parapet) exceeds the 16-metre height limit prescribed by the Dublin City Development Plan 2016-2022. The applicant is of a view that a material contravention is justified for reason set out in the Statement.

It is submitted that the proposed building height is considered appropriate given the brownfield nature of the subject site and the location of this under-utilised site, in close proximity to Dublin City Centre and multiple public transport services. Glasnevin currently benefits from access to a number of high-frequency bus routes within 140 metres of the proposed development site. The bus stop directly opposite the subject site provides high-frequency services to IKEA, Charlestown and Tyrrelstown. It is considered that the location of the subject site in Glasnevin, along with the availability of efficient bus services in proximity to the site, promotes sustainable forms of transport, including cycling and walking. The public transport and road and cycle networks would support the proposed high-density development for the subject site

The applicant submits that the proposed development is therefore in accordance with the objectives of the NPF in this regard. Restricting development building heights at such a location, well served by public transport, under the Dublin City Development Plan 2016–2022 is a direct contravention of National policy which promotes increased densities at well served urban sites, and discourages universal height standards in certain urban areas, such as the subject site.

Reference to Urban Development and Building Height Guidelines, 2018 and SPPR1, the applicant contends that the height limits set out in the Dublin City Development Plan 2016–2022 are contrary to Specific Planning Policy Requirement 1 which notes that blanket numerical limitations on building height shall not be provided for through statutory plans.

Reference to precedents in the area.

### **Carparking:**

Section 16.38 of the Dublin City Development Plan 2016-2022 discusses the car parking requirements arising for new developments. The car parking strategy for Dublin City divides the administrative area into 3 no. distinct areas which contain differing car parking requirements. Map Set J accompanying the development plan illustrates the 3 no. parking zones. The subject site is located in 'Parking Area 3' of Map J (Strategic Transport and Parking Areas) of the Dublin City Development Plan 2016-2022.

A maximum no. of car parking spaces of 1.5 per dwelling, as set out in Table 16.1 of the development plan, is outlined for residential developments located in Parking Area 3. Car parking standards are maximum in nature and may be reduced in specific locations where it is demonstrated that other modes of transport are sufficient for the needs of residents.

The Dublin City Development Plan 2016-2022 prescribes car parking standards which are 'maximum requirements'. The development plan also allows for a deviation from the maximum car parking standards for new development proposals in certain instances.

It is considered that the proposed scheme does not materially contravene the Development Plan with regard to the quantum of car parking spaces provided. However, should the Board consider that a material contravention occurs, it is submitted that the rationale for the reduction in car parking spaces has been provided throughout this report, to enable the Board to grant permission for the development in accordance with Section 37(2)(b) of the Act.

The applicant respectfully submits that should An Bord Pleanála consider the proposed development a material contravention of the Dublin City Development Plan 2016-2022 that an appropriate justification is set out within the submitted statement demonstrating that the proposed building height and quantum of car parking is appropriate having regard to the policies and objectives set out within the Section 28 Guidelines, as well as the strategic nature of the development and the pattern of development approved in the immediately surrounding area.

## **6.6 Designated Sites**

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

## **7.0 Observer Submissions**

The Board received 77 valid submissions, these include 4 from Prescribed Bodies (refer to section 9 of this report) and 73 observer submissions which I propose to summarise in this section.

The bulk of the submissions are from local residents of Violet Hill Road, Violet Hill Drive and Violet Hill Park

2 of the submissions have been received from local residents' associations/groups: Violet Hill Residents (has 118 signatures) and Aventale Limited (eNGO for Glasnevin area).

3 submissions have been received from political representatives: Deputy Neasa Hourigan & Cllr Darcy Lonergan (joint submission), Deputy Gary Gannon & Cllr Cat O'Driscoll (joint submission) and Cllr Seamus McGrattan & Amy Farrell representative for Glasnevin (joint submission).

There is a significant degree of overlap and reiteration of issues raised in the submissions and I propose to summarise these by topic rather than individually.

Numerous submissions welcome the redevelopment of the long-vacant site of the proposed development and the need to build additional housing in Dublin City is recognised. However consider the current proposal unsuitable.

In summary the topics raised are summarised below and are dealt with later in the assessment that follows.

### **Land Use Zoning**

Does not comply with Z1 zoning which seeks 'to protect, provide and improve residential amenities'.

### **Plot Ratio/Density**

- The inadequacy of the Dublin Bus service and the area's residents' continued usage of car transport calls into question the proposal plan's reliance on proximity as its justification for the surpassing the maximum plot ratio in the Dublin City Development Plan.

- The plot ratio of the proposed development exceeds the maximum recommended standard of Dublin City Council and this has not been adequately justified.
- Site coverage of 12% is difficult to understand, Plan has 45-60% for Z1 lands.
- Proposal constitutes overdevelopment of the site.
- Contrary to Section 3.3.1 of the Residential Density Guidelines.

#### **Height & Scale:**

- Material contravention of section 16.7.2 of the Dublin City Development Plan 2016-2022 relating to Building Heights.
- The application has failed to adequately justify its material contravention of the Dublin City Development plan for building height as the site does not benefit from well served public transport with high capacity, frequency service and good links to other modes of public transport.
- Impact on privacy and visual amenity of residents (Violet Hill)
- Height and scale would be visually dominant and overbearing when viewed from the Finglas Road and Violet Hill.
- The proposed development would result in a building that is overbearing, dominant, and incoherent with the scale of the surrounding residential area.
- The scale, height and massing of the development will have a negative impact on the character and visual and residential amenity of the area.
- The proposed development fails to fulfil the criteria in Section 3.2 and SPPIR 3 of the Urban Development and Building Height Guidelines for Planning Authorities (2018) to justify its material contravention of the height restrictions of the Dublin City Development Plan 2016-2022
- The overall scale and look of the proposed development is wholly out of character with other developments in Glasnevin and is a complete eyesore on the landscape and overshadows and overlooks all houses in Violet Hill and Glasnevin Oaks and the surrounding area.
- No precedent for a development of this height and scale in the area.
- A 4 storey development would be more appropriate.

#### **Design & Visual Impact:**

- The photomontages are deficient in the justification of this point and that the representations provided to date illustrate the development's failure : - to integrate into or enhance the character and public realm of the area - to improve the legibility of the wider urban area - to integrate in a cohesive manner - to have regard for the character of adjacent buildings and the character and appearance of the local area. This failure applies both to the view of the building from the Violet Hill housing estate and from the Finglas Road.
- The proposed development for the Royal Oak site would fail to respond satisfactorily to the provisions of the "Urban Design Manual – a Best Practice Guide" issued by the Department of the Environment, Heritage and Local



Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

- The proposal is not a gateway landmark building given that the area is already landmarked by Glasnevin Cemetery, Violet Hill Park (the green space to the south east) and the junction of Finglas Road and Old Finglas Road.
- The oversized and out of context proposed development clashes with SC25 of the Dublin city development plan. The proposed does not offer sustainable high quality and inclusive design. It does not fit the areas heritage and dose not add to the diverse range of local neighbourhoods.
- The design of the proposed development illustrates insufficient regard for the prominent nature of the site by reason of visual obtrusion and overbearing design. The proposed development would seriously injure the visual amenities of the surrounding area and would have a negative impact on the character of the area.
- The visually obtrusive proportions of this building cannot be considered in line with anything else in Glasnevin. Any comparison to the apartments in nearby Finglas on the previous Premier Dairies site is a false equivalence. Because this corner marks the boundary of Glasnevin – a historic area and Violet Hill is within the original walls of the graveyard to this day wrapping around Violet Hill Park. Previous applications in the area have been turned down as being inconsistent with the style of the area, which is architecturally and culturally sensitive.
- The development does not enhance or provide a positive contribution to the streetscape.
- Relationship with Finglas Road is lacking and does little for public realm as it is mainly a wall and vehicular and pedestrian entrances.

### **Unit Mix & Size**

- The proposed development contains no provisions for 3 bedroom apartments meaning it will not attract young families intending to locate in the area long term.
- A greater mix of units is need to meet demand.
- 2 bed units are only 3 person and too small.

### **BTR**

- Transient community
- No opportunity for young local residents to purchase apartments and stay in the area.
- Overconcentration of BTR in Dublin City.
- Reference to comments made by DCC Chief Executive relating to BTR.

### **Residential Standards for future occupiers**

- Unsatisfactory studio accommodation
- Inadequate natural lighting of apartments

- Undue overlooking and excessive noise arising from proximity to Finglas Road.
- Poor quality communal open space and inappropriate location of children's playground.
- The development does not provide an appropriate level of amenity for future occupants, on the basis of the inadequate levels of sunlight and daylight to apartments along the southern boundary and as the proposed set-down and emergency and service vehicles route would compromise and undermine the quality of communal open space proposed.

### **Social Infrastructure**

- The current childcare facilities available in the area are already oversubscribed
- The proposed development does not include childcare facilities.
- The existing childcare facilities fall short of the demand generated by the existing population of the area around the site currently and that the addition of a high density development without new facilities will worsen the demand for this critical social infrastructure.
- Inaccuracies in the submitted Social Infrastructure Audit.

### **Traffic/Transportation**

- Access will require cars to cross over a cycle path and bus lane on an already bus road.
- Insufficient parking will result in overspill of parking on to adjoining residential roads.
- Traffic hazard for local residents
- Traffic hazard at proposed entrance
- Public transport does not have capacity to cater for additional units.
- No pedestrian crossings at this point.
- The bus services in proximity to the proposed development are already saturated at peak times. Dublin buses serving stops 1533, Tolka Vale and 1534, Ballyboggan Road towards the city centre are regularly full of commuters between 7.30am and 9.00am Monday to Friday and cannot pick up passengers. At weekends, passengers travelling with prams or buggies often cannot board buses due to the existing space being in use. This saturation of the bus network will be worsened by the development of another SHD build to rent apartment scheme at Merville Place on the Finglas Road, located a few bus stops before the proposed site. This development will provide only 99 parking spaces for 191 units, putting further demands on the traffic.
- Inaccuracies in the 'Stage 1 Road Safety Audit Including Quality Audit' submitted.

- It is inaccurate to state that there is a LUAS and Commuter rail station within reasonable walking distance. Broombridge Station is located 1.6km from the site. Google maps walking estimate to the station is 20 mins – but even that is by walking through an industrial estate, which is an unsuitable route. There is no bicycle parking, no Dublin bikes stop and no car parking at Broombridge station. The one-way system of the roads leading to the station means that by car or bicycle the station is 1.9km away from the site.
- There is a regular bus service in close proximity, however bus services are already saturated at peak times. This will be further exacerbated when another SHD for BTR apartments at Merville Place is constructed.

### **Impact on adjoining properties.**

- Housing in Violet Hill are built on stilts and there is a major concerns of subsidence and damage to house foundations due to close proximity of the proposed development to houses in Violet Hill.
- Overlooking of houses in Violet Hill.
- Loss of light to houses in Violet Hill Drive
- Overshadowing of gardens in Violet Hill Drive
- The proposed building does not minimise overshadowing and loss of light to the adjacent properties at Violet Hill Drive. The photomontages provided in the proposal are lacking in CGI photo representations of the views of development from the rear gardens of the dwellings on Violet Hill Drive. It is submitted that the absence of such photos make it difficult to properly assess the impact on the visual amenity to the residents of the existing houses and to assess the dominant and overbearing nature of the building.
- Subsidence due to previous encroachment of Violet Hill open space by the former owner of the Public House to provide parking for it.
- No assessment carried out regarding potential impact on adjoining properties arising from construction phase, vibrations/excavations/ground works
- Loss of trees adjoining boundaries on Council land is unacceptable.
- Loss of trees will remove a sound barrier for residents of Violet Hill, they buffer noise of traffic on the main road at present.
- Reference to Case Ref 310882 where the proposed development was deemed to have confirmed to the BRE guidelines but it was considered that the development would “result in a visually dominant and overbearing form of development”.
- Overbearing impact, overshadowing and proximity to houses on Violet Hill Drive.
- Loss of light will affect the energy efficiency of houses.
- The proposed development on the Royal Oak site would seriously injure the residential and visual amenities of adjoining properties by reason of its design, scale and mass, in particular in respect of the increased levels of overshadowing, overlooking and visual impact, and represents an overdevelopment of the site incurring unnecessary proximity to the adjacent dwellings.

- Impact of construction on houses in Violet Hill Drive
- The Arboricultural Report suggests removing the row of trees adjacent to but outside the site boundary. These trees are on land owned by Dublin City Council. The residents of Violet Hill are completely opposed to their removal. They provide residential amenity to Violet Hill and are home to numerous birds. Their removal would result in even further loss of privacy to Violet Hill residents in addition to that proposed by the overbearing apartment blocks.
- The height and proximity of the proposed development to existing houses of Violet Hill Drive will have significant impact on their visual and residential amenity: It will materially impact the privacy by overlooking the rear gardens impacting the private amenity space of the existing houses
- Overbearing effects: the height and scale of development and its proximity to the houses on Violet Hill Drive, especially numbers 34 to 52, will result in an oppressive environment as a result of the proposed development, will result in overshadowing and would appear visually dominant.
- The proposed development itself comes within c.10 - 15 metres of the rear walls of the gardens of numbers 40, 42 and 44 Violet Hill Drive. Given the proximity of the excavation and building works, an assessment of how their homes and rear garden will be safeguarded against ground movement and vibration during excavation, the strain that may be put on the stilt structure supporting their houses, the potential for cracking of the walls of their homes or subsidence.
- Site was a quarry before a Public House, lack of detail regarding impact of drilling into the rock and vibrations on the houses at Violet Hill.
- Smells/noise.
- Bin stores

### **Devaluation of Property**

- A number of submission include letters from Auctioneers/estate agents/valuers setting out the should a 9 storey building of the scale proposed and position of the development go ahead it could result in a loss of c. €50000 to €60000 on the value of their properties in Violet Hill.

### **Legal**

- Part of the site is former Violet Hill Open Space where it is sated that the owner of the Royal Oak had encroached on it.

### **Social Infrastructure**

- Query capacity of local schools/childcare. shops etc to cater for additional requirements.
- No community gain in the proposal.

### **Flood Risk**

- There has been flooding of the site when drains on the main Finglas Road were blocked rendering the road impassable. The Pub was flooded in the past.
- It is submitted that the Flood Zone C designation for the site cannot be reasonably relied upon. Therefore there is a risk to proceeding with the proposed development without undertaking a justification test. The development proposals are for residential housing and would be considered a 'Highly Vulnerable' Development. Therefore the risk would have a severe impact if it occurs.
- The Royal Oak site is noted in the planning application and the Dublin City Development Plan as being in Flood Zone C. As such, a justification study was not required. However, observers submit that this designation of Flood Zone C is out of date, inadequate and requires a revision before any planning application can be granted for the site: - The site is immediately beside Flood zones A and B and the current OPW flood maps on floodmaps.ie designate the flood zone of this area of the Tolka as "under review"(as per map below). The OPW have noted that the flood map for this area was published for consultation as part of the national CFRAM Programme and that feedback on the mapping at that point was not suitable. The OPW has determined that flood mapping for this location requires updating. Therefore it is submitted that it cannot be established with any certainty that the site is in fact in Flood zone C.
- The development proposal notes that the site is identified as an area at risk of pluvial flooding and yet it is proposed to construct a basement carpark.
- It is submitted that the proposal's reporting on Flood Risk is notably lacking in both recency and accuracy, and the information on which the report relies is questionable. In the absence of an up-to-date flood risk review from the local authority, the site cannot be considered safe from future flood events.
- The Flood Risk assessment for the site is out-of-date, incomplete and fails to account for current and future risk to the site, in particular to the proposed underground level and carpark.
- Submission from Aventale Limited include a copy of a thread of emails between an individual and the OPW and includes of an email from the OPW date 10 May 2022 stating that they ' the OPW does not designate areas as flood zones' and refer to inaccuracies in the methodology used to produce the flood mapping for the Tolka.
- The Flood Zone C designation for the site cannot be reasonably relied upon as asserted by the OPW. Therefore there is a risk to proceeding with the proposed development without undertaking a justification test.
- It is acknowledged in the proposal that the site is at risk of pluvial flooding. Yet it is proposed to construct a basement carpark and no justification study was undertaken due to the reliance on a questionable Flood Zone designation
- The development proposals are for residential housing and would be considered a 'Highly Vulnerable' Development. Therefore the risk would have a severe impact if it occurs.

- No site investigation was undertaken to establish the risk of groundwater flooding, particularly in relation to the proposed basement carpark. This is inadequate.

### **Water Framework Directive**

- The developer has failed to provide any evidence to show that the proposed hydrological connection of the development with the River Tolka will not affect the environmental objectives of the River Tolka in accordance with Article 4(1) of the Water Framework Directive. In the absence of such an assessment for the purposes of Art 4(1) of the Water Framework Directive, An Bord Pleanála have no jurisdiction to grant planning permission for the development (Case C-461/13 refers).

### **Appropriate Assessment Screening and Natura Impact Statement**

- AA Screening and NIS carried out without access to the application site.
- It is contended that the proposed development does not satisfactorily meet the criteria of SPPR 3 from the Urban Development and Building Heights - Guidelines for Planning Authorities, December 2018 re: Specific Assessments as it pertains to "Relevant environmental assessment requirements, including SEA, EIA, AA and Ecological Impact Assessment, as appropriate".
- Query the satisfactory nature of the "Appropriate Assessment Screening and Natura Impact Statement" provided in the application since the Ecology report admits in the document that no on-site inspection was undertaken because "access onto the site was not possible". Furthermore, it is submitted the assessment provided of protected species on and around the site is deficient and incomplete.
- It is submitted that the AA Screening and NIS is deficient both (a) as a desktop survey since more recent information on the local otter population is readily available, and (b) as an on-site assessment since the reporting entity failed to enter into the site.
- It is submitted that the proposal's Appropriate Assessment Screening and Natura Impact Statement has completely omitted to assess the impact on a significant population of a protected species (otter) in the immediately surrounding area.
- The Appropriate Assessment Screening and Natura Impact Statement fails to address the measures necessary to screen for and assess the impact on a protected species in line with the Habitats Directive.

### **Environmental Impact Assessment**

- The "Environmental Impact Assessment Screening Report" states that "due to the local topography and the underlying strata, there is a negligible risk of a landslide event occurring at the site."

- The area of land between the rear of the dwellings at Violet Hill Drive and the edge of the site consists of a steep embankment. This embankment has suffered from subsidence in recent years and further subsidence caused by the proximity of the proposed building work is a considerable risk. The proposed development plan has no mention of this embankment and has not addressed the risk of its subsidence or the knock-on impact to the rear gardens of the dwellings at Violet Hill Drive in any manner whatsoever.
- The Environmental Impact Assessment is limited in scope and omitted to address an evident risk of subsidence to the embankment to the rear of the existing dwellings at Violet Hill Drive.

## **Ecology & Biodiversity**

- The site is immediately adjacent to Violet Hill Park through which the Tolka river flows. There is a particularly rich and varied number of birds in this lovely and wild stretch of the Tolka and by extension in the trees behind the site. This is not noted in the planning application.
- All birds in the Tolka river & Violet Hill Park area in Violet Hill must be protected.
- The River Tolka has status under the Water Framework Directive as well as the EU Birds and Habitats Directives. It includes spawning grounds for fish, including salmon and trout, protected salmonid species under the EU Habitats Directive.
- The river in Violet Hill has also been mentioned as being ecologically important in Greater Dublin Drainage Project the species are listed on the Wildlife (Fish and Aquatic Invertebrate Animals) (Exclusion) Regulations, 2001 (S.I. No. 372 of 2001).
- Presence of hawk, squirrels, foxes and hedgehog.
- Presence to amber and red conservation status species at Violet Park such as Kingfisher, Mute Swan and Grey Wagtail. Photograph of a Wagtail submitted.
- Otters near site.
- Site was not surveyed for invasive species.
- Unacceptable level of tree removal.
- Loss of natural habitats
- Part of Tolka Valley area and should be respected.

## **Other**

- The historic area of Glasnevin has had previous applications denied, due to the unstable nature of the ground in the area, and only 2kms from the proposed site, there was a sink hole only in 2021 – demonstrating the fragile nature of the ground in the area.
- Inconsistencies in site address in the submitted documentation, refers to Glasnevin and also Baleskin which is c.5km from the site.
- The height of the proposed development may impact on the mobile phone reception of existing residents in Violet Hill.

- Lack of consultation with local residents.

## **8.0 Planning Authority Submission**

8.1 In compliance with section 8(5)(a) of the 2016 Act, Dublin City Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 31<sup>st</sup> May 2022. The report notes the planning history in the area, policy context, site description, summary of third party submissions, summary of views of the relevant elected members, and planning analysis of the proposal. The submission includes several technical reports from relevant departments of Dublin City Council. The Chief Executive's Report concludes that it is recommended that permission be refused for 3 reasons. The CE Report from Dublin City Council is summarised hereunder

### **8.2 Summary of View of Elected Members (North West Area Committee Meeting 27<sup>th</sup> April 2022)**

I refer the Board to the summary which is included in Appendix B of the Chief Executive Report. A summary of points of note is set out below:

While the development of the site was welcomed in principle the members were largely opposed to the proposed development in hand. They were particularly concerned about the excessive height and scale proposed, which is almost double that permitted in our development plan and would have a negative impact on the residential amenities of nearby residences and is out of character for the area. Members were very critical of the BTR model which would not deliver sustainable affordable housing but one of the members disagreed with this and stated that we needed more rental accommodation. Concern was expressed about the large number of surface car parking being provided. Concern was expressed about ownership of the site which was the reason for a previous refusal of permission for a more modest proposal and also the impact of proposed development on drainage. Members also expressed their disappointment at the lack of community facilities including childcare.

Point discussed were summarised under the following headings:

- Height/Density, Layout/Design and Development Plan,
- Build to Rent Model.
- Transportation Planning and Parking.



- Community Facilities and Amenities.
- Planning History.
- Other Matters (including Flood Risk).

### **8.3 Planning Assessment/Opinion**

#### **Zoning**

The planning authority notes that under the Dublin City Development Plan 2016 – 2022 Residential use is 'Permissible in Principle' under Z1 zoning. Under the Z9 zoning objective 'Residential' is not listed as either a Permissible Use or Open for consideration in the Zoning tables, however in the accompanying text in the development plan it states (para 14.8.9) it is stated that in certain specific circumstances where it has been demonstrated to the satisfaction that there is a need for ancillary development to take place in order to retain the sporting and amenity nature of Z9 lands, some degree of residential development may be permitted on a one-off basis.

The planning authority notes that all the building proposed falls within the Z1 lands.

#### **Plot Ratio/Site Coverage/Density:**

In relation to plot ratio and site coverage it is noted that the plot ratio is stated as 2.44 which falls above the range for Z1 lands in outer city areas such as this.

The Planning Authority does not consider that any of the circumstances outlined in section 16.5 apply to this site or proposal. And that the excessive plot ratio, coupled with the proposal's height are cause for concern.

It is noted from an examination of the floor plans it would appear the site coverage exceeds this stated figure of 12% from first floor upwards, and the 12% ground floor is not a true reflection of the proposed site coverage.

Proposed density of 286 units per hectare is considered very high. And while the planning authority is not adverse to such high density schemes the applicant must comprehensively demonstrate that the quality of the scheme is also very high.

#### **Design & Layout**

The scheme is laid out in a T shaped block, with a north wing and south wing. All proposed apartments are accessed off a central corridor, resulting in a high number of single aspect units.

The proposed apartment block is sited in close proximity to the common boundaries, particularly along the southern boundary of the site, and the south east corner of the site where separation distances appear to be as low as c.0.4m from the corner of the building to the site boundary. This is considered unacceptable and is cause for concern given the site context and the existing adjoining site, with a high level of mature trees, in addition to the proximity of the existing residential properties which are located to the east of the site (Violet Hill Drive).

### **Height And Visual Impact**

The planning authority does not agree with the view that the location requires a landmark building nor does it regard this location as particularly unique. The Planning Authority does, however, acknowledge that taller apartment blocks fronting onto the Finglas Road are a recent characteristic of the changing context of the area which traditionally comprised one and two-storey dwellings, and that the site can accommodate building(s) of greater height than the prevailing two-storey development.

It is considered that the building will appear visually overbearing and over dominant particularly when viewed from the existing two storey dwellings on Violet Hill Drive, given its proposed height, scale and bulk and its close proximity to the site boundaries.

It is considered that the proposal does not serve to successfully animate the street along Finglas Road. It does not provide visual interest, and does not avoid a 'dead street level frontage' and it does not provide passive surveillance along this street.

This is a serious concern and has major implications both for residential amenities of the two storey dwellings of Violet Hill Drive where the rear garden boundaries of 40 & 42 Violet Hill Drive are located at distance of only c.8-10 metres from the boundary of the application site. The rear gardens of these dwellings are very modest (circa 10m to 12m) and not particularly wide. They have a favourable westerly orientation and currently benefit from good levels of sunlight in the evening. It is considered that the proposed development would have a detrimental impact on the amenities of the rear gardens in terms of overshadowing and overbearing should it proceed as proposed.

The proposed development by reason of its height and overall scale would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment. It is not considered to make a positive contribution to the urban neighbourhood or streetscape.

The concerns of the Parks Division should also be noted as set out in greater detail in their report appended. Their report recommends increasing the development set-back on the southern boundary of the site to avoid existing tree canopies. The Planning Authority also considers that the height of the block should be reduced, with increased set-backs introduced for the upper floor(s), or upper floors omitted to overcome undue negative impacts. It is also considered that the separation distances of the building from the eastern and north-eastern boundaries should be increased to avoid the excessive overshadowing that is shown to result in the rear gardens of these directly adjacent two-storey dwellings. The proposal is also considered to have major overbearing impact on the 2 storey dwellings in Violet Hill Drive, in particular nos. 34 – 44 (even only) as a result of a 24m to 32m-high block within metres of the rear garden boundaries. The separation distances as proposed are seriously inadequate leading to an unacceptable overbearing impact, and excessive overlooking from windows and balconies, notwithstanding the incorporation of louvers on some windows and angled windows to assist in reducing the impacts. It is considered that by reason of its height and proximity to the site boundaries it would be discordant relative to the established height profile of the receiving environment at this location.

The Planning Authority has concerns in relation to the overall scale, height and massing of the proposed development which is considered in its current form will have negative impact on the character, visual and residential amenity of the area. The proposed block is considered to represent a significant and incongruent transition from the scale of the surrounding established residential neighbourhood, in particular the two-storey dwellings in Violet Hill Drive to the east of the application site. The Planning Authority has concerns that the proposed development in its current form would have significant overbearing impact on occupants of the dwellings on Violet Hill Drive.

The planning authority notes that a decrease in overall height and scale of the block and an increase in separation distances from the closest residential dwellings in Violet Hill Drive would also allow for an increased area to improve the external amenity space and avoid the excessive overshadowing of the area of amenity space proposed in this corner of the site. It is considered that many improvements to the scheme could be achieved by the possible omission of apartments to increase the separation between the proposed block and the common boundaries combined with a reduction in height of the development overall and incorporation of setbacks at the upper floors. The planning authority has referenced schemes on similar sites in the area as examples of where buildings of greater height and density have successfully integrated into the streetscape. These include ABP 310722 (Former Finglas Dairies), Prospect Hill, Tolka Vale apartment scheme, Premier Square apartment scheme.

The planning authority considers that while the subject site may have potential to accommodate a building of a height, in part, greater than that provided for in the Development Plan subject to other considerations such as protecting the residential amenities of future residents, residential amenities of the neighbouring properties, and visual amenities and urban place-making, this current proposal of c.31m is excessive in the context of the immediate area of the site.

It is noted that the proposed height materially contravenes the Development plan and this has been addressed in a Material Contravention Statement. The planning authority consider that the exceedance of the height limit prescribed by the City Development Plan, is not acceptable in this case, given the site context and in the interest of visual amenity and to ensure the amenities of existing residents and future occupants are protected.

### **Landscaping and Tree Retention**

The site lands are in hardstanding and woodland/scrub planting. DCC Biodiversity & Landscape Services highlighted that while the hardstanding areas are of no landscape or biodiversity value, the vegetated areas around are of good value and together with adjacent off-site woodland provide as strong green character to the Finglas Road. In addition the woodland also provides screening to the road corridor from the adjacent elevated Violet Hill residential area.

It is considered that the development layout will seriously and negatively impact on existing trees both on and adjacent to the subject site.

The tree impact is of particular concern on the southern boundary with the wooded slopes of Violet Hill. Here the development is noted to be sited too close to the boundary; resulting in removal and tree canopy reduction all along the boundary.

Parks have raised concerns and the planning authority concur with this, and there is serious concern with regard to the potential negative impact the proposed development would have on the existing trees and the associated wildlife and habitats these trees provide. In addition it is noted that the issue of the existing stability of the embankment has been raised by third parties who note in their submission that this embankment has suffered from subsidence in recent years. The existing mature trees are noted as stabilising the slope

Any proposed development for the subject site should sufficiently set back from the common boundaries by a suitable distance to ensure the existing mature and semi mature trees can be retained, and that they are not damaged in any way during any future construction.

### **Open Space**

Public Open Space (POS) is stated to be provided at 365sqm while 10% of the site would require 385sqm. The location of the actual POS provision stated as public terrace and landscape area at ground level is not fully clear from the details submitted.

### **Build to Rent**

The planning authority notes that the apartment guidelines 2020 allow for flexibility in some quantitative standards for these type of units such as storage, private amenity space and communal open space on the basis of the provision of alternative, compensatory communal and support facilities within the development at the discretion of the planning authority. In all cases the obligation is on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an overall enhanced standard of amenity.

The planning authority notes that the requirements that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% and for a maximum of 12 apartments per floor core (subject to overall design quality and compliance with Building Regulations) do not apply to BTR schemes as set down in the 2020 ministerial apartment guidelines.

### **Housing Quality**

The planning authority considers that the requirement of SPPR 1 (unit mix) has been fulfilled.

The planning authority notes the requirements that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% and for a maximum of 12 apartments per floor core (subject to overall design quality and compliance with Building Regulations) do not apply to BTR schemes as set down in the 2020 ministerial apartment guidelines.

The proposed scheme is stated to achieve 71% (73 no. Units) dual aspect units. However the drawings submitted show a number of single aspect units labelled as dual aspect in the HQA, as they have a corner window or a door accessing a balcony area with the same orientation. These units are not considered true dual aspect units and the planning authority do not count them as dual aspect units. In this regard the number of dual aspect units is calculated as 47 no. dual aspect units and 56 no. single aspect units. This would result in c.45% dual aspect units and 55% single aspect. In this regard the planning authority considers that the requirements of SPPR 4 of the Apartment Guidelines have not been fulfilled. The proposed development does not comply with SPPR 4.

The planning authority considers that the requirement of SPPR 5 (floor to ceiling heights) has been fulfilled.

The planning authority considers that the requirement of SPPR 6 (units per floor per core) has been fulfilled.

The planning authority notes that units appear to meet the minimum private amenity requirements of the Apartment Guidelines and all balconies are in excess of 1.5m in depth.

The planning authority notes that units appear to meet the minimum storage space requirements of the Apartment Guidelines.

### **Daylight/Sunlight**

The submitted study submitted states that 100% of all habitable rooms meet the BRE guideline 2.0% ADF in KLD rooms, and studios and 100% of all habitable rooms meet the BRE guideline 1% in bedrooms. This is noted. however there is concern with regard the depth of some studio units with depths of c.9.250m shown and concern with the actual amount of natural light these units would receive given these depths.

There is concern as no details relating to what windows were surveyed for the VSC on the surrounding buildings has been submitted. The report does not contain numerical quantification of the impact.

The planning authority note that notwithstanding the shadow analysis report submitted, which show that the garden areas of the existing neighbouring dwellings will receive at least 2 hours of direct sunlight on the 21st March, there remains serious concern with regard to undue overshadowing of the rear garden areas of the properties on Violet Hill Drive from June to September, when these garden areas would be mostly in use, given the Irish climate.

Overall it is considered that the report submitted lacks detailed information and these omissions are cause for concern for the planning authority.

### **Privacy**

The planning authority is of the view that there is sufficient defensible space/planting around the ground floor terrace areas of these two no. units to maintain an acceptable level of privacy for future residents. There is concern however at first floor with units interfacing with communal open space and walkways and limited privacy strips and planting shown.

### **Security**

The planning authority notes that the proposed development has a number of pedestrian accesses identified off the Finglas Road and at the corner of Finglas Road and Old Finglas Road junction a pedestrian walkway is proposed along the side of the existing residential dwelling no. 1 Glasnevin Oaks. This walkway is shown as a public amenity terrace and runs through the site. In addition, there are a number of pedestrian entrances along the frontage on the Finglas Road. It is noted that only two no. units are located at ground floor level however, which is cause for concern as a long stretch of the frontage is not active frontage.

### **Communal Amenity Space**

The planning authority is satisfied in terms of quantum of communal open space. However it is considered that the design of the communal open space lacks active recreational opportunities for future residents in addition to lacking sheltered seating areas for roof/terrace open spaces. Two play space are provided, however their area with regard to the apartment guidelines requirement is not submitted.

There are serious concern with regard to the usability of these communal open spaces with play areas, given their siting, and lack of facilities; particularly the area of communal open space to the side (north west) which is separated from the apartment units, by the void above the surface car parking area below.

The communal amenity space is fragmented into individual podium-level terraces and a roof garden, some small in size, not particularly well overlooked by residential units in the scheme, and not always easily accessed. The latter issues applies primarily to the north-western most area of amenity space which is set apart, by way of a large void over the surface car park area, from the development.

The planning authority has serious concern with regard to the quality and location of the communal open spaces proposed.

### **Build to Rent Amenities**

The planning authority notes that no Resident Support Facilities are proposed with no spaces dedicated to the operation of the development such as concierge and management facilities, maintenance/repair surfaces etc.

The planning authority is of the view that the minimum figure commonly used is 2sqm per bedspace but it could vary from 2-4sqm depending on the scheme and the quality of the spaces together with the quality of the external amenity spaces. In this regard a minimum of c.652sqm – 1304sqm would be required for a development of this scale.

The planning authority notes that the information submitted is minimal there is no detail offered to allow for any meaningful assessment of its quality and suitability for the intended occupants of the scheme. The spaces proposed are considered generic internal spaces. The developer is also required to provide an evidence base that the proposed facilities are appropriate to the intended market. The planning authority notes that no such evidence base has been provided with the application documentation.

The planning authority does not consider the requirements of SPPR 7 to be fulfilled in this case. In all cases the obligation is on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an overall enhanced standard of amenity. The applicant has not done so and the scheme is considered seriously substandard in this regard. The planning authority has raised serious concern with regard to the overall quality and quantity of the facilities provided, and it is considered that future residents will not enjoy an overall enhanced standard of amenity.

### **Quality of Proposed Units**



There is serious concern with regard to the quality of the proposed units for future occupants given the number of single aspect units, the poor quality of communal open space proposed, the lack of residential services and quantum of space provided for these services/amenities, and the complete lack of residential Support Facilities. The planning authority does not consider the proposed units to be of a high quality. There is serious concern with regard to the amenity of the future occupants of the scheme.

### **Impact on Neighbouring Properties**

The planning authority has concerns in relation to the overall scale, height and massing of the proposed development which is considered in its current form will have negative impact on the character, and visual and residential amenity of the area. Separation distances are limited and the planning authority has concerns that the proposed development in its current form is very likely to have a significant overbearing impact on occupants of the dwellings on Violet Hill Drive.

The proposed development is considered to represent a significant and incongruent transition from the scale of the surrounding established residential neighbourhood, in particular the two storey dwellings in Violet Hill Drive to the east of the application site. It is considered that it would have undue negative impacts in terms of overbearing and overshadowing and would result in loss of light from the neighbouring properties.

The planning authority highlight that a reduction in overall floor area, increasing the separation from the site boundaries in addition to possibly omitting units to decrease the proposed height of the block would be conditioned if a grant of planning permission was forthcoming.

### **Noise, air quality and light pollution**

The planning authority note that given the residential nature of the proposed development, it is not considered that it would result in significant levels of noise, air or light pollution arising from occupancy of the apartments.

### **Community and Social Infrastructure**

The Planning Authority notes the findings of the Social Infrastructure Audit. It is further noted that a number of references to the incorrect area are made within the Audit. It is also noted that within the third party submissions received, the issues of existing community and social infrastructure running at full capacity was raised namely in relation to doctor's surgeries not taking new patients and school places being full.

### **Childcare Facilities**

Excluding one bedroom units, the planning authority notes that the development comprises of 60 x 2 bedroom and therefore the proposed development does not meet the threshold for onsite provision of childcare facilities.

### **Transportation**

**Refer to Transportation Planning Division report.**

In relation to the proposed car parking it is noted that car parking for 48 no. surface car parking spaces are shown. The development proposes two no. car share spaces for residents only to be located at ground level. A letter of intent has been provided by GoCar. It is noted that each car share space has the potential to replace the journeys of up to 15no. private car. In the context of the proposed, this represents a potential for 30 no. spaces. The provision of car sharing on site is welcomed.

### **BusConnects**

Finglas Road forms part of the NTA new Core Bus Corridor Route 4 (Finglas to Phibsborough). It is noted that the Applicant has engaged with the NTA prior to submission at consultation and planning application site. Submitted drawings show the interaction between the proposed and future Bus infrastructure. It is noted that no land take is required and a bus stop and toucan crossing is proposed beside the proposed development. It is further noted that this is contrary to public Busconnects drawings published in November 2020 but represents the latest version of the project as confirmed in the TTA. Having regard to the information on file, the Transportation Planning Division considers the developments interaction to be acceptable. In the interest of ensuring that the development captures any potential changes arising from the BusConnects project, a condition to liaise with the NTA to agree details should be attached if a grant of planning permission was forthcoming.

### **Infrastructure**

The planning authority note that Irish Water have raised no objection to the proposed development and recommends conditions in the event of a grant of planning permission. DCC Drainage Department have no objection subject to conditions to be attached in the event of a grant of planning permission.

### **Biodiversity**

The planning authority note that issues raised within third parties with regard to existing trees & biodiversity.

Parks, Biodiversity and Landscape Services maintain reservations on this application proposals due to the proposed impact on existing trees on the site's southern boundary.

### **Part V**

The applicant has submitted proposals in relation to Part V compliance. The Part V proposal consists of 10 units (6 x 1 bed and 4 x 2 bed units). These units are spread across a number of floors. It is noted that the proposals have been discussed with the Council's Housing Division, who have raised no objection.

### **Taking in Charge**

No proposed roads/footpaths are intended to be taken in charge. Open space is not proposed to be taken in charge.

## **8.4 Chief Executive Report Conclusion & Recommendation**

The Planning Authority has serious concerns with regard to the proposed development. The development is not considered acceptable in terms of scale, height and proximity to the boundaries. There is serious concern with regard to the undue negative impacts on the residential amenities of the existing residential properties, in terms of overbearing impact, overlooking and overshadowing. The proposed development is considered visually overbearing and will not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment. There is serious concern with regard to the damage to the existing trees abutting and within the subject site. There is serious concern with regard to the amenities of future occupants of the development given that the proposed apartments do not comply with the SPPR 4 and SPP7 of the Apartment Guidelines.

It is recommended that the application be refused planning permission for the following reasons:

1. The proposed development by reason of its excessive height, overall scale and close proximity to site boundaries, would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment. The proposed development would be discordant relative to the established height profile of the receiving environment at this location. The proposed development would therefore, be contrary to Section 16.7 of the Dublin City Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities December (2018) and be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of its height, scale and proximity to the site boundaries would adversely impact on the amenities of existing adjacent properties by way of undue overlooking, overshadowing and would be visually overbearing when viewed from existing residential properties on Violet Hill Drive. The proposed development would, therefore, seriously injure the amenities of property in the vicinity, be contrary to the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.
3. The proposed development does not comply with SPPR 4 or SPPR 7 of Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020). It is considered that apartments within the development would provide a poor level of residential amenity for future occupants. The overall quality and quantity of the residential support facilities and residents services and amenities proposed and the quality and usability of the communal open space proposed is unsatisfactory. It is considered that future residents will not enjoy an overall enhanced standard of amenity. The proposed development would therefore, be contrary to Ministerial guidelines issued to planning authorities under section 28 and would be contrary to the proper planning and sustainable development of the area.

In the event of a grant, the Board is advised that a number of conditions are proposed in the appended departmental reports.

## **8.5 Summary of Inter-Departmental Reports**

I refer the Board to Appendix A of the CE report which contains a copy of all Interdepartmental reports.

- Drainage Division: No objection subject to conditions.
- Transportation Planning Division: No objection subject to conditions.
- Parks & Landscape Services: Concerns raised & conditions recommended should a grant be forthcoming.
- Archaeology, Conservation & Heritage: No objection subject to conditions relating to predevelopment archaeological assessment and test excavation.

## **9.0 Prescribed Bodies**

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

The following Prescribed Bodies have made a submission on the application (including Inland Fisheries Ireland):

### **Irish Water (IW):**

In respect of Water & Wastewater: Irish Water has advised that applicant that records indicate there is existing assets within the site. The applicant shall ensure adequate protection of existing assets and is to ensure appropriate separation distances are achieved as per IW standards codes and practices. A wayleave in favour of Irish Water will be required over the assets that are not located within the Public Space.

Design Acceptance: The applicant (including any designers/contractors or other related parties appointed by the applicant) is entirely responsible for the design and construction of all water and/or wastewater infrastructure within the Development redline boundary which is necessary to facilitate connection(s) from the boundary of the Development to Irish Water's network(s) (the "Self-Lay Works"), as reflected in the applicants Design Submission.

### **Transport Infrastructure Ireland(TII):**

Note that the proposed development falls within the area for an adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen's Green To Broombridge Line) under S.49 Planning and Development Act 2000, as amended and as such a condition for same should be attached.

**Irish Aviation Authority (IAA):**

No observations to make on the application from the Safety Regulation Division Aerodrome.

**Inland Fisheries Ireland (IFI):**

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

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

Any dewatering of ground water during the excavation works must be treated by infiltration over land or into an attenuation area before being discharged off site. A discharge license may be required from Dublin City Council. Good housekeeping measures are integral to achieving prevention of excessive turbid run-off to surface water systems. IFI request that temporary surface water drainage measures should be put in place before construction begins in order to protect the local watercourses.

The short-term storage and removal / disposal of excavated material must be considered and planned such that risk of pollution from these activities is minimised. Drainage from the topsoil storage area may need to be directed to a settlement area for treatment. A common issue encountered on large construction sites is the excessive removal of top soil from the site resulting in the generation of volumes of silted water after wet weather that cannot be sufficiently treated before discharge to watercourses.

All works will be completed in line with a site specific Construction Management Plan (CMP) which ensures that good construction practices are adopted throughout the works period and contains mitigation measures to deal with potential adverse impacts identified in advance of the scheme. The CMP should provide a mechanism for ensuring compliance with environmental legislation and statutory consents.

Mitigation measures such as silt traps and oil interceptors should be regularly maintained during the construction and operational phase. If permission is granted we suggest a condition to require the owner to enter into an annual maintenance contract in respect of the efficient operation of the petrol/oil interceptor. • Precautions must be taken to ensure there is no entry of solids, during the connection or stripping of old pipework to the surface water system.

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

The Department of Housing, local Government and Heritage have recently published the following interim guidance document on Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas – Best Practice Interim Guidance Document, which should be considered when designing drainage systems.

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

## **10.0 Planning Assessment**

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

The assessment considers and addresses the following issues:

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

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

## **10.1 Principle of Development, Quantum and Nature of Development**

### **10.1.1 Context**

Having regard to the nature and scale of development proposed, namely an application for 103 Build to Rent (BTR) apartments located on lands for which residential development is permitted in principle under the zoning objective Z1, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Previous use on the site was a public house which has since been demolished and it is stated that previous to this a quarry existed on the site.

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

### **10.1.2 Land Use Zoning**



The site is located on lands which are the subject of Land Use Zoning Objective Z1, with a stated objective to 'To protect, provide and improve residential amenities'. Residential use is a permissible use. A portion of the northern section of the site is zoned Z9 Amenity/Open Space Lands/Green Network with a stated objective 'to preserve. Provide and improve recreational amenity and open space green networks'. The application documentation show all buildings located on Z1 lands. Residential development is 'not permitted' nor is it 'open for consideration on Z9 lands. No public open space is proposed as part of the application and the site layout plan shows communal space to serve the development on the portion of land zoned under Z9. Section 14.8.9 of the Dublin City Development Plan states that in certain circumstances where it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place in order to retain the sporting and amenity nature of Z9 lands, some degree of residential development may be permitted on a one-off basis. The current proposal before the board has communal open space that is ancillary to the residential development located on the Z9 lands. I note that the planning authority have not raised this as an issues and highlighted in their report that all buildings proposed fall within the Z1 lands. I consider the current context on such scenario where ancillary development associated with the proposed residential scheme is acceptable given the significant constraints of the site and its context. I do not consider it a material contravention of the lands use zoning objective Z9 as set out in the current City Development Plan.

The principle of development is therefore acceptable, subject to the detailed planning considerations, as set out hereunder.

### **10.1.3 Density and Site Coverage**

The proposal is for 103 BTR apartments on a site with a stated area of c 0.38 hectares therefore a density of c.268 units per hectare is proposed. Observers have raised concerns that the proposed density is too high and the proposal constitutes overdevelopment of the site. I note that there are discrepancies in the information submitted with the Planning Report & Statement of Consistency (p.49) referring to a development of 110 units and a density of 286 units per hectare as per the proposal presented at pre-application consultation stage.

The submitted CE Report noted that the density proposed is very high. And while the planning authority is not adverse to such high density schemes the applicant must comprehensively demonstrate that the quality of the scheme is also very high.

The current Dublin City Development Plan states the Council will promote sustainable residential densities in accordance with the Guidelines on Sustainable Residential Development in Urban Areas. With regard to plot ratio for Z1 lands, I note it is indicated to be 2.5 and site coverage is 12%. The Dublin City Development plan sets out an indicative plot ratio for this site of 0.5-2.0, a higher plot ratio may be considered adjoining major public transport termini and corridors, the planning authority do not consider that this is applicable to this site. I disagree, having regard to the location of the site and its proximity to public transport and its location along the Finglas Road which is a major public transport corridor leading to the city centre. I am of the view that the application site is one such site where increased plot ratio is acceptable. . Site coverage indicated in the Development Plan is 45-60% for Z1 lands. The current Dublin City Development Plan does not set upper limits on densities and refers to plot ratio and site coverage. The planning authority queried the plot ratio for the proposed development falls significantly below the range set out in the Development Plan standards.

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

Policy at national, regional and local level seeks to encourage higher densities in key locations. It is Government and regional policy to increase compact growth within specified areas and increase residential density. The RSES requires that all future development within the metropolitan area be planned in a manner that facilitates sustainable transport patterns and is focused on increasing modal share of active and public transport modes. The site, as per the Dublin MASP set out within the RSES, is located within the Dublin City and Suburbs area of the Metropolitan Area, which promotes consolidated growth of brownfield/infill sites, as supported by RPO 4.3. Section 28 guidance, including the Sustainable Residential Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2020, provide further guidance in relation to appropriate densities.

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

The Urban Development and Building Height Guidelines (2018) state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels. The guidelines caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities.

The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a longterm move towards smaller average household size, an ageing and more diverse population, with greater labour mobility, and a higher proportion of households in the rented sector. The guidelines address in detail suitable locations for increased densities by defining the types of location in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations.

The site is in my opinion a 'Central and/or Accessible Urban Location' as defined under Section 2.4 of the Apartment Guidelines 2020. This brownfield infill site is in my view well placed to accommodate high density residential development given its proximity to a high frequency urban bus service with a bus stop adjacent the site boundary, and the existence of cycle infrastructure alongside footpaths adjoining the site. The existing Broombridge Luas stop is a 1.5km walk from the site. I note there are plans to increase the existing high frequency bus service along the Finglas Road through BusConnects (application lodged under ABP 314610-22) and plans for an extension of the existing Luas green line to Finglas which would benefit this area. The site is proximate to Clearwater shopping centre, Finglas Village and is within walking distance or a short commute (walking, cycling, bus) of a range of employment options within the industrial areas to the north of the site, in Finglas Village, and in Dublin City Centre, as well as to public open space with Violet Hill Park to the south, Tolka Valley Park and Johnstown Park.

Having regard to the above I am of the view that the delivery of residential development on this prime, underutilised, serviced site, in a compact form comprising higher density units would be consistent with policies and intended outcomes of current Government policy, specifically the NPF, which looks to secure more compact and sustainable urban development with at least half of new homes within Ireland's cities to be provided within the existing urban envelope (Objective 3b). I am satisfied that the site is sequentially well placed to accommodate compact growth in this developing urban area and is appropriate within the national and local policy context, subject to an assessment of design and amenity standards, which are discussed further in detail hereunder.

#### **10.1.4 Built to Rent**

The proposed development includes 103 no. Build to Rent apartments. Section 5 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020 provides guidance on Build-to-Rent (BRT). The guidelines define BTR as "purpose built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord". These schemes have specific distinct characteristics which are of relevance to the planning assessment. The ownership and management of such a scheme is usually carried out by a single entity.

The public notices refer to the scheme that includes 103 no. 'Build-to-Rent' apartments and a draft deed of covenant indicates that the applicant is willing to accept a condition requiring that the BTR residential units remain in use as BTR accommodation, that no individual residential unit within the development be disposed of to any third party for a period of 15 years only from the date of grant of permission. I consider that the matter of the covenant be further dealt with by means of condition if the Board considers granting permission.

The Guidelines also specify that no individual residential units may be sold or rented separately, during that period. While submissions consider there is an over saturation of this type of tenure provide in new housing stock and that it is inappropriate location for Build to Rent, I would highlight the application site is located within the area identified in the RSES as 'Dublin City and Suburbs', within the Dublin Metropolitan Area. Dublin City and Suburbs accounts for about half of the Region's population or a quarter of the national population, as well as being the largest economic contributor in the state.

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

The proposed residential type and tenure provides a greater choice for people in the rental sector, one of the pillars of Housing for All and I am satisfied in this regard. Concerns raised in submissions in relation to the negative impact of Build to Rent developments on established communities is not substantiated and such a scheme will not necessarily attract a transient population. I note the applicant has submitted a Property Management Strategy Report and I have no reason to believe there will be significant issues with the long-term management of the development. I consider that the proposed Build to Rent accommodation overall is acceptable at this location and is in line with the overarching national aims to increase housing stock, including in the rental sector, as set out in various policy documents, including inter alia Rebuilding Ireland – Action Plan for Housing and Homelessness (2016).

#### **10.1.5 Unit Mix**

A common thread throughout the observer submissions received relates to concerns with regard the proposed unit mix, in particular the extent of one-bed and studio units, which they consider could lead to a more transient population within the area; which would not facilitate in the creation of sustainable communities and would not be suitable for the accommodation of families. Many of the Elected Members have also raised concerns in this regard. The planning authority has not raised concern in this regard.

I refer the Board to section 3 of this report where I have set out in detail the proposed units mix. I note that studio and one-bed units comprise c.41.7% of the proposed residential mix with no three-bed units proposed. Section 16.10.1 of the Dublin City Development Plan, Mix of Residential Units, states that each apartment development of 15 units or more shall contain:

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

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

Furthermore, since the adoption of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments (2015) have been updated (December 2020). I note that the planning authority in their Chief Executive Report continually refer to the updated 2020 guidelines. One of the main differences between the two guidance documents relates to, inter alia, build to rent developments and associated "Specific Planning Policy Requirements" (SPPRs). The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020) contains SPPRs in relation to build-to rent developments, namely SPPR7 and SPPR8. Specifically, in relation to dwelling mix requirements for build-to-rent developments, I note SPPR8 (i), which I acknowledge takes precedence over any conflicting policies and objectives of Development Plans. SPPR8 (i) of the Apartment Guidelines (2020) states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise. It is noted that such SPPRs, which allow for flexibility in relation to build to-rent developments, were not included in the 2015 guidelines. However, this form of housing tenure was included for in the City Development Plan. I also note that the planning authority have not raised concerns relating to unit mix.

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

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

Having regard to all of the above, I consider that the proposed unit mix is acceptable in this instance given the locational context of the site, the established nature of the area where larger properties predominate, together with national guidance in this regard. I fully acknowledge changing household sizes. As stated in the National Planning Framework, seven out of ten households in the State consist of three people or less and this figure is expected to decline to approximately 2.5 persons per household by 2040. The proposed development in terms of unit mix would add greatly to the availability of studio and one bedroom apartments in an area of the city characterised by conventional housing stock comprised of traditional houses. I have no information before me to believe that the mix of units would lead to the creation of a transient or unsustainable community. While the unit mix may exceed a standard in the operative City Development Plan, I do not consider that this constitutes a material contravention of the Plan. The proposal broadly complies with section 16.10.1 of the Plan and meets the standards of the aforementioned Sustainable Urban Housing: Design Standards for New Apartments (2020). Having regard to the foregoing I consider the proposed unit mix acceptable.

## **10.2 Design Strategy**

### **10.2.1 Height**

I note that there are discrepancies in the information submitted with the Planning Report & Statement of Consistency (p.34) referring to a development with a maximum height of 6 storeys with page 47 refers to height between 7-9 storeys and the public notices refer to heights of part 6, part 7, part 8 and part 9 storey overbasement.

The proposed development comprises one blocks which ranges in height from 6 to 9 storeys (max. height c.31.23 m). The applicant has outlined that the highest point (albeit referencing 6 storeys) addresses the eastern side (Finglas Road) with heights tapering to the south and west.

Third parties and elected representatives have raised concerns in relation to suitability of the height, scale and massing of the development relative to the two storey dwellings which back onto the site and to the impact on the development potential of the lands to the south. It is contended that the submitted height does not respect the existing built environment. Concern is also raised in relation to the impact of the proposed height on the Tolka River located c.30m to the south, which is an and that the development would detract from its amenity value. Would also detract from the setting of Glasnevin Cemetery located on the southern site of the Tolka River to the south of the site. It is submitted that the proposed development breaches the height guidelines in the Dublin City Development Plan and is a material contravention of same.

Observer submissions also raise concerns with regards the impacts of the proposal on the visual amenity of the area and that it is out of character with the existing built environment. These concerns are interlinked with concerns regarding height, scale and massing of the proposal. There is a general consensus amongst third party observers that the proposal would negatively impact on the visual amenity of the area. The planning authority have recommended refusal having regard to its excessive height, scale and proximity to boundaries which would not integrate satisfactorily with the existing area and would have undue impact on the character and visual amenity of the receiving environment.

The Planning Authority do not consider that the applicant has demonstrated that the proposal satisfies the development management criteria as outline in Section 3.0 of the Height Guidelines. I note the concerns raised by the planning authority and have inspected the site and surrounding area. The site is c.30m north of the Tolka River and is separated from it Violet Hill Park and amenity areas along the Tolka River.

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



A Material Contravention Statement is submitted with the application in which the applicant seeks to justify the material contravention of the provisions of the Dublin City Council Development Plan 2016-2022 in respect of building heights. I address this in section 10.14.

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

At the scale of relevant city/town, the proposal will make a positive contribution to place-making introducing new street frontage and utilises height to achieve the required densities. However, I do not consider there to be sufficient variety in scale and massing to respond to the scale of adjoining developments having regard to the limited setback from site boundaries. I consider the proposed quantum of residential development, residential density and tenure type (build to rent) acceptable in the context of the location of the site in an area that is undergoing redevelopment, is an area in transition proximate centres of employment and public transport.

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

At the scale of the site/building: The proposal includes new public realm and fenestration that will passively survey the public road and pedestrian linkages to adjoining lands are indicated and would contribute to the legibility of the area. The addition of build to rent apartments will contribute to the unit mix and tenure at the location. Residential Amenities are addressed in section 10.3 and 10.4 Sunlight and daylight consideration are addressed in section 10.3.3 and 10.4.4 Flood Risk Assessment has been carried out and this is addressed in section 10.6.

Having regard to the considerations above, I consider that the proposal in principle for 6 to 9 storey buildings at this location is acceptable in terms of height. I consider the height proposed to be in keeping with national policy in this regard. I note the policies and objectives within Housing for All- A New Housing Plan for Ireland (2021) and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site. The NPF also signals a shift in Government policy towards securing more compact and sustainable urban development and recognises that a more compact urban form, facilitated through well designed higher density development is required. I am also cognisant of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) which sets out the requirements for considering increased building height in various locations but principally, inter alia, in urban and city centre locations and suburban and wider town locations. Overall, I am of the view that having regard local and national guidance, the context of the site in an accessible location which is undergoing significant redevelopment, the proposed height is acceptable in principle subject to further assessment pertaining to impact on the receiving environment. However, in terms of the cumulative impact of the proposed scale and massing I am of the view that the proposed development does not satisfy the criteria described in section 3.2 of the Building Height Guidelines in particular when assessed at the scale of district/neighbourhood/street.

I draw the attention of the Board to the fact that the applicant considers the proposal to represent a material contravention in relation to height and has, in my opinion, adequately addressed the matter within the submitted Statement of Material Contravention. The planning authority also considers the proposal to present a material contravention of the operative County Development Plan in relation to height. I too consider that the proposal represents a material contravention in relation to height. I address material contravention in section 10.14 of this report. Having regard to all of the above, I am not satisfied in this instance that the applicant has complied with the requirements of section 3.2 of the Building Height Guidelines to justify that the Board grant of permission in this instance and invoke section 37(2)(b) of the of the Planning and Development Act 2000, as amended.

### **10.2.2 Scale & Massing:**

The planning authority's first two recommended reasons for refusal referred to the excessive height, overall scale and close proximity to site boundaries which resulted in a development that (reason no. 1) would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment. The proposed development would be discordant relative to the established height profile of the receiving environment at this location. And (reason no.2) that the proposed development by reason of its height, scale and proximity to the site boundaries would adversely impact on the amenities of existing adjacent properties by way of undue overlooking, overshadowing and would be visually overbearing when viewed from existing residential properties on Violet Hill Drive'. I addressed height above. I address overbearance, overlooking and residential amenities in section 10.4. I address scale and form below.

A reoccurring theme raised in the observer submissions highlights concerns that the proposed development is overbearing and would have a significant adverse impact on the visual amenities of the area. I have inspected the site and surrounding area and I agree with observers that the blocks will be visible to residents in the vicinity. The closest dwellings have their rear gardens bounding the site to the east albeit at a higher ground level.

The issues of height, scale, form, massing of the proposal are inter-related and in effect relate to the overall scale and massing of a proposal. It is the sum of all these parts that, amongst other assessments, determines the appropriateness or otherwise of the development before the Board. While I am generally satisfied that the application site can accommodate the proposed height, I concur with the planning authority with regard to the proposed scale and massing of the block. Arising from the proposed length of the block coupled with its proximity to boundaries with the adjoining residential properties, in particular no 34 to 44 (even numbers only) Violet Hill Drive. All of which combine to create an incongruous development that is overbearing and visually dominant due to its inappropriate scale and massing when viewed from the adjoining residential properties (see section 10.4).

In terms of visual amenity for surrounding residents, it is my opinion that the block has the greatest potential to have visual impacts on residential properties immediately bounding the site (Violet Hill and Glasnevin Oaks) I consider that it would be excessively visually dominant on the skyline at this location, given its scale and massing; would be overbearing when viewed from neighbouring lands and while attempts at transitioning of heights have been made, they do not go far enough to form an appropriate form of development at this location. I consider that the proposal is not in compliance with Criteria 1 'Context' of the Urban Design Manual. I also consider that having regard to the Urban Development and Building Height Guidelines, 2018, at the scale of the site/building, the form, massing and scale of the proposed development is not carefully modulated in this instance. I am of the opinion that it would appear unduly dominant and overbearing viewed adjacent properties, in particular those bounding the site to the east and would significantly detract from the visual amenities of the area. Having regard to the Urban Development and Building Heights Guidelines, 2018, I consider that at the scale of district/neighbourhood/street, the proposal does not respond satisfactorily to its overall natural and built environment and in this instance, given its dominance and overbearing impact does not make a positive contribution to the urban neighbourhood at this location. My concerns in this regard are such that I recommend a refusal of permission in this instance

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

As set out above I have no issue with the proposed height and the provision of the highest element (9 storeys). My main concerns relate to the overall scale and massing of the proposed development, the siting of the blocks and the context of the application site. I consider that the proposal before me is excessive in terms of its scale and massing and does not constitute an appropriate form of development at this location

Concerns were raised that the proposed development would have a negative impact on the Tolka Valley Park detracts from its visual amenity. And would detract from the character and setting of Glasnevin Cemetery. The application is accompanied by CGIs which seeks to show the proposal in the context of the surrounding building environment. I have reviewed the images presented in the submitted CGIs and all other drawings and documents and note that it is inevitable that any higher density development at this site is likely to contrast with surrounding development. The wider visual impacts in my opinion, however will not detract from the Tolka Valley Park or Glasnevin Cemetery.

Having regard to the foregoing and while I do not have issue with the overall height of the proposal per se, I do have reservations that the proposal before me represents overdevelopment of the site and requires amendment to constitute an appropriate form of development. I am of the opinion that the development's lack of appropriate transitions in scale to the domestic scale dwellings further exacerbates its visual dominance. It is my opinion that the proposal does not comply with Criteria No. 1 of the Urban Design Manual 'Context'. I do not consider that the development positively contributes to the character and identity of the neighbourhood. The proposal before the Board is excessive in terms of scale and massing and does not offer an appropriate transition with the existing building environment and should be refused permission on these grounds in my opinion.

#### **10.2.4 Design, Materials and Finishes**

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

The proposed development seeks to construct a development consisting of one block (c. 6778sq.m) in a t-shape design with two wings projecting east and westwards at the southern point) The northern section of the block (6 storeys) is set back from the boundary with Glasnevin Oaks which bounds the access road to the development. The central portion of the block (part 6/part7 storeys) is set back from the eastern boundary with Violet Hill Drive and Open space serving this estate. The southern section (part 8/part 9 storeys when address Finglas Road and 6 storey, c.20m in height, to the rear) has varied set backs from the boundaries with the rear gardens of Violet hill Drive, with a limited setback from the boundary of no. 42 & 44 Violet Hill Drive. I also highlight to the Board the FFL of the houses at Violet Hill are above the ground level of the application site with the ground level equating to the 3<sup>rd</sup> floor FFL in the proposed block with a steep wooded embankment between the proposed development the rear of the Violet Hill Drive properties.

The applicant is proposing a contemporary intervention in an area predominantly characterised by traditional two storey houses to the east with various apartment developments over the years along the Finglas Road in recent years. The proposed design seeks to introduce a new element to this disused site at a prominent location on an important approach to the city centre. The area and in particular the R135 (Finglas Road) is undergoing redevelopment and is an area in transition and therefore can accommodate different designs and styles when seeking to introduce new elements to the built environment.

An Architectural Design Statement submitted with the application sets out that the proposed material and finishes includes the use of a selection of brick combined to animate the character and design of the elevations. It is submitted that the brick used in the scheme acts as a solid and robust yet quality design material with its speckle character. The brick in the proposed design is used for all of the elevations to create proper quality for the gateway building. The pressed metal panels in dark grey colour palette has been introduced to the small portion of elevation to emphasise the architectural vertical connection between two wings of the building. Similar principal was used for balconies, panels with curtain walls and entrance glazed systems. The main entrance to the building is a uniquely designed entrance hall formed with quality aluminium framed glazing system.

I have reviewed the information on file, I consider given the scale and massing of the overall development and the context of the site that the proposed materials and finishes assist in assimilating the proposed development into its surrounds to an extent. I am of the view that the applicant's attempts to break down the overall massing and scale the use of material and finishes assist to further soften the visual impact of the proposal which will be visible from all approaches to the site. While I consider materials proposed assist in breaking down the scale of development to a degree at this location, I do not consider it sufficient given the siting of the block and the context and constraints of the site.

The Apartment Guidelines require the preparation of a Building Lifecycle Report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application.

I consider the range of height acceptable for this setting and in principle I consider the proposed variation in height compliments the site. My concerns relate to the scale and massing which I do not consider appropriate at this location and I am of the view that the development has not been designed to be respectful of the character of the area and while I have no objection to a modern intervention at this location, the current proposal before the Board is not respectful of its surroundings or an appropriate intervention at this location, in my opinion.

#### **10.2.5 Layout & Open Space**

The development provides a streetscape presence along the Finglas Road. I consider this acceptable. I note no public open space is proposed as part of the current proposal before the Board, having regard to the location of the site adjoining public parks and amenity spaces I consider this acceptable. Furthermore the northern portion of the site contains lands zoned Z9.

The report from the Parks, Biodiversity and Landscape Services to the Chief Executive noted confusion in relation to the proposed communal open space and whether this is public and reference in documentation that no public open space is provided. Notwithstanding the Parks Services stated that the payment of a development contribution in lieu of public open space would be acceptable in this instance.

I note that the Development Plan does allow for the provision of public open space to be met via financial contributions in lieu of the shortfall in space, which the Planning Authority has requested via the attachment of a suitably worded condition in the event of a permission for the development. Given the site context in close proximity to the Tolka Valley Park and Violet Hill Park , the lack of public open space proposed on site and the Development Plan provisions, I am satisfied that a contribution in lieu of the shortfall in open space would be necessary and reasonable as a condition in the event of a permission and the proposed open space provision would not contravene the policies of the Development Plan.

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

### **10.3 Residential Standards for future occupier**

#### **10.3.1 Standard of Accommodation**

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

The planning authority's third recommended reason for refusal related to non compliance with SPPR4 and SPPR 7.

SPPR 4 states in relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply. The applicant states in excess of 71% of the proposed apartments are dual aspect. I have examined the apartment layouts and do not concur with this analysis. I consider this dual aspect to be questionable. Having reviewed the plans, I consider that a more appropriate figure is c.45% and therefore falls under the 50% rate applicable to such a greenfield site and therefore does not comply with SPPR 4. Overall the provision of dual aspect apartments proposed would be unacceptable and would fall below the minimum requirement, and that the changes which would be required to comply with these minimum standards would be significant and could not be dealt with by condition in my opinion, Furthermore, I have concerns regarding the length of corridors off which units are set and the implications for residential amenities.

SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with.

SPPR 6 specifies a maximum of 12 apartments per floor per core. All blocks are served by stair and lift access and the requirements of SPPR 6 are met in relation to the number of units served per floor per core.

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

The internal communal amenities/shared facilities are provided across the floors. These include common room (c.78.3sq.m), gym (c.65sq.m), quiet room (c. 65.3sq.m), cinema (c.54sq.m), meeting room (c.65.3sq.m), store room (c.54sq.m) and a co-working spaces (c.69sq.m). I concur with the planning authority that the level of communal amenities and facilities/services is deficient and falls short of the requirements set out in SPPR7. I do not consider the proposed level of amenities/facilities and their distribution throughout the blocks acceptable. I am of the view that the proposed two ground floor units which offer limited residential amenities in terms of aspect and outlook should be omitted and replaced with good quality services and facilities to cater for the needs of residents with appropriate sized room (eg gym) and the provision of support facilities that are currently lacking in the proposal before the Board. This matter could be addressed by condition of the Board was of a mind to grant permission.

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



Private amenity spaces are provided in the form of balconies and terraces. Given the limited setback from the site boundaries I have concerns regarding the level of residential amenity will offer given their limited outlook which result in a poor environment for future residents for the occupiers of units on the ground, first and second floors facing eastwards in particular.

A communal roof terrace at the 7<sup>th</sup> floor level and communal amenity space at podium level which have limited amenity value given their fragmented nature.

I am satisfied that there is a clear definition between communal and private spaces is provided by the incorporation of landscaping to define the various spaces. Access to the undercroft car park is via a shared access off Finglas Road. In order to access parking I note that cyclist will use the shared access lane/surface to access the allocated parking and there is potential conflict between cyclists and pedestrians but this can be managed in an appropriate manner. I address the issue of daylight/sunlight for amenity spaces in section 10.3.3 of this report.

Appendix 1 of the Guidelines set out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas. The submitted schedule of areas indicates that all apartments meet or exceed the minimum storage area, floor area and aggregate floor area and width standards.

Private open space is provided in the form of terraces at ground floor level and balconies at upper levels. The submitted schedule of floor areas indicates that private open spaces meet or exceeds the quantitative standards provided in Appendix I of the apartment guidelines.

A Building Lifecycle Report, as required by the guidelines, has been submitted.

Car and bicycle parking provision is considered acceptable (refer to 10.5.3).

On balance and having regard to the foregoing I am of the view that the proposed development would provide a poor level of residential amenity for future occupants. I do not consider that the overall quality and quantity of the residential support facilities and residents services and amenities proposed and the quality and usability of the communal open space proposed is acceptable and results in a poor standard of accommodation for future occupiers. The proposed development does not comply with the 2020 Section 28 Apartment Guidelines and would be contrary to the proper planning and sustainable development of the area.

### **10.3.2 Overlooking**

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

### **10.3.3 Access to daylight/sunlight/overshadowing**

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

The Daylight Analysis & Overshadowing Report (dated 30<sup>th</sup> March 2022) submitted with the application considers inter alia potential daylight provision within the proposed scheme and overshadowing within the scheme. This assessment is read in conjunction with the BS 2008 Code of Practice for Daylighting and the BRE 209 site layout planning for daylight and sunlight (2011). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the Apartment Guidelines. I am satisfied that the target ADF for the new residential units are acceptable and general compliance with these targets/standards would ensure adequate residential amenity for future residents.

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

The applicant's assessment includes an analysis of the proposed apartments with regard to amenity (daylight) available to future residents within the proposed scheme. The study assessed habitable spaces/rooms for all 103 units across the block. The study concluded that 100% (of the rooms studied achieved the requisite ADF of 1% for bedrooms, 2% for KLD and 2% for Studios respectively.

I have reviewed the submitted analysis and I am of the opinion that the proposed development broadly complies with the BRE guidance and will provide an appropriate standard of residential amenity regarding access to daylight.

The planning authority raised no concerns in relation to ADF values for the proposed development. However drew attention to the depth of the proposed studio units.

Having regard to the foregoing and that the analysis considered points which relates to habitable rooms across the proposed development these included bedrooms Living/kitchen/dining (LKD) for units and studio units across the blocks. I am satisfied the overall level of residential amenity is acceptable, having regard to internal daylight provision.

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

To this end, an analysis of the sunlight exposure levels for the amenity areas in the proposed scheme was carried out and submitted. The analysis indicated that in total two. spaces had been assessed ( amenity pace on the 1<sup>st</sup> and 7<sup>th</sup> floor) of which both meet the criteria as set out in the BRE Guidelines. The average value shows that 78.4% and 87.7% of the overall proposed amenity space would receive more than 2 hours of sunlight on March 21st.

Based on the information provided and the limited analysis carried out to date I am satisfied that the applicant has demonstrated that the proposed communal amenity spaces meet the BRE sunlight requirements and offer an acceptable level of amenity for future occupiers.

#### **10.3.4 Wind/Microclimate**

The applicant carried out wind and microclimate modelling for the proposed development.

The study concluded that As a result of the final proposed and mitigated design, wind flow speeds at ground floor are shown to be within tenable conditions. Some higher velocity indicating minor funnelling effects are found near the South-West, South-East and East sides of the development. However, the areas can be utilised for the intended use (such as walking). A small area of the roof terrace 1 is suitable for short term sitting instead of long-term sitting, however the majority of the area is appropriate for long term sitting. The proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings. Moreover, in terms of distress, no critical conditions were found for "Frail persons or cyclists" and for members of the "General Public" in the surrounding of the development. The proposed development does not impact or give rise to negative or critical wind speed profiles at the nearby adjacent roads, or nearby buildings. During the construction of Development at The Royal Oak Development the predicted impacts are classified as negligible

I have examined the information submitted and I consider the findings robust and acceptable. The proposed development would not generate conditions that would cause critical conditions for vulnerable users of the areas.

### **10.4 Potential Impact on adjoining properties/land**

#### **10.4.1 Context**

Observers and Elected Representatives raised concerns in relation to the impact on surrounding residential amenity. Potential impacts on residential amenity relate to overbearance, overlooking and overshadowing, nuisance arising during construction/operational phases and potential devaluation of adjoining properties. Issues or potential impacts as a result of traffic or physical infrastructure are dealt with under separate specific headings dealing with these issues. This section considers overbearance, overlooking and overshadowing/access to daylight/sunlight, impacts arising from construction and operational phases and potential devaluation of adjoining properties

The Chief Executive report has raised serious concerns regarding the separation distances achieved between the block and to the boundaries of the site and considered that the proposal would have a negative impact on adjoining residential amenity. The planning authority's recommended second reason for refusal sets out that *"The proposed development by reason of its height, scale and proximity to the site boundaries would adversely impact on the amenities of existing adjacent properties by way of undue overlooking, overshadowing and would be visually overbearing when viewed from existing residential properties on Violet Hill Drive. The proposed development would, therefore, seriously injure the amenities of property in the vicinity, be contrary to the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area."*

The application site is located within outer city suburbs and its former use as Public house in an area characterised by low-rise residential development which is the subject of significant redevelopment at present. It is an area in transition and any development that reflects its development potential and context is likely to result in a significant change for the surrounding properties, in particular the neighbouring residential properties located to the northeast and east of the site. The development site is bounded to the northeast by Glasnevin Oaks, to the east by the rear gardens of no. 34 to 54 (even numbers only) to the south by Violet Hill Park (public park that links to Tolka Park) and a pump house. Finglas Road form the western boundary with apartment development to the north on the western side of the road (Tolka Vale) and to the west by the Finglas Road. The Tolka River is located to the south and flows under the Finglas Road to the south of the site.

I am satisfied that the proposed development will not have a detrimental impact on properties (apartments) on the western side of Finglas Road in terms of overlooking. The closest sensitive receptors are the residential properties located to the northeast (Glasnevin Oaks) and east (Violet Hill) where the bulk of the observers reside.

#### **10.4.2 Overbearance**

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

The planning authority also raised serious concerns regarding the overbearing impact of the proposed development on adjoining residential amenity in particular arising from the setbacks from the boundaries.

The block ranges in height from 6 to 9 storeys with a max. height of c. 31.2m. The applicant's height strategy sets out that there is a concentration of taller elements towards the western edge of the site and gradual transitions in height towards the west and south. Contiguous elevations submitted illustrate the transition in building height across the site.

A key consideration is whether the height, scale and mass of development and the proximity to neighbouring properties is such that it would be visually overbearing where visible from the adjacent properties. The proposed development clearly exceeds the prevailing two-storey building heights of the area. And I acknowledge that any development (regardless of scale and height) will have an visual impact on adjoining lands I also note that the block is stepped in height in an attempt to address the transition with the houses in Violet Hill. My concerns relating to the visual dominance of the proposed development which I consider incongruous due to its scale and height. I am of the view, given the orientation of these houses and the relationship with the application site and the scale and massing proposed that the proposed development would result in an overbearing and visually dominate development when viewed from houses bounding the application site along Violet Hill Drive in particular, which is further exacerbated by the limited setback from the site boundaries, The proposed development, given the low rise nature of the receiving environment results in an overbearing, incongruous development when viewed from all approaches to the site.

While I accept that a degree of visual change should be expected having regard to the constantly evolving and restructuring urban landscape and the development of contemporary development of this nature would not be unexpected in this area owing to the rezoning as part of the Development Plan variation for intensive development purposes. I also acknowledge that any development on the application site in line with its zoning objectives would be visible from adjoining properties. The crux of the matter is the level of impact on the adjoining residential properties in terms of visual overbearance and whether this would detract from their residential amenities. In the current context there is no doubt that the proposed development would be visible from the private gardens and internal areas of the immediately adjacent and adjoining houses to the northeast and east along with the outlook of houses in the wider vicinity, in particular along the Old Finglas Road (R135), and would change the outlook from these properties. I have inspected the site and its surrounds and having regard to the proposed design, scale and massing which I address in section 10.2. I have serious concerns in this regard and I concur with the planning authority that the level of overbearance is not acceptable given the context of the site as set out previously in my report permission should be refused accordingly.

#### **10.4.3 Overlooking**

A constant concern raised by observers residing in houses adjoining the application site is that proposed apartments will result in overlooking of gardens and private amenity spaces.

Residential dwellings bounding the application site to the northeast are three storey infill (Glasnevin Oaks) and the east (Violet Hill where the bulk of the third party observers reside) are traditional two storey house, some of which have rear extensions. The planning authority recommended that permission be refused on the ground of overlooking of adjoining residential properties arising from the height, scale and limited setback from boundaries.

In my opinion, the blocks are sufficiently set back from the rear boundaries of adjoining properties that I do not consider overlooking of the internal spaces (rooms) of adjoining properties arises. However with regard to overlooking of private amenity spaces/rear gardens and while I acknowledge that a degree of overlooking is to be expected in urban areas I do not consider that that the proposed development before the Board is one such scenario. I note the set back from the northern and eastern boundaries respectively. I have serious concerns regarding the overlooking of the main private amenity spaces (rear gardens) of the house which bound the site to the east. I have set out the setbacks above and while I acknowledge that the proposed block reduces in height when addressing sections of the eastern boundary. I have serious concerns regarding the potential impact on adjoining properties to the east given the proximity of the block, to the shared boundaries and overlooking if their private amenity areas (gardens), in particular no. 42 and 44 Violet Hill Drive.

The applicants have stated that in their design have considered the potential impact on the properties to the east and have sought to mitigate potential impacts through design (use of louvre and angles windows) so as not to prejudice potential development of these lands. I acknowledge that additional screening measures can be used to address overlooking in constrained urban sites. However, in this instance given the proximity of the block to the eastern boundary I have serious concerns regarding the potential impact on the residential amenities of the adjoining residential properties. Given the restrictive nature of the site and the scale the development proposed there is no scope to increase setbacks from the eastern boundaries by moving the blocks westwards.

I am satisfied that proposed block is sufficiently removed from Glasnevin Oaks (I also note no submission have been received from residential of this development) that I do not foresee undue impacts arising with regard to overlooking.

#### **10.4.4 Access to daylight/sunlight/overshadowing**

##### **10.4.4.1 Context**

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

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

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

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



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

The bulk of the observer submissions have been from residents of Violet Hill Drive and Violet Hill Road, in which the loss of sunlight and overshadowing was a common theme.

The planning authority raised concerns related to overshadowing of private amenity space of houses in Violet Hill Drive from June to September and the overall absence of detail in regard to the assessment submitted.

#### **10.4.4.2 Daylight**

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

- i. Is the separation Distance greater than three times the height of the new building above the centre of the main window (being measured); (ie. if 'no' test 2 required)
- ii. Does the new subtend an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room (ie. if 'yes' test 3 required)
- iii. Is the Vertical Sky Component (VSC) <27% for any main window? (ie. if 'yes' test 4 required)
- iv. Is the VSC less than 0.8 the value of before ? (ie. if 'yes' test 5 required)
- v. In room, is area of working plan which can see the sky less than 0.8 the value of before ? (ie. if 'yes' daylighting is likely to be significantly affected)

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

The site is a brownfield site with the remnants of a carpark associated with a now demolished public house. The rear gardens of No. 34 to 52 Violet Hill Drive (even numbers only) form the eastern boundary, to the northeast is Glasnevin Oaks. To the south is Violet Hill Park. The applicant's assessment has assessed potential impacts VSC values for 34 to 52 Violet Hill Drive (even numbers only). All rear windows were studied and the analysis concluded that all windows met or exceeded the BRE Targets for VSC. Of the 40 windows (4 in each house) assessed all 100% meet the BRE target of 27%, The lowest was a ground floor window in no. 46 Violet Hill Drive with a value of 27.58%

#### Daylight Conclusion:

The assessment submitted with the application concluded that there will be no impact noted to the available daylight and sunlight in adjacent properties and meet BRE target values.

I note the concerns raised by the planning authority regarding the absence of VSC for individual locations. I am satisfied that data has been provided for the most sensitive adjoining receptors to enable me to carry out my assessment.

As set out previously in my report I have concerns regarding the siting of the blocks and their scale and massing in terms of visual dominance/overbearance. However, with regard to access to daylight I am satisfied that adequate regard has been had to the potential impact on adjoining lands and properties, when balanced against the need for housing on zoned and serviced lands.

#### **10.4.4.3 Overshadowing:**

The assessment submitted with the application includes existing and proposed radiation maps. The BRE guidance recommends that at least 50% of the amenity areas should receive a minimum of two hours sunlight on 21st March (spring equinox). Shadow Diagrams for 21<sup>st</sup> March are also include in the assessment.

The applicant's assessment has assessed potential impacts on 13 amenity spaces (No. 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42, 44, 46, 48, 50, and 52 Violet Hill Drive) located to the east of the proposed development.

The private amenity spaces of the houses were assessed for the availability of sunlight on the ground. The Assessment submitted found that most of the gardens bounding the application site will not be impacted by the proposed development and achieved BRE target value for the 21st March. The planning authority acknowledged this however raised concerns regarding the extent of overshadowing from June to September. I note the concerns raised by the planning authority and reference the targets set out in the BRE guidance which refers to the 21<sup>st</sup> March only, and on this basis I am satisfied that the proposed development complies with the target set out in the guidance.

With regard to the houses to the northeast (Glasnevin Oaks) I am satisfied that the development will not have an adverse impact on the amenity of these properties given the relationship of this house to the proposed development.

#### **10.4.5 Potential Impacts during Construction Phase/Operational Phase.**

##### **10.4.5.1 Construction Phase:**

Observers have raised concerns that the amenities of local residents would be impacted by noise, dust, vibrations, traffic and potential structural damage during the construction phase of the proposed development which will be exacerbated by the removal of trees which I address in section 10.7.

A Resource & Waste Management Plan (RWMP) submitted with the application deals with the management of waste produced by the site during the construction phase and its disposal. All demolition works have taken place therefore not addressed.

A Construction Environmental Management Plan (CEMP) submitted with the application deals with matters of construction programme and phasing, excavations, site logistics, construction traffic & site access along with safety, health and environmental considerations during construction works. And addresses how it is proposed to manage impacts arising at the construction phase to ensure the construction is undertaken in a controlled and appropriately engineered manner to minimise intrusion. The CEMP addresses construction traffic and management of same. Includes phasing for works, methodologies, and mitigation measures and address working hours, site security, dust, noise, visual impact and traffic, etc .

I have examined the CEMP and the RWMP and I note that the impacts associated with the construction works and construction traffic would be temporary and of a limited duration.

I note that observers have raised the issue of damage to houses in Violet Hill and have referenced historical damage that has occurred. Issues of subsidence has also been raised. The issue of previous damage to boundaries walls, open spaces etc arising for past activities is beyond the remit of this report. With regard to the potential impact on adjoining boundary walls and structures. I note that the current proposal before the Board will involve the removal of trees along the boundaries with Violet Hill. The extent of works required could potentially destabilise or compromise the rear slope upon which Violet hill house are located and that an intrusive engineering intervention may be required. I have reviewed the documentation on file and note that this matter has not been addressed. While I acknowledge that the submissions do not include independent reports to support their assertions. I am of the view, after carrying out a site inspection), having regard to the nature of the slope, extent of tree removal, etc that this matter should be fully addressed in application documentation for any development on this site.

I note the Planning Authority have not raised concerns on this matter. I further acknowledge that technical specification and working drawings are normally the next step in the process for developing a site and the difference in the level of detail between 'planning drawings' and 'working drawings' is substantial. Notwithstanding that matters of this nature can in certain circumstance be mitigated through the use of best practice and are governed by the relevant regulations and certificates. I am of the view that given the extent of ground works and tree removal that this matter should be addressed as part of the application documentation and not dealt with by condition and subsequent compliance. Therefore I do not consider it appropriate that permission is granted without a full assessment of the potential impact carried out first.

Inland Fisheries Ireland stated in their submission that any dewatering of ground water during the excavation works must be treated by infiltration over land or into an attenuation area before being discharged off site. A discharge license may be required from Dublin City Council. Good housekeeping measures are integral to achieving prevention of excessive turbid run-off to surface water systems. As such IFI request that temporary surface water drainage measures should be put in place before construction begins in order to protect the local watercourses.

The short-term storage and removal / disposal of excavated material must be considered and planned such that risk of pollution from these activities is minimised. Drainage from the topsoil storage area may need to be directed to a settlement area for treatment. A common issue encountered on large construction sites is the excessive removal of top soil from the site resulting in the generation of volumes of silted water after wet weather that cannot be sufficiently treated before discharge to watercourses. If the Board was of a mind to grant permission, I am of the view that this matter can be address through the use of appropriate conditions and where applicable appropriate licences.

#### **10.4.5.2 Operational Phase:**

With regard to potential noise from the use of communal amenity areas and roof terrace and whether this would have a negative impact on their quality of life for adjoining residents. A level of noise is to be expected in urban areas. I note that planning authority did not raise this as a concern. The applicant has submitted a Property Management Strategy Report with the application. This states that the development will be run by a Management Company to manage the estate and common areas of the development and sets out a structure to ensure the scheme is maintained to a high level. This is acceptable, in my opinion.

Having regard to the foregoing and subject to conditions, should the Board consider a grant of planning permission, I am satisfied that impacts at operational stage can be controlled.

#### **10.4.6 Devaluation of adjoining properties.**

Observers have raised concerns that the proposed development would result in the devaluation of adjoining residential properties. And submitted written statements from professional valuers with local knowledge as evidence that the proposed development would reduce the price that people would pay for houses in the area. This evidence was reasonable and compelling.

The price of any particular property depends upon the location and characteristics of that property, as well as the circumstances of its immediate vicinity. The proposed development would not affect the former. It would affect the latter to some degree. However property prices also depend on variable economic circumstances and upon the sentiments of those participating the market, as well as on estimates by persons participating in the market as to what the sentiments of other persons participating the market might be or might be in the future. So, while informed guesses might be made, the question of the impact of the proposed development of property prices cannot be resolved to any degree of certainty on objective criteria. I would advise the board that the proposed development would not be likely to undermine the demand for housing in such an urban area with good links to employment and service centres to an extent that would lead to widespread underutilisation or vacancy of its housing stock. However I cannot advise the board as to whether the proposed development would be likely to reduce the amount of money that people would offer for those houses to much below what they might have offered in the absence of the development.

However uncertainty regard the issue of property prices should not constrain the board's consideration of the current application. Depreciation of property values is cited in the Planning Act. However it is cited in a schedule that refers to the specific topic of compensation to applicants who are refused permission. It does not set down a general objective or duty on the various planning authorities to maintain the price of any particular property or of property in general. It would be fruitless to try to control property prices through decisions on individual planning applications, which should be based on the considerations set out in sections 37G(2) and 143 of the planning act, upon objective assessments of the likely impact of the development on the environment and the amenities of the area (including objective assessments of its impact on the amenities of private properties), and upon matters that relate to the common good and the proper planning and sustainable development of the area.

## **10.5 Traffic & Transportation**

Observers have raised concerns relating to overspill parking on adjoining main road and residential estates, inadequate resident and visitor car parking provision on site, lack of safe pedestrian / cycle crossing for the northbound bus stop near the site, the development will compound a lack of capacity in public transport near the site during peak hours which would add to the existing congestion and traffic flow issues along the Finglas Road / Old Finglas Road and the safety of the proposed access off Finglas Road.

The applicant has submitted a Traffic and Transport Assessment (TTA) includes a DMURS Statement, RSA, Preliminary Travel Plan & Parking Strategy.

DCC Transportation Planning Division have raised no objections subject to appropriate conditions relating to a) implementation of measures contained in the Mobility Management Plan and the Car Parking Strategy, b) requirement for a Servicing Plan, c) details of works to Finglas Road and to be carried out at the developer's expense, d) parking shall not be sold. Rented or otherwise disposed of, 10% EV C points provided, e) requirement for a Demolition Management Plan, f) requirement for a Construction Management Plan, g) cost for repairs to public road and services, h) compliment with the Code of Practice.

#### **10.5.1 Access and traffic**

It is proposed to access the site via a new access of Finglas Road (R135) which is proposed to be c.6m in width. There is an existing cycle lane along the site frontage and bus stop with the proposed access a shared vehicular/cyclist/pedestrian access.

Section 3.0 of the TTA includes an assessment of the potential level of trips associated with the proposed development. The percentage impact of additional traffic generated by the proposed development in combination with the baseline is estimated across am and pm are below 1%. All figures are below guidance threshold of 10% or 5% in sensitive locations. The TTA Also includes a survey of the development access junction, this shows that the development junction onto Finglas Road currently operates within its effective capacity and will continue to operate within capacities at opening year (2023) and design year (2038).

The TTA outlines the various existing and proposed public transport facilities located within the vicinity of the proposed development including bus and Luas services. The nearest Dublin bus stops are located adjacent to the proposed development. And Finglas Road forms part of the proposed BusConnects, Finglas/Ballymun to City Centre Route which I address below. TII raised no objection and noted the requirement for a section 49 Supplementary Contribution (Luas Cross City – St. Stephens Green to Broombridge Line) in the event permission is granted.

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

#### **10.5.2 BusConnects**

There is a current application lodged with An Bord Pleanála under ABP314610 -22 for BusConnects Ballymun/Finglas to City Centre.

The Applicant has set out in the submitted documentation that they engaged with the NTA prior to submission at consultation and planning application site. The submitted drawings show the interaction between the proposed and future Bus infrastructure. No land take is required at this point and a bus stop and toucan crossing is proposed beside the proposed development. Having regard to the information on file, DCC Planning and Transportation Division consider the developments interaction to be acceptable and in the interest of ensuring that the development captures any potential changes arising from the BusConnects project recommended that a condition be attached to any grant of permission that the applicant liaise with the NTA to agree details. As noted above application was referred to the NTA, no response received.

### **10.5.3 Parking**

#### **10.5.3.1 Car:**

The application site is located in Parking Area 3, Map J of the Dublin City Development Plan 2016- 2022. Table 16.1 sets out the maximum car parking standards for various uses. In Zone 3: residential (1.5 per dwelling). The 2016 City Plan notes that apartment parking spaces are mainly to provide for car storage to support family friendly living policies in the city and make apartments more attractive for all residents. It is not intended to promote the use of the car within the city. If the car space is not required in the short-term, it should be given over to other residential storage or utility uses

48no. car parking spaces are proposed, 38 no. standards spaces of which 2 are accessible and 5 are fitted for EVs, 2 no club car paces and 8 no, visitor spaces. Parking is at a ratio of 0.37 car space per unit. Accessible car parking at 3 no. spaces (6.25%) complies with the minimum 5% Development Plan standards.

DCC Transportation Planning noted that the proposed car parking ratio of 0.37 for residents and is open to considering a reduced quantum of car parking in accessible urban locations, it is considered that this should be supported by strong long term management of the allocation of car parking spaces and proactive residential travel planning and other aspects, such as car share and bicycle parking. The Chief Executive report raised no objection to the proposed parking provision.



Chapter 2 of the Design Standards for New Apartments Guidelines 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. Central and/or Accessible Urban Locations are described in section 4.20 of the Guidelines as locations that are in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services. The application site is one such site and the Guidelines support the case for the reduced parking provision as part of this development. The proposed development comprises BTR apartments and reduced parking will also encourage a modal shift away from private car usage.

The proposed scheme includes 48 no. car parking spaces, which is below the standard set out in the current Dublin City Development Plan. While it is noted that the quantum of car parking is below the standard set out in the plan it is my opinion that this is not material, as it does not relate to a specific policy of the plan and furthermore Table 16.1 refers to 'maximum car parking standards'. It is also noted that the planning authority did not raise the issue of material contravention of car parking standards. I do not consider it a material contravention of the current County Development Plan.

#### **10.5.3.2 Bicycle:**

Table 16.2 sets out the cycle parking standards for various uses. For all zones residential is 1 per unit (additional requirements for larger units and visitor parking will be decided on a case by case basis). Cycle parking serving the proposed development, 222 no. secured residential spaces are provided. There is no obvious distinction shown between residential spaces and visitor spaces. 154 spaces are provided within bike store areas for long term storage with 68 no. spaces not.

The proposed quantum of resident cycle parking exceeds both the New Apartment Guidelines as well the Dublin City Council Development Plan requirements for cycle parking which is acceptable.

### **10.6 Services & Drainage**

The applicant's Infrastructure Report states, based on available information, that there is a foul sewer passing through the north of the site. There have been no identified underground services in the immediate proposed buildings footprint area. Adjacent to the site in Finglas Road there is an existing ø225mm surface water sewer and ø375mm foul sewer. The area near the development is currently served by a 100mm uPVC watermain which feeds buildings adjacent to the proposed development.

It is proposed to construct a new separate surface water drainage system for the site. The foul network will be a ø150mm foul sewer with a gradient of 1/94. The proposed foul drainage system has the capacity to cater the wastewater demand (3.22 l/s). Foul drainage from the development will be generated by toilets, wash hand basins, showers, sinks and floor drains. The foul network will flow by gravity into the existing ø375mm concrete foul sewer on Finglas Road. A confirmation letter regarding foul water from Irish Water has been received.

It is proposed that the new development will be served by a new 100mm uPVC watermain which will tie into the existing main water supply on Finglas Road. The water supply demand for the proposed development is 3.02 l/s for the peak condition. A confirmation letter regarding potable water from Irish Water has been received.

It is proposed to construct a new separate surface water drainage system for the site. The pipes' diameter will range between ø100mm and ø225mm. This will include a new attenuation system (186m<sup>3</sup>), a flow control device to limit the discharge (2l/s) and a soakaway that will collect runoff from roofs and paved area. A by-pass separator is provided. The proposed surface water drainage system has the capacity to cater the 100year returning period event. The proposed drainage network system will then flow by gravity to an existing stormwater manhole on the public storm water network on Finglas Road. Attenuation storage will be provided for runoff from hard standing areas. Both treatment storage and long term storage are not required and not suitable for the site.

DCC Drainage Division have stated that the SuDS devices proposed for the management of surface water runoff are not acceptable. And recommended that the applicant incorporate a wider use of SuDS into the development, with runoff from each sub-catchment discharging via a 2 stage treatment process. The applicant should also address how 5mm-10mm of interception storage is to be provided. I note that the Drainage Division have set out that this can be agreed prior to the commencement of construction.

Irish Water have outlined in their submission on file highlighted that they advised that applicant that records indicate there is existing assets within the site. Therefore the applicant shall ensure adequate protection of existing assets and ensure appropriate separation distances are achieved as per IW standards codes and practices. A wayleave in favour of Irish Water will also be required over the assets that are not located within the Public Spaces.

I note the requirements of Irish Water and DCC Drainage Division which are recommended to be addressed by condition and consider them acceptable.

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

### **Flood risk**

Observers and Elected Representatives raised concerns regarding flooding of the site and adjoining lands/properties. Reference to inaccuracies in the Development Plan Flood Maps and correspondence from the OPW included with submissions outlining that they do not designate areas as floods zones.

I note that the DCC Chief Executive report does not address Flood Risk. There is no comment from the Drainage Division on this matter either.

The issue of flood risk was raised under PL.29N.248966 and reference made to the flooding history of the site and the location of the site adjacent to or partly comprising flood zone A.

Based on the OPW flood maps for this area, there is a record of at least one historic flood event on the appeal site dating from August 1984. This relates to flooding of the Finglas river at the Tolka Bridge.

The subject site is located adjacent to the confluence of the Finglas River and Tolka River. Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment (SFRA) shows the site located in Flood Zone C, but it is proximate to Flood Zones 'A' and 'B', indicated along the Tolka River to the south and to the west on the opposite side of the Finglas Road The Council's SFRA states that the Draft OPW 'Flood Extents' were not used in developing the flood zone map for the City, as there were more detailed studies available.

According to the OPW flood maps, the printable flooding maps for the area where the site is located are under review. I note that the SFRA for the Draft Dublin City Development Plan 2022 -2028 Flood Maps shows the site on Flood Zone C. Flood Zone A & B is indicated along the Tolka River to the south and to the west on the opposite side of the Finglas Road as per the SFRA for the current City Plan referenced above. I highlight to the Board that this is a Draft Plan and that the 2016 City Development Plan is the current plan in effect.

Objective SIO8 of the current Dublin City Development Plan requires that development proposals carry out, to an appropriate level of detail, a Site Specific Flood Risk Assessment (SSFRA) that demonstrate compliance with the Office of Public Works (OPW) document titled 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities' and the Council's 'Strategic Flood Risk Assessment (SFRA)'. The SSFRA shall pay particular emphasis to residual flood risks, site-specific mitigation measures, flood-resilient design and construction, and any necessary management measures (the SFRA and Appendix B4 of the aforementioned OPW guidelines).

A Site-Specific Flood Risk Assessment Report (SSFRA) is submitted with the application. The SSFRA identifies that part of the proposed development site is at low risk of fluvial and tidal flooding. With regard to reservoir flooding the SSFRA notes that it has not been possible to undertake predictive mapping of flooding due to breaches of reservoirs with any reliability as the necessary information is not readily available. However, given the absence of past reservoir failures it may be deduced that the likelihood of flooding due to a reservoir breach is very low. No canal within the vicinity of the site so low risk of canal flooding. A site specific intrusive ground investigation report has not yet been carried out at the site, therefore site specific groundwater levels are unknown. It is anticipated that the site is underlain by Dark Limestones and shale, therefore the residual risk is considered medium and monitoring is advised.

The SSFRA states that there is no record of road drainage flooding. The site is located in an areas identified as an area potentially at risk of pluvial flooding. But there is no record of historical flooding at the site.

The SSFRA notes that provided groundwater flood mitigation measures are imposed, the risk of groundwater flooding would be considered low post development. It is also recommended that existing ground and floor levels are maintained or increased as part of the works to ensure the risk from surface water flooding is not increase. And the development would not increase the flood risk elsewhere.

Based on the information submitted the scheme is deemed appropriate on the basis that the mitigation measures stipulated. I note that DCC Drainage Division have not raised concerns in this regard. I have reviewed the available information and I note that the residential buildings are located in Flood Zone C and indeed the site as a whole is located on Flood Zone C as per the SFRA for the current Development Plan. I consider, subject to the implementation of appropriate mitigation measures as contained in the submitted SSFRA that the proposed development is acceptable from a flood risk point of view.

## **10.7 Ecology/Biodiversity**

Observers have raised concerns significant concerns regarding the loss of local habitats and the impact on local biodiversity and in particular reference the effect the removal of trees from the site will have. The sightings of bird species referred to in the submissions relate to Violet Hill Park which is located to the south of the site and outside the applicant's ownership and control.

No ecological impact assessment report has been submitted with the application. I note that an AA Screening and NIS are submitted and I address these in section 12 of this report. I note (page 8 where the author states that access onto the site was not possible). I inspected the site on the 27<sup>th</sup> October 2022 and was able to arrange access to the site. The absence of a site inspection raises concerns regarding the completeness of the assessment carried out, in my opinion. I draw the Boards attention to Section 4 of the Appropriate Assessment Screening and Natura Impact Statement (dated April 2022) which includes section 4.2 Ecology. No surveys have been carried out and data is sourced from the online NBDC database records.

I note Observers have raised significant concerns relating to the potential negative impact on local habitats. Submissions have referenced the presence of hawk, squirrels, foxes and hedgehog in the vicinity. Amber and red conservation status species at Violet Park such as Kingfisher, Mute Swan and Grey Wagtail. Photograph of a Wagtail submitted. And there are records of Otters near site along the Tolka.

I acknowledge that the site has hardstanding areas associated with the carpark that served the former public house that was located here and has since been demolished, There is extensive stockpiling of material on site but there are also significant tracts of trees and a section of the site is located on Z9 lands.

The submission of an Ecological Impact Assessment would have been beneficial, in particular given the proximity of the site to the Tolka River, the Tolka Valley Park and Violet Hill Park where numerous bird species have been sighted. On the day of inspection I observed swans on the adjoining land to the south adjacent to the pump house and while they would not have direct access to the site it is an indication of the close proximity of the site to the Tolka River and the ecological value of its immediate environs. The extent of tree removal would in my opinion justifies a bird survey along with a bat survey and other mammal surveys at a minimum to ascertain their presence (if any) on site.

In the absence of such surveys I cannot with all certainty conclude if the site is used for foraging by bats, contains potential roosts etc in particular given their recorded presence along the Tolka River and the presence of mature trees etc on site. In the absence of such surveys cannot with all certainty conclude if the site is used for nesting or foraging by birds referenced in the submissions.

On the basis of the information submitted I would advise the Board that I am of the view that permission should be refused on the grounds that insufficient surveys and assessments have been undertaken and submitted in support of this application to allow a full and sufficient evaluation of the impacts of the proposed development on flora, fauna and natural habitats.

## **10.8 Trees**

A common thread in the submission received relates to the unacceptable removal of tree from the site and impacts on trees adjoining the site in terms of loss of biodiversity value and acoustic screening for the houses in Violet Hill Drive.

The site lands are in hardstanding and woodland/scrub planting. DCC Parks, Biodiversity & Landscape Services stated in their report that while the hardstanding areas are of no landscape or biodiversity value, the vegetated areas around are of good value and together with adjacent off-site woodland provide as strong green character to the Finglas Road. In addition the woodland also provides screening to the road corridor from the adjacent elevated Violet Hill residential area. It is considered that the development layout will seriously and negatively impact on existing trees both on and adjacent to the subject site.

The Parks, Biodiversity & Landscape Services report notes that 16 no. trees and one tree group are proposed to be removed with further tree canopy impact on other trees adjacent to the development. The proposal development will impact on trees on the northern half of the site and on the southern site boundary and that this includes proposed tree loss in Z9- zoned lands, which is not considered acceptable.

The tree impact is of particular concern on the southern boundary with the wooded slopes of Violet Hill. Here the development is noted to be sited too close to the boundary; resulting in removal and tree canopy reduction all along the boundary. DCC Parks, Biodiversity & Landscape Services stated that any development should have be set back further into the site, to maintain the majority of the tree canopy line. The Planning Authority concurred with this, and raised serious concerns with regard to the potential negative impact the proposed development would have on the existing trees and the associated wildlife and habitats these trees provide.

The issue of the existing stability of the embankment has been raised throughout the third party submissions which submit that this embankment has suffered from subsidence in recent years and that the existing mature trees are noted as stabilising the slope. The planning authority have recommended that any proposed development for the site should sufficiently set back from the common boundaries by a suitable distance to ensure the existing mature and semi mature trees can be retained, and that they are not damaged in any way during any future construction. I acknowledge the concerns raised and note the recommendation to increase the set back. However as outlined previously I am of the view that given the tight constraints of the site there is no scope to increase set back and retain the current scale and massing of the proposed apartment block. I address the issue of slope stability in section 10.4.5.1.

A fundamental issue raised in the submissions relate to site clearance and the removal of trees and the impact this would have on the character of the area, the loss of outlook for adjoining residential properties and the loss of local habitats and the rich biodiversity in the immediate area, The issue remains that in order to facilitate the development of the site its clearance and tree removal is required.

I have examined the arborist report and I conclude that there is no doubt that any site clearance will have an irreversible impact on the character of the immediate area. The fact remains however, that the only way to develop the site is by the loss a number of trees. Furthermore the proposal involves the retention of significant amount of trees with additional landscaping proposed where required. The clearing trees from the site to accommodate a residential development will inevitably have an irreversible visual impact on the surrounding area. With regard to the removal of tree and the potential negative impact on ecology/biodiversity I have addressed this in section 10.7.

### **10.10 Part V**

The applicant has submitted Part V proposals as part of the application documents 10 units (6 no. 1 bed, 4 no. 2 bed) are currently identified as forming the Part V housing. The Chief Executive Report note that the Housing Section confirmed the developer's agent has engaged with the department and are aware of the Part V obligations pertaining to this site if permission is granted.

I note the Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending on when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

### **10.11 Social Infrastructure**

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

A 'Social Infrastructure Audit' has been submitted with the application. This has examined existing range of social infrastructure within the vicinity of the subject site. I have reviewed the applicants audit and noted that concerns raised by third parties. I also note that the planning authority has not raised concerns in this regard and a review of the social infrastructure is also being undertaken as part of the overall review of the City Development Plan. Notwithstanding the inaccuracies in data submitted I have been able to extract the relevant information and based on the information before me I see no justification to refuse permission on the ground of available social infrastructure.

### **10.12 Childcare**

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



The proposal does not include provision for a childcare facility. The planning authority acceptable that there is not requirement for a childcare facility as part of the proposed development. Having regard to the guidance contained in the Apartment Guidelines and in view of the development being comprised of 1 and 2 bed units and the existing available facilities in the area, I am satisfied that the omission of childcare from the development is acceptable.

## **10.13 Other Matters**

### **10.13.1 Archaeology**

DCC Archaeology Division noted that the site is located on the borders of the Zone of Archaeological Constraint for the Recorded Monuments DU018-001 (mill) and DU018-002 (bridge) (Figure 1), which are listed on the Record of Monuments and Places (RMP) and are subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994.

I also note the report received from DCC Archaeological Division refers to an EIA. There is no EIAR submitted with the application before the Board. The Division conclude that given the proximity to Recorded Monuments associated with the River Tolka, there is potential for previously unknown archaeology to survive on this site. As the proposed development site may include subsurface industrial remains, which may be impacted by the proposed development, which includes a basement. Notwithstanding the EIA recommendation, it is the opinion of DCC Archaeology Division that, in absence of an archaeological report, further study and investigation of the proposed site is necessary to assess by way of research and 'ground truth' via testing, the potential for archaeological material within the red line boundary.

I note the history associated with the site and its former uses as a public house with carpark, and prior to this a quarry (northern section) as such the lands has been the subject of extensive clearance in the past and there is limited potential for significant archaeology to remain at this location, in my opinion. Notwithstanding , given its location if the Board is of a mind to grant permission a standard condition could be attached requiring pre-development testing as per DCC recommendation.

### **10.13.2 Legal**

The issue of landownership has been raised by numerous third parties and statement made in relation to land encroachment by the previous owner of the Royal Oak Public House onto the Open space area serving Violet Hill.

The applicants in Q.7 of The Strategic Housing Development Application Form have stated that the applicant are the owners of the site. I note the information set out in the submissions received and I further note that it is not for the planning system to resolve matters relating to landownership.

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

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

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

#### **10.14 Material Contravention**

The applicant has submitted a statement of material contravention as a precautionary measure in relation to the building height and quantum of car parking, the justification/ reason put forward relate to the relevant section 28 guidelines, regional guidelines or national frameworks. The applicant has advertised that a statement of material contravention is submitted as part of the application as required under legislation.

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

- (i) the proposed development is of strategic or national importance,
  - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,
- or

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

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

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

Height:

Section 16.7.2 of the current Dublin City Development Plan: Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development addresses the issue of building height in the city. The Plan sets 16m as the maximum height permissible for residential developments in this area.

The height of the proposed development ranges in height from part 6 no. to part 9 no. storeys, exploring the potential for increased height whilst being cognisant of the surrounding context of the subject site.

This proposed development with a maximum height of 9 storeys (c.31.2m) exceeds the prescribed height in the development plan (16m residential). I consider the exceedance in terms of metres proposed to be material.

The 2018 Building Height Guidelines provide that permission may be granted for taller buildings where the development management criteria in the guidelines are met, even where specific objectives of the relevant Development Plan or Local Area Plan indicate otherwise. While I consider that the site is appropriate for increased height in light of guidance in the Urban Development and Building Height, Guidelines for Planning Authorities (SPPR3) I do not consider the proposed height in this instance appropriate particularly in consideration of the Development Management Criteria in section 3.2 of the guidelines. I have addressed compliance with criteria contained in section 3.2 in section 10.2.1. of this report. I have addressed access to sunlight/daylight in sections 10.3.3 and 10.4.4.

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

I have addressed in my assessment why I do not consider that the proposed development materially contravenes the provisions contained in the Dublin City Development Plan 2016-2022 relating to the quantum of carparking.

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

## **10.15 Chief Executive Report**

As previously referred to in this report the planning authority are recommending a refusal of planning permission for 3 reasons:

- 1. The proposed development by reason of its excessive height, overall scale and close proximity to site boundaries, would not integrate satisfactorily with the existing area, and would unduly impact on the character and visual amenity of the receiving environment. The proposed development would be discordant relative to the established height profile of the receiving environment at this location. The proposed development would therefore, be contrary to Section 16.7 of the Dublin City Development Plan 2016-2022 and the Urban Development and Building Height Guidelines for Planning Authorities December (2018) and be contrary to the proper planning and sustainable development of the area.*

2. *The proposed development by reason of its height, scale and proximity to the site boundaries would adversely impact on the amenities of existing adjacent properties by way of undue overlooking, overshadowing and would be visually overbearing when viewed from existing residential properties on Violet Hill Drive. The proposed development would, therefore, seriously injure the amenities of property in the vicinity, be contrary to the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.*
  
3. *The proposed development does not comply with SPPR 4 or SPPR 7 of Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020). It is considered that apartments within the development would provide a poor level of residential amenity for future occupants. The overall quality and quantity of the residential support facilities and residents services and amenities proposed and the quality and usability of the communal open space proposed is unsatisfactory. It is considered that future residents will not enjoy an overall enhanced standard of amenity. The proposed development would therefore, be contrary to Ministerial guidelines issued to planning authorities under section 28 and would be contrary to the proper planning and sustainable development of the area. I have addressed these in my assessment and the planning authority's rationale for same.*

I note the conditions recommended in the accompanying technical reports in the event the Board grants permission. I have addressed issues raised in the Chief Executive Report in my assessment above.

## **11.0 Environmental Impact Assessment (EIA) Screening**

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

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

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

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

It is proposed to remove existing carpark, associated areas of hard standing and construction material from the site, construct 103 no. BTR apartments in one blocks on a site with a stated area of c 0.3845ha. The site is located on a brownfield site within the urban footprint of Dublin city. The site is not located within any designated Archaeology zone of Interest. It borders of the Zone of Archaeological Constraint for the Recorded Monuments DU018-001 (mill) and DU018-002 (bridge). The site is, therefore, below the applicable threshold of 10ha. The site currently contains stockpiles of materials/rubble and the remnants of a car park associated with its former use as a public house. Having regard to the relatively limited size and the location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal. A CEMP, a RWMP, a Landscape Report, An Arboricultural Impact Assessment & Method Statements and a Wind and Microclimate Modelling Study have also been submitted with the applicant and an Appropriate Assessment Screening Report and Natura Impact Statement.

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

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

- Statement of Consistency & Planning Report
- Material Contravention Statement
- Draft BTR Agreement
- Social & Community Infrastructure Audit
- Architectural Design Statement
- Housing Quality Assessment and Schedules
- Flood Risk Assessment
- Infrastructure Report
- Resource & Waste Management Plan
- Surface Water & Foul Calculations Report
- Energy and Sustainability Assessment and Description of Mechanical & Electrical Services Outdoor Lighting Report
- Building Lifecycle Report
- Property Management Strategy Report
- Daylight Analysis and Overshadowing Study
- Photomontage Booklet
- Transportation Assessment Report Including DMURS Statement, RSA, Preliminary Travel Plan & Parking Strategy
- Landscape Development Report
- Landscape Plan
- Arboricultural Report
- Tree Survey Plan
- Tree Works Plan
- Tree Protection Plan
- EIA Screening Report
- Operational Waste Management Plan
- Construction Environmental Management Plan
- Statement in Accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 – 2021
- Appropriate Assessment Screening & Natura Impact Statement
- Wind & Microclimate Modelling Report

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

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

- The Birds Directive (Directive 2009/147/EC) and Habitats Directive (Council Directive 92/43/EEC) through the Appropriate Assessment Screening Report and Natura Impact Statement and CEMP.
- The Water Framework Directive (WFD) (Directive 2000/60/EC) and The Groundwater Directive (Directive 2006/118/EC). The EIA Screening statement AA Screening Report and Natura Impact Statement and Infrastructure Report have been informed by the water quality status.
- The Floods Directive (Directive 2007/60/EC) Risk Assessment through the Site-Specific Flood Risk Assessment (SSFRA) and the implementation of the Dublin City Development Plan 2016-2022 which undertook a Strategic Flood Risk Assessment (SFRA).
- The Strategic Environmental Assessment (SEA) Directive 2001/42/EC through the zoning of the land for Z1 and Z9 in accordance with the Dublin City Development Plan 2016-2022 which was subject to SEA.
- The Waste Framework Directive 2008/98/EC thorough the design of the proposed development and the mitigation measures set out in the Construction Environmental Management Plan, the Resources and Waste Management Plan, Infrastructure Report and the Operational Waste Management Plan.
- The Seveso Directive (Directive 82/501/EEC, Directive 96/82/EC, Directive 2012/18/EU). The proposed site is not located within the consultation zones, therefore, this does not form a constraint to the proposed development at this location.

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



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

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

## **12.0 Appropriate Assessment**

### **12.1 Introduction**

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

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

The proposed development at Finglas Road, a residential development comprising 103 BTR apartments and ancillary works is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### **12.2 Context**

Third party submissions raise queries regarding the satisfactory nature of the "Appropriate Assessment Screening and Natura Impact Statement" provided in the application since the Ecology report admits in the document that no on-site inspection was undertaken because "access onto the site was not possible". And further submit that the assessment provided of protected species on and around the site is deficient and incomplete.

An Appropriate Assessment Screening Report and Natura Impact Statement were submitted with the application. As stated previously in section 10.7 of my report I note that the author has stated on page 8 of the Appropriate Assessment Screening Report and Natura Impact Statement that “Temporary and permanent fencing surround the site and access onto the site was not possible. However, due to its location and small size, an adequate assessment of the site was possible from the Finglas Road, Violet Hill Drive and a green area to the immediate south of the site.” I also wish to highlight to the Board that surveys have not been carried out of the site as such I question the conclusions based on ‘beyond scientific doubt’ from the offset and note that this term is not employed by the author. I am not satisfied that adequate information is provided in respect of the baseline conditions or that the potential impacts are clearly identified and assessed in the submitted AA Screening and NIS.

The AA Screening Report submitted with the application noted that the River Tolka, (identified as a potential ‘source-pathway-receptor’ between the planned development and European sites) is within c.30m of the application site and a potential risk of contaminants entering the river, originating on site during construction, in the absence of mitigation, has been identified. The principal pathway between the site and the River Tolka is via the storm water drains along the R135 road that discharge into the Tolka via an outfall c.30m from the proposed development. Potential contaminants generated during the construction phase include concrete, hydrocarbons and soil sediment. The Applicant’s screening also noted that taking into account the tidal regime and the geographical attributes of this part of Dublin Bay, it is considered likely that any pollutants transported via the River Tolka could potentially affect the integrity of South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and North Dublin Bay SAC before being transported out to sea and undergoing dilution and breakup by marine water action. South Dublin Bay SAC and other European sites in Dublin Bay are considered unlikely to be affected by a pollution incident caused by discharge from the River Tolka.

The Applicant’s AA Screening concluded that taking the influence of tidal regimes, marine dilution and the length of the River Tolka downstream from the site (4.3km) the zone of impact of potential water quality effects is not considered likely to extend beyond north Dublin Bay. The following European sites were screened out due to distance and / or the tidal and dilution effects of the marine waters in Dublin Bay and the Irish Sea and / or the lack of a source-pathway-receptor between them and the proposed development. These sites are: Baldoyle SAC, Baldoyle Bay SPA , Malahide Estuary SPA , Malahide Estuary SAC, Howth Head SAC, Rockabill to Dalkey Island SAC, Rye Water Valley / Carton SAC, Glenasmole Valley SAC, Irelands Eye SAC, Ireland’s Eye SPA and Rogerstown Estuary SAC. It was considered that three European sites, South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and North Dublin Bay SAC (000206)

are at risk of significant effects in the event of pollution incident originating on the proposed development site, in the absence of appropriate mitigation measures during construction and operation. The identified pathway is via the River Tolka. Following this screening, it is hereby concluded that a Stage 2 Appropriate Assessment was required.

No Ecological Impact Assessment is submitted with the application. Notwithstanding I consider information contained within the submitted reports is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development. There is a common misunderstanding between the purposes of an EclA and AA. An EclA is a process of identifying, quantifying and evaluating potential effects of a development on habitats, species and ecosystems while an appropriate assessment is an assessment of the potential adverse effects of a plan or project on designated European Sites and their QIs I also note the contents of the submission received from Inland Fisheries Ireland. The planning authority in their Chief Executive Report state that appropriate assessment are matters for the Board to consider as the competent authority for this application.

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

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

While the applicant's Appropriate Assessment Screening report described these as mitigation measures for the purposes of appropriate assessment, they are not. Notwithstanding the reference to 'mitigation' measures in a number of documents, The CEMP and the AA Screening Report, I have examined these documents and I do not consider that they are mitigation measures for the purposes of appropriate assessment. In my view the word has been used incorrectly. They constitute the standards established approach to surface water drainage for construction works on sites. Their implementation would be necessary for a housing development on any greenfield site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on a greenfield site whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy

in preventing the risk of a deterioration in the quality of water downstream of construction works has been demonstrated by long usage. Therefore, the proposed development would be not likely to have a significant effect the quality of the waters in the Natura 2000 sites downstream of the application site. Any potential impact would only arise if the proposed development were carried out in an incompetent manner or with reckless disregard to environmental obligations that arise in any urban area whether or not it is connected to a Natura 2000 site.

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

I have examined all mitigation measures put forward in the aforementioned documents and am satisfied that the intention of the measures detailed are directed solely at protecting the fisheries value and habitat of the Tolka River at a local level species and habitat features that are not included as qualifying interest features for the downstream SPA sites and SAC sites.

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

### **12.3 Screening for Appropriate Assessment (Stage 1)**

### **12.4 Description of Development**

The applicant provides a description of the project in section 1 of the AA Screening and NIS. I refer the Board to section 3 of this report.

### **12.5 Test of likely significant effects**

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

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

### **12.6 Designated sites within Zone of Influence**

I note that the applicant's screening identifies all European sites within 15km of the proposed development and notes a hydrological pathway to the European Sites located in Dublin Bay via the Tolka River and a potential pathway via the public sewer system as such identified 8 sites within its Zone of Influence. In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the site to the European Sites, and any potential pathways which may exist from the site to a European Site. The site is not within or directly adjacent to any European Site. The site is located c.30m north of the Tolka River. This enters Dublin Bay c.4.3km downstream.

Designated sites within Zone of Influence:

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location Relative to the Proposed Site
<b>SAC:</b>	
<p>South Dublin Bay SAC (site code: 000210).</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] The NPWS has identified a site specific conservation objective to maintain the favourable conservation condition of the Annex I Habitat Mudflats and sandflats not covered by seawater at low tide [1140], as defined by a list of attributes and targets</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.</p>	<p>c.6.7km to the southeast of the site</p>
<p>North Dublin Bay SAC (site code: 000206)</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.</p>	<p>c.7.1km to the northeast of the site</p>
<b>SPA:</b>	

<p>South Dublin Bay &amp; River Tolka SPA (site code: 004024).</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] ABP-307236-20 Inspector's Report Page 46 of 56 Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Artic Tern (<i>Sterna paradisea</i>) [A194] Wetland and Waterbirds [A999]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SPA has been selected.</p>	<p>c.4.3 km to the east of the site</p>
<p>North Bull Island SPA (site code: 004006)</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SPA has been selected.</p>	<p>c.7km to the northeast of the site</p>

## 12.7 Potential Effects on Designated Sites

Potential indirect effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), North Dublin Bay SAC (Site Code 000206), South Dublin Bay SAC (Site Code 000210) and North Bull Island SPA (Site Code 004006), relate to:

- Potential impact during construction phase from pollutants transported via the River Tolka
- Potential impact during operational phase via public sewer

## **12.8 Assessment of Likely Significant Effects on Designated Sites**

The proposed development will not result in any direct loss of habitat within Natura 2000 sites and no potential for habitat fragmentation is identified. Similarly, having regard to separation from European sites, construction or operational activity thereon will not result in any disturbance or displacement of qualifying interests of the identified sites. The habitats within the site are not of value for qualifying species of these Natura 2000 sites, which are associated with estuarine shoreline areas or wetlands. The habitats adjoining the site maybe of value for qualifying species of these Natura 2000 sites, which are associated with estuarine shoreline areas or wetlands. The site itself does not provide suitable roosting or foraging grounds for these species. No ex-situ impacts on qualifying species are therefore considered likely.

The Tolka River is c. 30m south of the site. The principal pathway between the site and the River Tolka is via the storm water drains along the R135 road that discharge into the Tolka via an outfall c. 30m from the proposed development. Potential contaminants generated during the construction phase include concrete, hydrocarbons and soil sediment. The potential for likely impact on the closest European site is minimal having regard to the distance (4.3km downstream via an urban culverted river) and dilution before reaching this point.

In relation to the operational phase of the development, I note the development includes the construction of a new separate surface water drainage system for the site. The pipes' diameter will range between ø100mm and ø225mm. This will include a new attenuation system (186m<sup>3</sup>), a flow control device to limit the discharge (2l/s) and a soakaway that will collect runoff from roofs and paved area. A by-pass separator is provided. The proposed surface water drainage system has the capacity to cater the 100year returning period event. The proposed drainage network system will then flow by gravity to an existing stormwater manhole on the public storm water network on Finglas Road. Attenuation storage will be provided for runoff from hard standing areas. The potential for likely impact on the closest European site is minimal having regard to the distance (4.3km downstream via an urban culverted river) and dilution before reaching this point.

Foul water will be discharged to a local authority foul sewer. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site.



There is an indirect hydrological pathway between the application site and the coastal sites listed above via the public drainage system and the Ringsend WWTP.

Permission was granted by An Bord Pleanála in April 2019 for the upgrading of the Ringsend WWTP under ABP ref. ABP-301798-18, which works are currently underway. In granting permission, the Board undertook an Appropriate Assessment of the proposed development and concluded that that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives. Documentation and evidence provided in that case, including the EIAR, provide a reasonable basis to conclude that this proposed development would not be likely to give rise to significant effects on the conservation objectives of European Sites, either individually, or when taken together and in combination with other plans or projects. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the wider city and the increased capacity of the plant.

## **12.9 In Combination/Cumulative Impacts**

Observers have raised concerns that the AA screening does not consider cumulative impacts. A number of applications (including SHD) have been permitted in the wider area. None are within the immediate vicinity of the current site. I am satisfied that 'in-combination' effects arising from this development and others, will not result in significant effects on any European site arising from the level of discharge envisaged.

Therefore, having regard to the scale and nature of the proposed student accommodation and its location within the built up area of the city which can be serviced, I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

## **12.10 Mitigation measures**

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

## **Screening Determination**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 000210 (South Dublin Bay SAC), 000206 (North Dublin Bay SAC), 004024 (South Dublin Bay and River Tolka Estuary SPA) and 004006 (North Bull Island SPA) or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This is based on the following:

- The nature and scale of the proposed development on fully serviced lands,
- The intervening land uses and distance from European Sites, and
- Lack of direct connections with regard to the source-pathway-receptor model.

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

## 13.0 Recommendation

For the reasons outlined above, I consider that the proposal is in compliance with the proper planning and sustainable development of the area and I recommend that permission is **REFUSED** under section 9(4)(d) of the Act for the reasons and considerations set out below.

## 14.0 Reasons and Considerations

1. The proposed development fails to meet the criteria in section 3.2 of SPPR3 as set out within Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018, in that at both site and neighbourhood level, the proposed development fails to successfully integrate into the character of the area. The proposal is considered overly dominant, would appear incongruous, would have an excessively overbearing effect on adjoining property, and would unduly overlook third party private open space of adjacent properties in Violet Hill Drive. The proposed development, therefore, would result in a visually dominant and overbearing form of development when viewed from the surrounding area and in particular from the houses bounding the site in Violet Hill Drive and does not provide the optimal design solution for the site.

It would seriously injure the amenities of property in the vicinity and the character of the area and would be contrary to the proper planning and sustainable development of the area. The proposal would, therefore, be contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, issued by the Department of Housing, Planning and Local Government in March 2018, and having regard to a stated objective of Specific Planning Policy Requirement 4 of these guidelines that “there shall generally be a minimum of 50% dual aspect apartments in a single scheme”, it is considered that the ratio of dual aspect apartments proposed is substantially below this minimum requirement. In addition, having regard to a stated objective of Specific Planning Policy Requirement 7(b) of these Guidelines “accompanies by details for supporting communal and recreational amenities to be provided as part of the BTR development”, it is considered that the extent of recreational amenities and the absence of supporting communal facilities is substantially below the requirements set in the Guidelines. Therefore the proposed development fails to provide an acceptable standard of amenities for future occupants and would be contrary to the proper planning and sustainable development of the area.
3. The granting of permission for the proposed development would be premature pending completion of full ecological assessments to allow a comprehensive evaluation of the impacts of the proposed development on flora, fauna and natural habitats that may be present or use the application site.

## **15.0 Recommended Board Order**

### **Planning and Development Acts 2000 to 2021**

#### **Planning Authority: Dublin City Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 7<sup>th</sup> April, 2022 by Three Castles Investments Ltd care of Hughes Planning and Development Consultants, 85 Merrion Square, Dublin 2.

#### **Proposed Development:**

Permission for a strategic housing development at Site at the Former Royal Oak Public House, Finglas Road & Old Finglas Road, Glasnevin, Dublin 11. The development will consist of: (i) removal of existing carpark, associated areas of hard-standing surface and construction materials on site; (ii) construction of a Build-To-Rent residential development within a new part six, part seven, part eight, part nine storey over basement level plant room apartment building comprising 103 no. apartments (10 no. studio, 33 no. one-bedroom & 60 no. two-bedroom) all of which have direct access to private amenity space, in the form of a balcony or terrace, and shared access to 450.9sq.m of internal resident's amenities, 1,061sq.m of external communal amenity space (1st floor & 7th floor roof terraces) and 365sq.m of public open space (public terrace and landscaped area at ground level); (iii) provision of 48 no. vehicular parking spaces (including 3 no. mobility parking spaces and 5 no. electric charging spaces), 2 no. motorcycle parking spaces, 222 no. bicycle parking spaces, bin stores, switch room and ESB substation at ground floor/undercroft level; (iv) provision of 1 no. new vehicular entrance and 7 no. new pedestrian entrances to the development and associated public amenity areas from Old Finglas & Finglas Road, 3 no. pedestrian entrances will provide access to the provided public open space, 2 no. pedestrian entrances will provide direct access to 2 no. ground floor level apartments and 2 no. pedestrian entrances will provide direct access to the apartment building; and, (v) all ancillary works including landscaping, boundary treatments, provision of internal footpaths, provision of foul and surface water drainage, green roofs and all site services, site infrastructure and associated site development works necessary to facilitate the development.

A Natura Impact Statement has been prepared in respect of the proposed development. The application contains a statement setting out how the proposal will be consistent with the objectives of the relevant development plan.

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000, as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

### **Decision**

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

### **Matters Considered**

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

## Reasons and Considerations

1. The proposed development fails to meet the criteria in section 3.2 of SPPR3 as set out within Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018, in that at both site and neighbourhood level, the proposed development fails to successfully integrate into the existing character of the area. The proposal is considered overly dominant, would appear incongruous, would have an excessively overbearing effect on adjoining property, and would unduly overlook third party private open space of adjacent properties in Violet Hill Drive. The proposed development, therefore, would result in a visually dominant and overbearing form of development when viewed from the surrounding area and in particular from the houses bounding the site in Violet Hill Drive and does not provide the optimal design solution for the site.
2. It would seriously injure the amenities of property in the vicinity and the character of the area and would be contrary to the proper planning and sustainable development of the area. The proposal would, therefore, be contrary to the Urban Development and Building Heights, Guidelines for Planning Authorities, published by the Department of Housing, Planning and Local Government in December 2018, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Having regard to the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, issued by the Department of Housing, Planning and Local Government in March 2018, and having regard to a stated objective of Specific Planning Policy Requirement 4 of these guidelines that “there shall generally be a minimum of 50% dual aspect apartments in a single scheme”, it is considered that the ratio of dual aspect apartments proposed is substantially below this minimum requirement. In addition, having regard to a stated objective of Specific Planning Policy Requirement 7(b) of these Guidelines “accompanies by details for supporting communal and recreational amenities to be provided as part of the BTR development”, it is considered that the extent of recreational amenities and the absence of supporting communal facilities is substantially below the requirements set in the Guidelines. Therefore the proposed development fails to provide an acceptable standard of amenities for future occupants and would be contrary to the proper planning and sustainable development of the area.

3. The granting of permission for the proposed development would be premature pending completion of full ecological assessments to allow a comprehensive

evaluation of the impacts of the proposed development on flora, fauna and natural habitats that may be present or use the application site.

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Dáire McDevitt  
Senior Planning Inspector

7<sup>th</sup> November 2022

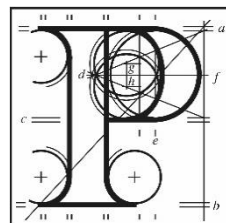
## **Appendix 1**

**Documentation submitted with the application, in addition to the relevant plans and particulars, included the inter alia the following:**

- Statement of Response to Pre-Application Consultation.
- Statement of Consistency & Planning Report
- Material Contravention Statement
- Draft BTR Agreement
- Part V Validation Letter & Associated Costings
- Social & Community Infrastructure Audit
- Architectural Design Statement
- Housing Quality Assessment and Schedules
- Flood Risk Assessment
- Infrastructure Report
- Resource & Waste Management Plan
- Surface Water & Foul Calculations Report
- Energy and Sustainability Assessment and Description of Mechanical & Electrical Services Outdoor Lighting Report
- Building Lifecycle Report
- Property Management Strategy Report
- Daylight Analysis and Overshadowing Study
- Photomontage Booklet
- Transportation Assessment Report Including DMURS Statement, RSA, Preliminary Travel Plan & Parking Strategy
- Landscape Development Report
- Landscape Plan
- Arboricultural Report
- Tree Survey Plan
- Tree Works Plan
- Tree Protection Plan
- EIA Screening Report
- Operational Waste Management Plan
- Construction Environmental Management Plan

- Statement in Accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001 – 2021
- Appropriate Assessment Screening & Natura Impact Statement
- Wind & Microclimate Modelling Report

## Appendix 2 EIA Screening Determination Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-313255-22
Summary		
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	A Screening for Appropriate Assessment report and Natura Impact Statements were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	



<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	<b>Yes</b>	SEA and AA undertaken in respect of the Dublin City Development Plan 2016-2022 and see also Inspectors Report section 11 in relation to Article 299 B(1)(b)(2)(c)
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<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	<b>No</b>	The development comprises the construction of 103 BTR apartments on lands where residential is permitted in principle.	No
<b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b>	<b>Yes</b>	The proposal includes construction of a BTR residential complex which are not considered to be out of character with the pattern of in the surrounding area.	No

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

<b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b>	<b>No</b>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Excavation and piling works to facilitate basement construction.</p> <p>Such construction impacts would be local and temporary in nature and implementation of a Resources and Demolition Waste Management Plan, Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p>	No
<b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b>	<b>Yes</b>	Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan.	No
<b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b>	<b>No</b>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	No
<b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b>	<b>No</b>	<p>No significant risk having regard to the nature and scale of the development. Any risk arising from construction will be localised and temporary in nature.</p> <p>There are no Seveso / COMAH sites in the vicinity of this location.</p>	No

<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Development of this site as proposed will result in an increase in residential units (103 apartments) which is considered commensurate with the development of a Z1 lands in Dublin.	No
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	Current proposal is a standalone development, with small and medium scale developments in the immediately surrounding area.	Yes
<b>2. Location of proposed</b>			
<b>2.1 Is the proposed located on, in, adjoining or have the potential to impact on any of the following:</b>  1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a plan/ LAP/ draft plan or variation of a plan	<b>No</b>	There are no conservation sites located in the vicinity of the site. The nearest Natura 2000 sites are:  South Dublin Bay SAC North Dublin Bay SAC North Bull Island SPA South Dublin Bay & River Tolka SPA  The proposed development will not result in significant impacts to any of these sites. Please refer to the AA Screening in section 12 of this report	No
<b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b>	<b>unknown</b>	No Surveys have been carried out nor has an Ecological Impact Assessment as such the impacts on such species is unknown.	uncertain

<b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b>	<b>Yes</b>	The site does not contain any protected structures. it is not located within a designated Architectural Conservation Area or an Area of Archaeological Potential.	No
<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	<b>No</b>	There are no areas in the immediate vicinity which contain important resources.	No
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	<b>Yes</b>	There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water runoff. The site is located within Flood Zone C. (see also section 10.6 in the Inspectors Report in relation to services and drainage)	No
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	<b>unknown</b>	No assessment is submitted relating to the potential impact on slope stability along the eastern boundary.	uncertain
<b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	<b>No</b>	The site is served by a local urban road network.	No
<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>Yes</b>	There are no existing sensitive land uses or substantial community uses which could be affected by the project.	No
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	<b>No</b>

<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	-
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		-

<b>D. MAIN REASONS AND CONSIDERATIONS</b>
<p>Having regard to: -</p> <p>a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,</p> <p>(b) The location of the site on lands zoned "Z1" where residential development is permitted in principle and part of the site in 'Z9' lands where in certain circumstances development ancillary can be considered and the results of the Strategic Environmental Assessment of the Plan.</p> <p>(c) The existing use on the site and pattern of development in surrounding area;</p> <p>(d) The availability of mains water and wastewater services to serve the proposed development,</p> <p>(e) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)</p> <p>(f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),</p> <p>(g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and</p> <p>(h) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Resources and Demolition Waste Management Plan (RWMP), Construction and Environmental Management Plan (CEMP), T the Operational Waste Management Plan, the Infrastructure Report, the Arboricultural Assessment and the Architectural Design Statement.</p> <p>It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.</p>

\_\_\_\_\_ 7<sup>th</sup> November 2022  
**Daire McDevitt**                      **Date**  
**Senior Planning Inspector**