



An
Bord
Pleanála

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

Inspector's Report ABP-313278-22

Strategic Housing Development

Demolition of existing buildings on site except 307/307a South Circular Road, construction of 335 no. Build to Rent residential units (7 no. houses, 328 no. apartments), creche and associated site works.

Location

White Heather Industrial Estate, South Circular Road and 307/307a South Circular Road and 12a St James's Terrace, Dublin 8.
(www.whiteheatherd8.com).

Planning Authority

Dublin City Council South

Applicant

U and I (White Heather) Limited

Prescribed Bodies

Department of Housing, Local
Government and Heritage
Inland Fisheries Ireland
Irish Water
Waterways Ireland
Transport Infrastructure Ireland

Observer(s)

A and M McKenna
Brian and Aquila McCann
Daniel Hegarty and Tanya Doyle
Dara Connolly
Dolphins Barn St. James's Terrace
Residents Association
DTW Capital (3 no. submissions)
Eithne Murphy
Francis Gallagher
Geraldine MacEvilly and Leonora
Frawley
James Gibbons
Dublin 8 Residents Association (Joe
Clarke)
John Houlihan
Louise Masterson
Maire Devine
Martin Jinks
Pauric McGroder and Mary Mullally
Robert Gleeson and Tenters
Residents Association

Rosanna Bravar
St. James's Terrace CLG Terrace
Residents Association Ltd.
Stephen Musiol
Valerie Boon

Date of Site Inspection

11th October 2022

Inspector

Sarah Moran

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1.0 Introduction

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

2.0 Site Location and Description

- 2.1. The site, stated area 1.535 ha, is an existing industrial estate located between the Grand Canal and South Circular Road in Dolphins Barn, Dublin 8, c. 2 km from Dublin city centre. The site has frontage to South Circular Road to the north and to the Grand Canal to the south. It is bound by residential properties at St. James's Terrace to the west, a three storey apartment building at Grand Canal View to the south west and Priestfield Cottages to the east. Our Lady of Dolours Church (protected structure RPS No. 1849) is located to the northwest of the site, at the junction of Dolphins Barn Road and South Circular Road. There is also an An Post sorting office to the immediate east of the site.
- 2.2. Most of the site is occupied by the White Heather Industrial Estate comprising industrial units, an area of hardstanding and parking / storage areas. The site also includes a residential dwelling at no. 307/307a South Circular Road and no. 12a St. James's Terrace, a vacant industrial unit. There are some existing trees / vegetation at the Grand Canal site frontage, which is zoned as a Conservation Area. Two small areas within the red line site boundary are in the ownership of Dublin City Council (DCC), located at the accesses to St. James's Terrace and South Circular Road, a letter of consent is submitted. The main site access from South Circular Road serves the existing industrial estate and the An Post sorting office, with a separate adjoining access to Priestfield Cottages. There is a secondary site access from St. James's Terrace at the western side of the site, which serves the industrial unit at no. 12a St. James's Terrace. The site currently does not have a direct access to the Grand Canal, as the industrial units back onto a strip of undeveloped land / open space along the canal frontage, outside the red line site boundary. This area is currently in the ownership of Waterways Ireland. There are some mature trees and other vegetation along the canal bank.

3.0 Proposed Strategic Housing Development

3.1. The following key points of the proposed development are noted:

Site Area	1.535 ha
No. of Units	335 no. units
Total Resi Floorspace	c. 26,119 sq.m. in 7 no. blocks
Height	2-10 storeys, maximum c. 33m
Density	Stated net density 262 units/ha
Site Coverage	41.6%
Plot Ratio	2.1
Dual Aspect Units	53%
Amenities / Communal Open Space	<p>2,160 sq.m. communal open space:</p> <ul style="list-style-type: none"> c. 1,560 sq.m. ground floor communal open space c. 600 sq.m. roof terraces <p>1,001 sq.m. resident amenities in Block B01</p>
Public Open Space	<p>c. 1,300 sq.m. or 10% of the Z1 lands</p> <p>c. 2,960 sq.m. combined total public open space including development of Z9 lands as a publicly accessible linear park along the canal frontage</p>
Childcare	Creche 260 sq.m. to provide 74 no. childcare spaces
Other Land Uses	<p>2 no. café units</p> <p>Change of use of the existing two storey residential units 307/307a SCR from residential to shared workspace/office space (c. 165 sq.m.)</p>
Part V	34 no. units in Blocks B01 and B05
Roads / Pedestrian and Cycle Infrastructure	<p>Realignment and improvement works at the existing entrance to South Circular Road / Priestfield Cottages, to create the main vehicular access to the development.</p> <p>Separate pedestrian / cycle access at the existing connection to St. James's Terrace and new connection to the linear park at the Grand Canal</p>
Parking	106 no. car parking spaces (0.3 per unit)

	558 no. cycle parking spaces (1.7 per unit)
Site Services	Connection to public watermain and sewer
Ancillary Works	<p>Demolition of all existing buildings on site except 307/307a SCR (total of c. 6,604 sq. m. floorspace)</p> <p>Change of use of existing two-storey houses nos. 307/307a South Circular Road from residential to shared workspace/office space (c. 165 sq.m.)</p> <p>3 no. electricity sub-stations in blocks B02, B03 and B04</p> <p>All enabling and site development works, hard and soft landscaping, public realm works, public art, lighting, services and connections, waste management and all other ancillary works.</p>

3.13. The development comprises 335 no. Build to Rent (BTR) residential units as follows:

Unit Type	No. of Units	%
Houses		
Three bed townhouse	7	2%
Apartments		
Studio unit	2	< 1%
One bed apartment	196	59%
Two bed apartment	2 bed 3 person apt 5 2 bed 4 person apt 119 2 bed 3 person duplex 1 2 bed 4 person duplex 3 Total 2 bed = 128	38%
Three bed duplex	2	< 1%
Total	335	

3.14. The development is laid out in 9 no. blocks / terraces as follows:

- A terrace of 7 no. 3-storey 3 bed townhouses,
- Block B01 (5 storeys) comprising 24 no. units

- Block B02 (5–7 storeys) including a link to Block B02A (5 storeys) comprising 84 no. units
- Block B03 (5-10 storeys) including 77 no. units and resident amenities (c. 1,001 sq.m.) with main entrance hall, concierge / management office at undercroft and ground floor, gym, events suite and a ‘Canal Café’ at ground floor level, co-working / lounge, cinema / media room, dining / kitchen area and an external roof terrace at 5th floor level.
- Block B04 (5-7 storeys) comprising 72 no. units
- Block B05 (5 storeys) comprising 10 no. units with a café (c. 46 sq. m) at ground floor level
- Block B06 (2-5 storeys) comprising 29 no. units
- Block B07 (3-5 storeys) comprising 32 no. units

3.14.1. The development is to be delivered in two phases, with the first phase comprising the site access from South Circular Road, Blocks nos. B01, B02, B03 and B05, the terrace of 3-storey townhouses, the creche, the change of use of no. 307 / 307a South Circular Road and the linear park along the canal bank. The second phase of development comprises Blocks nos. B04, B06 and B07 at the eastern end of the site along with associated communal open space, boundary treatment and canal bank park.

3.14.2. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and AA Screening Report.

4.0 Planning History

4.1. Development Site

4.1.1. There is no relevant planning history on file for the development site.

4.2. Adjacent Sites Within SDRA 12

4.2.1. The development site is adjacent to an area of brownfield lands to the north of South Circular Road, which is designated as Strategic Development and Regeneration Area (SDRA) 12 under the Dublin City Development Plan 2016-2022. The Inspector’s Report of ABP-314171-22 sets out the detailed planning history of the

overall SDRA 12 lands. The following planning applications within the SDRA 12 lands are generally noted for the purposes of this assessment.

4.2.2. Bailey Gibson Site

ABP-307221-20 is an SHD case relating to a 2.18 ha site at the former Bailey Gibson industrial premises, nearby to the north of the development site. The Board granted permission on 14th September 2020 for development comprising demolition of existing structures at the site and construction of 416 no. residential units in 5 no. blocks ranging in height from 2-16 storeys, also a childcare facility, 2,618 sq.m. of communal open space, 164 sq.m. of commercial floorspace, new vehicular access from Rehoboth Place and vehicular exit via South Circular Road, pedestrian accesses from Rehoboth Place, South Circular Road and Rehoboth Avenue and ancillary works. This decision is currently subject to Judicial Review.

ABP-314171-22 is a current SHD application at the Bailey Gibson site. Permission is sought for the demolition of existing buildings and construction of 345 no. residential units (292 no. Build to Rent apartments, 49 no. Build to Sell apartments, 4 no. Build to Sell Houses), creche and associated site works.

4.2.3. Former Player Wills Factory

ABP-308917-20 is an SHD case relating to the Player Wills factory site on South Circular Road to the northeast of the development site, incorporating the protected structure at the former cigarette factory building, described as Player Wills Phase I. The Board granted permission on 15th April 2021 for the demolition of all buildings excluding the original fabric of the former Player Wills Factory and construction of 732 no. residential units (492 no. BTR units and 240 no. single occupancy shared accommodation units) in 4 no. blocks ranging in height from 2-19 storeys, also arts, culture and community hub, café / bar / restaurant floor space, co-working office floor space and ancillary facilities all within the former factory building.

4.2.4. St Teresa's Gardens

Reg. Ref. 2756/13, 2033/14 and 2475/18 are a series of Part VIII schemes to regenerate and upgrade the St. Teresa's Gardens DCC residential complex to the northeast of the development site:

- Under 2756/13, DCC approved the demolition of 10 no. 4-storey flat blocks comprising 276 no. residential units and 5 no. commercial units; refurbishment of 60 no. apartment units located in 2 no. 4-storey blocks (including the amalgamation of 23 no. units to provide 15 no. larger size units) resulting in 52 no. refurbished and upgraded apartment units.
- Under Reg. Ref. 2033/14, DCC approved construction of 50 no. new residential units and 34 no. terraced houses. Revisions to Part VIII Ref 2756/13 to now provide 57 no. refurbished units. Also new urban park and road network.
- Under Reg. Ref. 2475/18, DCC approved amendments to the previously permitted St. Teresa's Gardens scheme to allow for additional 4 no. terraced residential units; amendments to the design of 12 no. previously permitted units; development of a temporary grass multisport pitch in addition to the previously permitted park; demolition of 2 no. existing flat blocks containing 56 no. residential units, a football club premises, boxing club premises/changing facility and a shop premises to facilitate the future provision of a landmark park with full size multisport pitch and associated works.

ABP-315306-22 relates to a current Section 175 (4) application by the Land Development Agency for a residential development at St. Teresa's Gardens comprising 543 apartments, a retail/café unit, mobility hub, community / artist workspace, childcare facility and all associated works.

5.0 Section 5 Pre Application Consultation

5.1. Pre-Application Consultation ABP-311359-21

- 5.1.1. The pre-application consultation related to a proposal to construct 337 no. residential units (7 no. houses and 330 no. apartments), creche and associated site works at the development site. The proposed development was laid out in 7 no. blocks with building heights of 2-10 storeys. A section 5 consultation meeting took place on 29th November 2021 between representatives of ABP, the planning authority, and the prospective applicant. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, the Board issued an Opinion on 7th December 2021, which considered that the

documents submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.

5.2. Applicant's Response to the Pre-Application Opinion

- 5.2.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information / documentation submitted as specified in the ABP Opinion. The response includes a detailed Design Response, which addresses matters raised in Item No. 1 of the information to be submitted, an updated Architectural Design Statement.

6.0 Relevant Planning Policy

6.1. National Planning Policy

- 6.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)
 - Design Standards for New Apartments Guidelines for Planning Authorities (2020 and as updated December 2022, see note below)
 - Guidelines Regarding the Regulation of Commercial Institutional Investment in Housing (May 2021)
 - Design Manual for Urban Roads and Streets (DMURS) (2013)
 - The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
 - Urban Development and Building Heights Guidelines for Planning Authorities (2018)
 - Architectural Heritage Protection Guidelines for Planning Authorities (2011)
 - Childcare Facilities Guidelines for Planning Authorities (2001)

6.2. Project Ireland 2040 National Planning Framework

6.2.1. The National Planning Framework (NPF) supports the development of Ireland's cities and urban areas to achieve compact growth. The following National Policy Objectives (NPOs) are noted in particular:

- NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- NPO 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- NPO 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- NPO 27: 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.
- NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

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

6.3. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031**

- 6.3.1. The Dublin Metropolitan Area Strategic Plan (MASP) is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area. The following Regional Policy objectives are noted in particular:

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

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

RPO 5.3 Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

RPO 5.4 Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'.

RPO 5.5 Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP)

and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

6.4. Dublin City Development Plan 2022-2028

- 6.4.1. The Dublin City Development Plan 2022-2028 is the current statutory plan for Dublin City. The development site primarily has the zoning objective Z1 'Sustainable Residential Neighbourhoods'. A strip of land along the canal frontage, outside the red line site boundary, has the zoning objective Z9 'Amenity / Open Space Lands / Green Network'. The site is close to, but outside the boundary of, Strategic Development and Regeneration Area (SDRA) 11 St Teresa's Gardens and Environs.
- 6.4.2. The following policies and objectives are noted in particular in relation to the proposed development:

Policy SC10 Urban Density

To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof.

Policy SC11 Compact Growth In alignment with the Metropolitan Area Strategic Plan

To promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- enhance the urban form and spatial structure of the city;*
- be appropriate to their context and respect the established character of the area;*
- include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;*
- be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;*

- *and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.*

Policy SC17 Building Height

To protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- *follow a design led approach;*
- *include a masterplan for any site over 0.5ha (in accordance with the criteria for assessment set out in Appendix 3);*
- *make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context;*
- *deliver vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;*
- *Do not affect the safety of aircraft operations at Dublin Airport (including craneage); and*
- *have regard to the performance-based criteria set out in Appendix 3.*

All new proposals in the inner city 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 and civic spaces of local and citywide importance.

Policy QHSN6 Urban Consolidation

To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

Policy QHSN10 Urban Density

To promote residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites,

having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QHSN34 Social, Affordable Purchase and Cost Rental Housing

To promote the provision of social, affordable purchase, cost rental and rental housing in accordance with the Council's Housing Strategy, Part V of the Planning and Development Act, as amended by the Affordable Housing Act 2021 and government policy as outlined in the DHLGH 'Social Housing Strategy 2020' and support the realisation of public housing.

QHSN35 Diversity of Housing Type and Tenure

To support local authorities, approved housing bodies and other sectoral agencies in the provision of a greater diversity of housing type and tenure, including social and affordable housing, new models of cost rental and affordable homeownership and co-operative housing.

Policy QHSN36 High Quality Apartment Development

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.

Policy QHSN37 Houses and Apartments

To ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.

Policy QHSN38 Housing and Apartment Mix

To encourage and foster the creation of attractive, mixed use, sustainable residential communities which contain a wide variety of housing and apartment types, sizes and tenures, in accordance with the Housing Strategy and HNDA, with supporting community facilities and residential amenities ...

Policy QHSN40 Build to Rent Accommodation

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

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

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

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

There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate:

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

Policy QHSN42 Built to Rent Accommodation

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

QHSN44 Build to Rent/Student Accommodation/Co-living Development

It is the policy of DCC to avoid the proliferation and concentration of clusters of build to rent/student accommodation/co-living development in any area of the city.

Policy BHA9 Conservation Areas

To protect the special interest and character of all Dublin's Conservation Areas

– identified under Z8 and Z2 zoning objectives and denoted by red line

conservation hatching on the zoning maps. Development within or affecting a

Conservation Area must contribute positively to its character and

distinctiveness and take opportunities to protect and enhance the character

and appearance of the area and its setting, wherever possible ...

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

Development plan Appendix 3 sets out policy on residential density and building height. Table 1 of Appendix 3 indicates that a net density of 100-250 units/ha will be supported in the city centre and within the canal belt with a general presumption against schemes in excess of 300 units/ha. Schemes in excess of 300 units/ha will only be considered in exceptional circumstances where a compelling architectural and urban design rationale has been presented. Table 2 of Appendix 3 sets out indicative plot ratios and site coverage as follows:

Area	Indicative Plot Ratio	Indicative Site Coverage
Central Area	2.5-3.0	60-90%
Regeneration Area	1.5-3.0	50-60%
Conservation Area	1.5-2.0	45-50%
Outer Employment and Residential Area	1.0-2.5	45-60%

Appendix 3 states the following in relation to building heights within the canal ring:

In general, and in accordance with the Guidelines, a default position of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific

characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities.

Table 3 of Appendix 3 sets out performance criteria for assessing proposals for enhanced height, density and scale. The criteria are set out under ten headings and 46 no. individual criteria which set out general principles of good urban design and town planning.

6.5. Statement of Consistency

6.5.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016. The Statement considers compliance with national and regional strategic planning policy and guidance documents and local policy documents. I note that the previous Dublin City Development Plan 2016-2022 was in force when the application was lodged and the applicant's Statement of Consistency refers to same. The following points are noted:

- The development supports several NPF objectives including NPO 3a, NPO 3b, NPO 11, NPO 27, NPO 33, NPO 35.
- The development responds to a recognised need at a national, regional and local level for additional high-quality housing and will deliver 335 no. residential units in proximity to Dublin city centre, including 34 no. Part V units, in compliance with Pillar Two and Pillar Three of the Rebuilding Ireland – Action Plan for Housing and Homelessness.
- The development will support several Strategic Outcomes and RPOs of the EMRA RSES, including RPO 4.3 and RPO 5.5.
- The development provides a high density of development adjoining a Bus Connects orbital route at South Circular Road, with regard to the guidance in the Sustainable Residential Development Guidelines. It is submitted that the development site, due to its location adjacent to a public transport corridor and to its proximity to local services, as well as cycle and pedestrian routes is consistent with the general principles of the Sustainable Residential Development

Guidelines and can cater for higher density development, resulting in a more efficient use of land on what is currently an underutilised serviced site within Dublin City. The applicant submits a response to the 12 criteria set out in the Urban Design Manual.

- The proposed development height of 2-10 storeys, up to 33m, is a material contravention of the development plan and is addressed in the Material Contravention Statement. It is submitted that the proposed building height is acceptable given the location of the site adjacent to a public transport corridor, and the layout and design of the blocks that taper down towards the site boundaries. The applicant provides an assessment of the development with regard to the development management principles and criteria set out in the Building Height Guidelines and with regard to SPPR 3 of same.
- The site has a central / accessible urban location with regard to the Apartment Guidelines and is therefore suitable for higher density development. The development meets the requirements of the Apartment Guidelines for BTR development, including SPPR 7. It has been designed to meet the parameters of the Guidelines for BTR development, as per SPPR 8, including, *inter alia*, unit mix, size, dual aspect ratio, amenity space and floor areas. The proposed housing mix is consistent with SPPR 7 and SPPR 8.
- A Social Infrastructure Audit (SIA) is submitted with regard to the Childcare Guidelines. The proposed childcare facility provides c. 74 childcare spaces, in accordance with the Childcare Guidelines.
- The development is designed in accordance with the principles of DMURS.
- The Architectural Heritage Assessment in the EIAR addresses consistency with the Architectural Heritage Protection Guidelines.
- A Site Specific Flood Risk Assessment (SSFRA) is submitted in response to The Planning System and Flood Risk Management Guidelines.
- The proposed land uses are in accordance with the relevant development plan zoning objectives for the development site. The proposed residential density is in accordance with development plan Policies QH7, QH8 and SC13, which outline

the planning authority's commitment to achieving a more compact, sustainable urban form through increased densities. The development exceeds the maximum permissible height of 24m for inner city residential development, as per development plan section 16.7, this matter is addressed in the Material Contravention Statement. The development provides 20% of the combined Z1 and Z9 overall site area as public open space and provides a linear open space along the canal, in response to development plan policy on same. The proposed private open space provision for the individual apartments does not meet development plan standards and is addressed in the Material Contravention Statement. The proposed communal open space provision exceeds development plan quantitative requirements for same and communal facilities are also provided. The proposed cycle parking provision exceeds development plan standards. It is submitted that development plan car parking standards are maximum in nature and a car parking rationale is provided, along with mobility management proposals. The proposed plot ratio of c. 2.1 is slightly higher than the indicative plot ratio standard of 2.0 for Z1 lands. It is submitted that, as the development plan allows for a higher plot ratio in certain circumstances, this does not amount to a material contravention. The proposed site coverage of c. 42% is below the development plan indicative total site coverage of 45% - 60% for Z1 lands.

- The Statement provides a response to relevant development plan standards for residential development, as set out in development plan section 16.10. The development is not in accordance with development plan policy on housing mix and does not meet the minimum floor area requirements for studio and 2-bed (3 person) units. There are 2 no. studio units at ground and 1st floors in Block B06 that are below the development plan width requirement and therefore materially contravene the development plan in respect of the minimum internal space standards. These matters are addressed in the Material Contravention Statement. Approximately 53% of the proposed apartment units are dual aspect, which meets the minimum development plan requirements in relation to dual

aspect. The proposed floor plans are in accordance with the development plan in terms of the stated maximum of 8 no. units per core.

6.6. Material Contravention Statement

6.6.1. The applicant has submitted a Material Contravention Statement in relation to the matters of building height, housing mix, private amenity space, car parking standards, studio apartment widths and unit floor areas, with regard to policies and objectives of the Dublin City Development Plan 2016-2022. The points made in relation to each of the above matters may be summarised separately as follows.

6.6.2. Building Height

- The proposed 10-storey Block B03 at c. 33m exceeds the 24m height limit for inner city residential development, as set out in development plan section 16.7.
- It is submitted that the proposed building height is in accordance with national planning policy, ref. NPF NPO 3a and 3b, NPO 13 and NPO 35.
- The applicant submits a rationale in response to the development management principles and criteria of the Building Height Guidelines and with regard to SPPR 3 of same.
- It is submitted that the development has a central / accessible location with regard to the Apartment Guidelines and adheres to the design and quality standards of same.
- It is submitted that the proposed material contravention of development plan building height limits is justified in order to achieve a sustainable, high density development on a public transport corridor while providing high quality residential amenity.
- The development should be granted with regard to section 37(2)(b)(iii) as it is in accordance with section 28 Guidelines.

6.6.3. Housing Mix

- The development plan requires that each apartment development shall contain a maximum of 25-30% 1-bed units and a minimum of 15% 3 or more bed units. The proposed development provides 59% 1-bed units, 38% 2-bed units and 3% 3-bed

units and therefore materially contravenes the development plan in terms of residential unit mix.

- The proposed BTR development is not subject to any restrictions on housing mix as per SPPR 8 of the Apartment Guidelines. It therefore meets the criteria of section 37(2)(b)(iii).

6.6.4. Private Amenity Space

- The Development Plan states that each apartment development shall provide the following minimum areas for private open space:
 - Studio unit: 4 sq. m.
 - 1-bed unit: 5 sq.m
 - 2-bed unit: 7 sq.m.
 - 3-bed unit: 9 sq.m.
- While 91.6% of the proposed apartments provide the required quantum of amenity space, 8.4% of units do not meet the standard and the development therefore materially contravenes the development plan in this respect.
- SPPR 8 of the Apartment Guidelines provides that flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.
- The applicant provides a rationale for the overall quantum and quality of communal amenity space, public amenity space and resident / community amenities and facilities at the proposed development. It is submitted that the quality and quantum of both public open space and communal open space, including 1,660 sq.m of amenity space at the Grand Canal linear park provides for compensatory amenity as mitigation for the 28 no. apartments in the development that do not have balconies.
- It is submitted that the development is in accordance with SPPR 8 of the Apartment Guidelines and that section 37(2)(b)(iii) applies.

6.6.5. Car Parking Standards

- The development provides 106 no. car parking spaces, which is below the development plan standard of 1 no. space per residential unit. The development plan does provide that car parking standards are maximum in nature and may be reduced based on the site's location, proximity to public transport, local amenities, walking and cycling infrastructure, availability of car clubs and electric car charging points.
- Notwithstanding the above, the applicant's Material Contravention Statement addresses the matter of car parking.
- SPPR 8(iii) of the Apartment Guidelines provides that there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures.
- It is noted that the development site has a central / accessible location with regard to the Apartment Guidelines, also that the applicant has submitted mobility management proposals.
- It is submitted that section 37(2)(b)(iii) applies with regard to SPPR 8(iii).

6.6.6. Studio Apartment Widths

- Development plan standards require studio units to be 5m wide. The 2 no. studio units at ground and 1st floors of Block B06 are 4.8m wide and therefore below the 5 m standard.
- Appendix I of the Apartment Guidelines states a combined living/dining/bedspace minimum of 4m, which is exceeded by the units in question.
- It is submitted that section 37(2)(b)(iii) applies with regard to the quantitative standards of the Apartment Guidelines.

6.6.7. Unit Floor Areas

- The development plan specifies a minimum floor area of 40 sq.m. for studio units and there is no stated standard for 2-bed / 3 person apartments.

- There are 2 no. studio units in Block B06 at that are below the 40 sq.m. standard, also a total of 5 no. 2-bed / 3 person apartments.
- The floor areas of the relevant units comply with SPPR 8(i) of the Apartment Guidelines. Section 37(2)(b)(iii) therefore applies.

7.0 Third Party Submissions

7.1. The third party submissions have been made by or on behalf of local residents and elected representatives. The following points are noted

7.2. Third Party Comments on Legal Issues and Principle of Development

- There has been a lack of consultation with local residents regarding the proposed development. Third parties have been excluded from the SHD pre-application consultation.
- It is submitted that the SHD application documents and link to the development website were not uploaded to the ABP website when third party submissions were lodged, and that the application should be invalidated on this basis.
- The loss of the White Heather Industrial Estate will reduce jobs in the local economy, contrary to social inclusion policies in national and local planning policy. The loss of existing businesses is contrary to the NPF and RSES, which seek to retain existing jobs and create new jobs alongside emerging new developments and development areas. Pre-application discussions with DCC did not consider the retention of existing businesses at the development site.
- DTW Capital, the occupier of the Storage World premises at nos. 295 and 297 White Heather Industrial Estate (located at the eastern side of the development site) owns a leasehold interest over this part of the site. The EIAR incorrectly states that these buildings are empty and the application does not refer to the extinguishing of the existing uses. It is submitted that the Storage World business use should have been incorporated into the proposed development as it is compatible with a residential area, and that the applicant should have given due consideration to this matter in the submitted application and supporting documentation including the EIAR. The Storage World premises could have been re-sited in place of the proposed Block 06, at its existing location adjacent to the

access from South Circular Road (a detailed rationale for same is submitted). It is submitted that pre-existing retail premises have been incorporated into several new residential developments and that this could be the case for the Storage World business, which is used by many local residents and small businesses. In addition, the adjacent redevelopment of the Bailey Gibson site includes a variety of land uses such as retail, social, cultural, financial/ professional, health and community uses, the same should apply at the development site. The Storage World business should be considered as community infrastructure, e.g. in the submitted Community and Infrastructure Audit, to provide an integrated development in accordance with development plan policy on residential development, the Sustainable Residential Development Guidelines, the Urban Design Manual and SPPR 7 of the Apartment Guidelines, and removal of same would contravene these policies. The occupier objected to the rezoning of the development site from Z6 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation' to Z1 'To protect, provide and improve residential amenities' under Variation no. 23 of the 2016 development plan. It is submitted that the development cannot be implemented given the occupier's leasehold in this part of the site and that the subject application is therefore invalid as the applicant has not submitted the written consent of the owner, ref. article 297(2)(a) of the Planning and Development Regulations 2001 (as amended). The submission by the occupiers of the Storage World buildings is accompanied by leases dating to 2010 and 2014.

- The application documents and EIAR, refer to the Storage World premises as industrial whereas they are in fact 'a repository', or 'walk in self storage units', as per Article 5(1) of the Planning and Development Regulations 2001 (as amended). The application is therefore invalid.
- Serious concerns about the BTR tenure of the proposed apartments, due to the transient nature of occupants, it is submitted that this will decrease the stability of the local community. The proposed BTR units will not increase opportunities for local families to buy in the area. The development will create a gated and disconnected community with negative impacts on diversity. It is submitted that there is already a substantial concentration of BTR development in the area with the permissions for BTR developments at the Bailey Gibson and Player Wills

sites. Third parties also note that the then draft 2023-2028 Dublin City Development Plan includes measures to limit BTR developments. BTR developments will result in a lower quality of residential development than Build to Sell units, including insufficient storage space, therefore the proposed apartments will not provide flexible and sustainable accommodation into the future.

- The proposed housing mix contravenes development plan policy , ref. Policy SC14 of the 2016 development plan.
- Recent ABP decisions at the Player Wills and Bailey Gibson sites are currently under Judicial Review and should not be taken into consideration in assessing the current proposed development.
- The application does not adequately justify the proposed material contraventions of development plan policy on plot ratio, building height, housing mix, communal and private open space and public open space provision. It is submitted that the material contravention provisions of section 37(2)(b) do not apply in this instance as the development is not of strategic or national importance, there is no evidence of conflicting objectives in the development plan, and it would be out of keeping with the established pattern of development in the area. The development plan is consistent with the NPF and RSES, therefore section 37(2)(b)(iii) does not apply. It is submitted that the development would set an undesirable precedent for similar schemes of excessive height and scale.
- The submission made by BPS Planning Consultants on behalf of DTW Capital states that the development should be refused permission for 10 no. reasons relating to plot ratio in contravention of development plan policy; development materially contravenes the development plan in relation to private open space provision, housing mix, public open space provision; development would provide a poor level of amenity for future occupants; development materially contravenes development plan building height policy; adverse impacts on local amenities due to excessive height and scale; BTR development contravenes development plan; dominant and visually incongruous scheme, adverse impacts on visual amenities, out of character with the local area, overbearing visual impacts on residential amenities; overlooking and loss of privacy impacts on visual amenities;

overdevelopment of the site in contravention of development plan and Sustainable Residential Development Guidelines; inadequate car parking provision.

7.3. Third Party Comments on Density and Height

- The development will result in an over-concentration of large scale residential developments in the area, including the development of the Bailey Gibson and Player Wills sites and the redevelopment of St. Teresa's Gardens, also the redevelopment of Dolphin House. This will have a severe impact on the existing modestly scaled residential streets, the Grand Canal conservation area and several protected structures.
- The area is being flooded with high density, high rise developments, beyond the capacity of local services to support, which will have a cumulative detrimental effect.
- Excessive height, incongruous and overbearing development in comparison to the surrounding 2-storey residential areas. The scale of development will starkly contrast with surrounding existing residential streets.
- The proposed 10-storey Block B03 is not in keeping with the rest of the development. There is insufficient justification for this building height. Block B03 should be relocated to the southern end of the site, facing the canal, which would reduce impacts on residential amenities. The development should be reduced in scale and stepped down at site perimeters.
- The development is not in accordance with the development plan building height strategy and does not meet the criteria set out in Section 3.2 of SPPR 3 of the Building Height Guidelines, in that at the neighbourhood/ street level, it fails to integrate with the existing and adjacent 1/2 -storey housing. The development, by virtue of its height in combination with the proposed setbacks from adjacent boundaries and properties, would result in a visually dominant and overbearing form of development when viewed from surrounding areas, and particularly from St. James's Terrace and would seriously injure the visual and residential amenities of the area.

- The proposed plot ratio will contravene the development plan. The Z9 lands should not be included in the consideration of plot ratio, the actual plot ratio is much higher than that indicated in the application and is estimated as 4.2 if the Z9 lands are excluded.
- The proposed material contravention of development plan policy on building height is not justified. The site does not adjoin a public transport corridor and it is outside the 500m walk band to a Luas or Dart station. It would not contribute any urban design benefits to the area. It does not offer planning gain to the public realm, social facilities or cultural, health or leisure facilities, pedestrian or cycle facilities. It would have negative impacts on visual and residential amenities and on the character and appearance of the area.
- Separately, it is submitted that the building height policy in the 2016 Dublin City Development Plan does not contravene the Building Height Guidelines.

7.4. Third Party Comments on Impacts on Residential and Visual Amenities

- The development is too close to site boundaries and will have a disproportionate visual / overbearing impact on adjacent residential properties.
- The development will have adverse impacts on the values of adjacent residential properties.
- Adverse impacts on residential amenities at St. James's Terrace and Priestfield Cottages. Blocks B02 and B03 will overlook properties at St. James's Terrace. The development should have an increased setback to adjoining residential properties.
- The architectural drawings submitted with the application do not accurately reflect the relationship of the development to adjacent residential properties at St. James's Terrace as they do not accurately indicate the scale and form of existing dwellings.
- The rear of no. 6 St. James's Terrace is not indicated in design drawings, it has large windows to habitable rooms, which will be overlooked by the proposed development.

- The owners / residents of no. 12 St. James's Terrace submit that there should be a minimum of a 1.5 m pathway between their property and the development, to facilitate access to their property, which is currently blocked.
- The development will surround no. 13 St. James's Terrace on three sides and will be significantly higher than the existing c. 7m high warehouse structure within the development site adjoining that property. The proposed 5-storey Block B01 will be within 5m of no. 13 St. James's Terrace. Adverse impacts due to overbearing and overlooking impacts from balconies at Block B01. A ground floor window of no. 13 St. James's Terrace is not assessed in the Daylight and Sunlight Impact Analysis.
- Concerns about location of bin storage adjacent to the access to St. James's Terrace. There are currently significant problems associated with illegal dumping at St. James's Terrace, the bin storage should be secure if this problem is not to be exacerbated, otherwise it may attract rodents and further illegal dumping. A detailed waste management plan is necessary.
- Block B01 is overbearing and too close to residential properties, resulting in direct overlooking.
- The separation distances between the blocks within the development are greater than those to surrounding residential properties.
- The amenities within the development, such as the gym, creche and workshop / co-living spaces should be made available to local residents.
- The submitted Daylight and Sunlight Assessment does not provide shadow diagrams and does not accurately indicate windows to adjacent habitable rooms. Concerns about daylight impacts on habitable rooms in surrounding residential properties. Adverse impacts on solar panels at adjacent houses. Lack of shadow diagrams indicating impacts on adjacent private gardens.
- The application does not adequately demonstrate the impacts of the proposed building height, including visual and overshadowing impacts. The submitted photomontages are selective and do not fully demonstrate visual impacts.
- Concerns about structural impacts of basement construction on nearby houses. It is submitted that houses at St. James's Terrace have no foundations. Concerns

about impacts on existing boundary walls at St. James's Terrace and Our Lady of Dolours Church.

- The development will result in noise disruption at adjacent residential properties, also increased traffic noise in the area.
- The development would result in overlooking and create a substandard level of residential amenity for future occupants and would be contrary to the development plan and to the proper planning and sustainable development of the area. The scale, design and positioning of the blocks adjacent to the canal would negatively impact the visual amenity of the canal and overbear the streetscape and proposed public realm. The applicant has failed to address these matters in the Material Contravention Statement.
- The development will have adverse impacts on adjacent residential conservation areas.
- The development will result in adverse impacts on the setting of Our Lady of Dolours Church protected structure. It will dominate, engulf and diminish the architectural form and distinctive setting and character of the protected structure, contrary to development plan policy CHC2.
- Concerns about potential anti-social behaviour due to public access to the development.
- Potential adverse impacts on amenities during construction, including dust impacts.

7.5. Third Party Comments on the Quality of Residential Development

- Need to demonstrate the number of units planned for universal design.
- The development does not meet development plan policies on private and communal open space provision and does not meet the development plan requirement for 10% of the site as public open space. The development does not provide play areas for teenagers. Concerns about overshadowing of the open spaces within the development.
- The Part V units should be distributed throughout the development and integrated rather than concentrated in 2 no. blocks, in order to prevent social exclusion.

Questions as to whether the development complies with recent changes to Part V legislation.

7.6. Third Party Comments on Movement and Transport Issues

- The development will cause a traffic hazard at the access to South Circular Road, which is used by local families, including during the construction phase of development.
- The proposed access to St. James's Terrace will result in increased pedestrian and cycle traffic, concerns about the interaction of same with existing accesses and car parking, also the narrow width of the street and a 'pinch point' in front of nos. 13 / 14 St. James's Terrace. The access will run along the gable of no. 13 St. James's Terrace, with bicycle parking at this location.
- Lack of co-ordinated proposals to increase cycle access to the development or in the surrounding area.
- Proposed car parking provision is inadequate and will result in overspill onto adjacent residential streets, this will be exacerbated by the permitted developments at the Bailey Gibson and Player Wills sites.
- Inconsistencies between statutory notices, the EIAR and application drawings with regard to car parking. Some refer to 'undercroft' car parking and others to 'basement' car parking.
- EV charging points should be provided at the proposed car parking.
- The development will involve significant works to the roadway at St. James's Terrace, this should be upgraded as part of the development works.

7.7. Third Party Comments on Site Services

- The development will exacerbate existing problems of low water pressure in the area. Concerns about construction impacts on existing 100 year old watermain infrastructure.
- Concerns about the capacity of local water / sewerage services to cater for the development, along with recent large scale permissions in the area.
- It is submitted that the development does not comply with Article 297(2)(d) of the Planning and Development Regulations 2001 (as amended) as the applicant has

failed to demonstrate that there is capacity in both the water and wastewater networks and insofar as Irish Water has purported to confirm capacity, those confirmations are manifestly incorrect. In addition to this, section 20(D) of the application form has been inaccurately completed by the applicant since it incorrectly indicates compliance with Article 297(2)(d).

- Ringsend WWTP cannot currently support the proposed development, as accepted in EIAR section 8.4.1.3 and section 6.1.2 of the AA Screening Assessment. There is no assessment or no adequate assessment of cumulative impacts on Ringsend WWTP.

7.8. Third Party Comments about Ecology, EIAR and AA

- The development will result in adverse impacts on the ecology and amenity potential of the Grand Canal. Concerns about the privatisation of the open space at the canal bank. There is currently a significant amount of wildlife using the canal bank.
- The development will result in the removal of an excessive number of trees within the site, contrary to development plan policies and objectives. There appears to be conflicts between the proposed car parking areas and proposed trees within the development.
- Concerns about risks to human health associated with the demolition of structures containing asbestos. Detailed plans for asbestos removal should be agreed with local residents, who should be notified in advance of such works.
- The incorrect procedure for EIA screening for sub-threshold development has been adopted. The EIAR does not adequately justify why EIA has been ‘screened in’. In addition, there is no evidence of how the pre-application consultation informed the EIAR. The application is therefore invalid.
- The EIAR assessment of climate impacts does not consider localised heating as a result of high rise development.

7.9. I note that the submission by BPS Planning & Development Consultants refers to legal comments by F.P. Logue Solicitors in relation to the development. As there is no separate legal submission by same on file, the legal comments are incorporated into the above summary.

8.0 Planning Authority Submission

8.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the elected members at the South Central Area Committee meeting on the 11th May 2022. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

8.2. Views of Elected Members

8.2.1. The following points are noted from the minutes of the South Central Area Committee meeting on 11th May 2022:

- The development of the site was welcomed in principle.
- The development is excessive in height in contravention of the development plan.
- Members stated concerns about impacts on residential amenities due to overlooking and loss of daylight and it was stated that the height needs to be stepped back and further realigned to alleviate same. Need to take rear extensions into account and their proximity to the development.
- Concerns about overlooking at St. James's Terrace have been addressed by the location of town houses at that end of the development and by locating the higher blocks to the centre of the site. However, the 5-storey Block B01 is too close to some dwellings at St. James's Terrace and needs to be reduced in height due to potential overshadowing.
- One of the members stated that he would prefer to see increased massing in the centre of the site to compensate for lower heights on either side.
- The submitted CGIs do not provide an accurate visualisation of the impact of the development on adjoining houses. CGIs should have been submitted showing views from St. James's Terrace, Priestfield Cottages and Dolphins Barn.
- Dissatisfaction at the proposed housing mix, which is not family oriented. Concerns about a lack of 3-bed units in the development. This is another opportunity missed in providing good quality family type accommodation in this part of the city.

- It was questioned how many of the units will have universal design and have mobility access.
- Members were very critical of the BTR model and argued that there needs to be a greater mix of tenure types in the area. Concerns about the high cost of renting accommodation in BTR schemes such as this.
- Concerns about traffic impacts at the South Circular Road access and due to the relatively high provision of car parking spaces, given that the site is well connected and close to the city centre. Potential interaction with Bus Connects proposals at the site access needs to be fully considered, also the interaction with the Bailey Gibson site access.
- The creation of a permanent access to the Grand Canal should be a condition of permission. The planning enforcement case involving Grand Canal Court near Herberton Bridge was mentioned, where the developer failed to provide public access to canal as promised. Concerns about overshadowing of green space at the Grand Canal.
- The proposed childcare facility is welcomed.
- Concerns that there may be asbestos in some of the older warehouse buildings, this should be flagged if so with regard to the safe disposal of same.
- Local residents have complained of low water pressure in the area, concerns about the impact of the development on water pressure.

8.3. DCC Planning and Technical Analysis

- 8.3.1. The planning and technical analysis comprises the planning report dated 31st May 2022, also the reports / comments of DCC Parks, Landscape and Biodiversity Services dated 23rd May 2022; DCC Transportation Planning Division dated 23rd May 2022; DCC Air Quality Monitoring and Noise Control Unit dated 24th May 2022; DCC Archaeology Section Report dated 18th May 2022; DCC Housing and Community Services Department memo dated 12th April 2022; DCC Environment and Transportation Department Waste Regulation and Enforcement Unit report dated 12th April 2022; DCC Engineering Department Drainage Division comment dated 11th May 2022, all of which are incorporated into the following summary.

8.3.2. DCC Comment on Zoning and the Principle, Quantum and Density of Development

- The proposed residential development is consistent with the Z1 objective at most of the site. There are no buildings on the Z9 land, in accordance with this objective. The development is therefore consistent with the land-use zoning objectives for the site.
- The stated plot ratio of 2.1 slightly exceeds the development plan standard for Z1 lands, however the layout does not provide for any buildings on the Z9 lands and provides public open space in excess of the development plan requirement for Z1 lands.
- The site is considered suitable overall for higher density development with regard to national planning policy, ref. the NPF and the Sustainable Residential Development in Urban Areas Guidelines. However, this is subject to the provision of a high quality scheme, which protects the residential and visual amenities of the wider area.

8.3.3. DCC Comment on Design and Layout of Residential Development

- The planning authority is generally positive regarding the overall layout of the development and its response to the site surroundings, having regard to the infill nature of the site, in particular the design rationale to integrate the development by providing height at the centre of the site in order to minimise impacts on the surrounding long established communities.
- A total of 170 of the units are dual aspect (c. 53%), this is in accordance with development plan policy on dual aspect units.
- The overall provision of 1,001 sq.m. of tenant amenities (3.1 sq.m./unit) is considered sufficient.
- The development contravenes the development plan in terms private open space provision but it is consistent with SPPR 8(ii) of the Apartment Guidelines in relation to private residential amenity space provision considering the alternative, compensatory communal support facilities and amenities within the development. The terraced houses all either meet or exceed the 40 sq.m minimum private amenity requirement.

- DCC Parks, Biodiversity & Landscape Services notes that the stated area of public open space at 2,960 sq.m. appears to include required buffer strips to private buildings which should have been excluded. The proposed public open space will generally provide a key route through the site and incorporates a link between the site and the Grand Canal linear park, improving permeability and providing a significant amenity for the area, which is welcomed by the planning authority.
- Recommends that a public right of way is established from the South Circular Road to connect to the proposed public open spaces.
- Parks, Biodiversity & Landscape Services does not support the removal of T6141, an early mature beech tree (*Fagus sylvatica*) located at the entrance to the site from the South Circular Road, and recommends its retention to help form the entrance to the scheme and as marker of the scheme's sustainable design as stated in development plan section 16.3.3 development standards.

8.3.4. DCC Comment on Building Height

- Block B03 is 10-storey / 33m high, which exceeds the 24m maximum height permissible for residential development at this location as per development plan section 16.7.2. As such, the development represents a material contravention of the development plan.
- The planning authority states concerns about the relationship between the development and the adjoining 2-storey residential areas. It considers that the proposed 5-storey Block B06 would result in an abrupt transition in height and scale to Priestfield Cottages to the east of the site. It also considers that the potential impacts of the 5-storey Block B01 on the adjoining St James's Terrace and Grand Canal View have not been fully assessed and therefore the impact of the proposal as set out in the EIAR is understated.
- The planning authority considers that the 10-storey height of Block B03 is not appropriate to the local area. It would be visually apparent from a number of wider viewpoints and would represent a significant departure from the prevailing low rise character of the vicinity. The focus of the development should be to respect and enhance its context and integrate with its surroundings, ensuring a more coherent cityscape. The need to mark the entrance into the development

from the South Circular Road is recognised, however Block B03 is considered excessive given that the site does not occupy a visually prominent location, that the building would not terminate a locally important vista and that the site is not of strategic importance. It is considered that a suitably scaled building of architectural merit would make a positive contribution to the urban realm at this location.

- The planning authority notes that, unlike the development site, both the Bailey Gibson and Player Wills sites were zoned as part of a larger SDRA with the aim to provide a cluster of tall buildings. It has concerns that the 10-storey height of Block B03, along with the bulk and massing of Blocks B02 and B04, would result in a sprawl of tall buildings at this sensitive location. The submitted photomontage View 08 is noted in this regard, also that the applicant has not included a 'cumulative image'.
- The planning authority recommends a condition seeking a removal of 3 no. floors to Block B03 and one floor from Blocks B02 and B04.

8.3.5. DCC Comment on Impacts on Residential Amenities

- The distance between the town houses and St James's Terrace is in accordance with minimum separation distances. However, the 3-storey town houses would be 6m from the shared boundary, which could result in an overbearing appearance from the rear amenity spaces of these established properties.
- The 5-storey Block B01 is located within 5m of the rear boundary of no. 13 St. James's Terrace and 6.8m from the rear boundary of no. 12 St. James's Terrace. The planning authority states concerns regarding potential overlooking from the north facing balconies / windows of Block B01 towards the rear of nos. 11, 12 and 13 St. James's Terrace.
- The Daylight and Sunlight Analysis indicates that there would be profound impacts at nos. 1-7 Priestfield Cottages and nos. 11-13 St James's Terrace. The planning authority has concerns regarding the related impacts on this long established residential area and therefore the compliance of the development with the Z1 objective. It also notes the submissions of adjoining residents which indicate that the window map included within EIAR Appendix 14 is inaccurate.

This could potentially undermine the accuracy of the assessment carried out by the applicant.

8.3.6. DCC Comment on Traffic and Transport

- DCC Transportation Planning Division generally has no objection subject to conditions.
- It notes that the proposed junction layout at the South Circular Road access, which is shared with Priestfield Cottages, will create two separate accesses to Priestfield and to the development. This will improve the current arrangement of a c. 21 m wide vehicular access and will provide substantially improved pedestrian facilities. No visibility splay details are provided for the amended access into Priestfield Cottages, this may be required by condition.
- The proposed linear park along the canal frontage would allow linkages to any future Grand Canal Greenway proposals in this location. Clarity on whether this setback area is to be taken in charge should be addressed through condition.
- The proposed car parking provision is acceptable to DCC Transportation Planning with regard to precedent in the vicinity, as well as to the proposed car parking management strategy and to the rationale provided in Section 6 of the TTA. The proposed cycle parking provision is in accordance with the requirements of the Apartment Guidelines.

8.3.7. DCC Comment on Other Matters

- DCC Archaeology Section notes that the site is located approx. 40m to the south of the zone of archaeological potential (ZAP) for Recorded Monument and Place (RMP) DU018-030 (Historic City). Notes EIAR assessment of archaeological impacts. Recommends conditions requiring archaeological monitoring of demolition and site investigation works and an archaeological test excavation to establish the location, nature and extent of subsurface archaeology and industrial heritage features to inform an excavation strategy.
- DCC Drainage Division states no objection subject to conditions.
- The proposed childcare facility is considered sufficient to cater for the expected childcare demand generated by the development and is consistent with the requirements of the Development Plan and the Childcare Guidelines.

- DCC Housing and Community Services Department comment states that the applicant has previously engaged with the Housing Department in relation to the proposed development and is aware of the Part V obligations pertaining to this site if permission is granted.

8.4. Planning Authority Conclusion

- 8.4.1. The concluding comments of the CE Report note that the development exceeds the height limitations set out in section 16.7 of the 2016 development plan. The planning authority does not consider that the height of Block B03 is appropriate at this location within an established residential area of the South Circular Road. It also notes that the supporting assessments and analysis submitted by the applicant demonstrate that the development could result in an adverse impact on the amenity of adjoining long established, residential neighbourhoods. This impact is considered contrary to the Z1 Zoning objective applicable to this site which seeks 'to protect, provide and improve residential amenities'.
- 8.4.2. The planning authority recommends conditions requiring the following requirements if the Board decides to grant permission:
- Block B03 shall be reduced in height by the removal of 3 no. storeys to form a 7-storey building.
 - Blocks B02 and B04 shall be reduced in height by the removal of one storey to form a 6-storey building.

9.0 Prescribed Bodies

- 9.1. The subject application was referred to the following prescribed bodies, as advised in the section 6(7) pre-application Opinion and as required under section 8(1)(b) of the Act and article 285(5)(a) of the Regulations:
- Irish Water
 - Waterways Ireland
 - National Transport Authority (NTA)
 - Transport Infrastructure Ireland (TII)
 - The Minister for Housing, Local Government and Heritage

- The Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media
- The Heritage Council
- An Taisce — the National Trust for Ireland
- Dublin City Childcare Committee.

The response received from the Department of Housing, Local Government and Heritage, Irish Water, Waterways Ireland and Transport Infrastructure Ireland, as well as the submission of Inland Fisheries Ireland, may be summarised as follows.

9.2. **Department of Housing, Local Government and Heritage**

9.2.1. Department Comment on Archaeology

- The Department has examined the archaeological component of the Cultural Heritage chapter of the submitted EIAR and recommends a condition pertaining to Archaeological Testing and Monitoring at pre-construction stages.

9.2.2. Department Comment on Nature Conservation

- There is potential for impacts on the adjacent Canal proposed Natural Heritage Area (pNHA) during both the construction and operational phases of the development.
- The implementation of the comprehensive range of measures set out in the submitted EIAR and Outline Construction Management Plan (OCMP) to prevent pollutants entering surface runoff from the site and for suppressing dust during construction should however, if fully and diligently implemented, prevent any pollution entering and detrimentally affecting the biota of the canal.
- Of more concern is the potential effects of the development when operational and occupied on mammal species included on Annex IV of the Habitats Directive (92/43/EEC). Common pipistrelle and soprano pipstrelle bats have been identified foraging over the Grand Canal bank adjacent to the site, and otter has been regularly reported from neighbouring stretch of canal and are believed to have holts in the canal's bank in this area where individuals can lie up during daylight hours.
- In order to preserve the existing amount of usage of the Grand Canal pNHA by bats and otter, it is important that the development does not increase the levels of

illumination and disturbance occurring at present along the canal. The installation of bat friendly lighting in the development and the preservation of a vegetated buffer zone between the development and the canal is therefore essential. The Department recommends conditions requiring a bat specialist to sign on a finalised external and internal lighting design scheme for the development, also an amended landscaping plan to incorporate reinforcement of the vegetation screen on the boundary of the development site adjacent to the Grand Canal with additional trees, including some evergreen species, and with the permission of Waterways Ireland provide for the installation of an artificial otter holt in the canal bank.

9.3. Irish Water

- 9.3.1. Irish Water states that connections to the existing water and wastewater networks are feasible, subject to some upgrade works. It issued a Statement of Design Acceptance on 2nd March 2022.

9.4. Waterways Ireland

- 9.4.1. The following points are noted from the submission of Waterways Ireland:
- Waterways Ireland are in negotiations to sell the development site to the applicant.
 - Consideration should be given to the proposed greenway route along the canal bank, which is planned between the canal and the development site.
 - Waterways Ireland maintenance crews will need access to maintain the canal and its embankment and a right of way through the development will need to be maintained for this purpose.

9.5. Transport Infrastructure Ireland

- 9.5.1. TII states that it has no observations to make in relation to the subject application.

9.6. Inland Fisheries Ireland

- 9.6.1. IFI notes that the developer proposes to discharge foul and surface water to an existing combined surface/foul network. This would be an acceptable proposal, subject to receipt of appropriate discharge licences and approvals from the relevant authorities in conjunction with a detailed site-specific CEMP to protect the receiving

environment which is Dublin Bay. IFI recommend detailed specifications for the CEMP and construction management measures.

10.0 Planning Assessment

10.1. The following are the principal issues to be considered in this case:

- Preliminary Matters
- Land Use Zoning and the Principle of Development
- Residential Density and Building Height
- Housing Mix and Tenure
- Design and Layout of Development
- Impacts on Visual and Residential Amenities
- Archaeology and Cultural Heritage
- Social Infrastructure and Childcare Provision
- Movement and Transport
- Drainage, Flood Risk and Site Services
- Material Contravention Issues
- Legal Issues

These matters may be considered separately as follows.

10.2. Preliminary Matters

10.2.1. Dublin City Development Plan

The subject application was lodged with ABP on 11th April 2022, when the Dublin City Development Plan 2016-2022 was in force and this plan is referred to in the applicant's documentation, in third party submissions and in the Dublin City Council (DCC) Chief Executive's Report. The new Dublin City Development Plan 2022-2028 has since been adopted on 2nd November 2022 and came into effect on the 14th December 2022. The 2022 development plan is therefore the development plan applicable to this application, which I have had full regard to in the preparation of my report.

The zoning of the development site has not significantly changed under the new development plan. Most of the site (1.236 ha) has the Z1 zoning objective under Variation no. 23 of the 2016 development plan (rezoned from Zoning Objective Z6 'To provide for the creation and protection of enterprise and facilitate opportunities for employment creation') and is also zoned Z1 under the current 2022 plan, with the objective "To Protect, Provide and Improve Residential Amenities". The relevant zoning maps of both Variation No. 23 of the 2016 plan and of the current 2022 plan also indicate a strip of land along the canal (identified as 0.228 ha in Variation No. 23), which is zoned Z9.

The main policy changes between the 2016 and the 2022 development plans, which are relevant to the proposed development, relate to policies on residential development, including density and urban consolidation, whereby the policies in the 2022 development plan reflect national and regional planning policy as set out in the NPF, RSES and section 28 guidelines including the Apartment Guidelines. The 2022 development plan has a revised policy on building height, which reflects the Building Height Guidelines. The 2022 plan has a revised policy on Build to Rent developments, which is discussed in detail below. The revised car parking standards of the new plan are also discussed below.

10.2.2. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities

The Apartment Guidelines were updated in December 2022, subsequent to the lodgement of the subject application. The updated Guidelines do not include Specific Planning Policy Requirements (SPPRs) 7 and 8, which relate to BTR development. The amended Guidelines came into effect on 22nd December 2022. Transitional arrangements are set out in Circular Letter NRUP 07/2022, which states:

All current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that are subject to consideration within the planning system on or before 21st December 2022 will be considered and decided in accordance with the current version of the Apartment Guidelines, that include SPPRs 7 and 8.

The following assessment is therefore based on the 2020 Apartment Guidelines.

10.2.3. Material Contravention Issues

The applicant has submitted a Material Contravention Statement in relation to the matters of residential density, housing mix and apartments per core per floor with regard to policies and objectives of the Dublin City Development Plan 2016-2022. The relevant technical matters and related development plan policies and objectives are addressed in each section, with a separate section specifically in relation to material contravention dealt with separately below.

10.3. **Land Use Zoning and the Principle of Development**

10.3.1. The development site is outside the boundary of any statutory Local Area Plan (LAP), Special Development Zone (SDZ), Strategic Development Regeneration Area (SDRA), Key District Centre (KDC), Key Urban Village (KUV), or any other specific area (e.g. village improvement plans) under the current Dublin City Development Plan 2022-2028 or the previous 2016-2022 Dublin City Development Plan. The land uses 'residential', 'childcare facility', 'enterprise centre' and 'home based economic activity' are all permissible uses and the use 'restaurant' is open for consideration under the Z1 objective in the 2016 plan. The uses 'residential', 'childcare facility', 'enterprise centre' and 'home based economic activity' are all permissible and the use 'café / tearoom' is open for consideration under the Z1 objective in the 2022 plan. The proposed development of the Z9 lands as a publicly accessible linear park at the canal frontage is consistent with the stated objectives of Z9 lands "To preserve, provide and improve recreational amenity and open space and green networks" under the 2016 plan and "To preserve, provide and improve recreational amenity, open space and ecosystem services" under the 2022 plan.

10.3.2. Having regard to all of the above, I am generally satisfied that the development is in accordance with all of the relevant zoning objectives. I also note that the planning authority DCC supports the development in principle.

10.4. **Residential Density and Building Height**

10.4.1. Residential Density and Building Height Introduction

Third parties and DCC Elected Members comment that the development is excessive in density and contravenes the development plan in relation to same, that it will result in overdevelopment of the site and in an undue concentration of larger

scale residential developments in this part of the city. They also state significant concerns about the overall scale and height of the development, particularly in the context of adjacent 2-storey established residential areas, also the associated impacts on visual and residential amenities.

The DCC CE Report considers that the site is suitable for high density development, subject to considerations of impacts on visual and residential amenities, but states concerns about its relationship with adjoining residential areas, commenting that it would:

“represent a significant departure from the prevailing low-rise character of development in the vicinity”, also stating:

“... the provision of a 10-storey building is considered excessive given that the site does not occupy a visually prominent location, that the proposed building itself would not terminate a locally important vista nor is the site of strategic importance.” and:

“The Planning Authority has concerns that the excessive height of proposed Block B03 with the bulk and massing provided by Blocks B02 and B04, would result in a sprawl of tall buildings at this sensitive location.”

The CE Report also notes in this regard that the development site is not part of the adjacent SDRA 12, where a cluster of tall buildings was envisaged. DCC therefore does not consider that the proposed building height is appropriate to the area and recommends a condition seeking the removal of 3 no. floors from Block B03 and one floor from Blocks B02 and B04.

The related matters of density and height may be considered separately as follows, with regard to national planning policy and to relevant policy as set out in Appendix 3 of the 2022 development plan.

10.4.2. Residential Density

Section 5.9 of the Sustainable Residential Development Guidelines refers to inner suburban / infill development sites, stating:

In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of amenities and

privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.

The Guidelines promote the redevelopment of such sites at higher densities, particularly at or close to public transport corridors. Public transport corridors are defined as within 500m walking distance of a bus stop, or within 1 km of a light rail stop or rail station, with the capacity of public transport services to also be taken into consideration.

Section 2.4 of the Apartment Guidelines identifies 'Central and/ or Accessible' locations in towns and cities that may be suitable for small- to large-sale developments and higher density development, that may wholly comprise apartments, including:

- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

The Apartment Guidelines state that such locations are generally suitable for small to large scale higher density development with no maximum density set. While the development site does not exactly meet all of the above criteria, as noted by third parties, I agree with the applicant's contention that it may be considered as a 'central and/or accessible urban location' with regard to the following:

- The site is within walking distance of Dublin city centre (c. 2.5 km), is adjacent to a significant employment location at the Coombe Hospital and is within c. 15 minutes' walk of another significant employment location at St. James's Hospital.
- The site is served by the Luas red line with the nearest stops at Fatima c. 800m from the site and at Rialto, c. 1 km from the site. There are several high frequency Dublin Bus routes adjacent to the site at South Circular Road and Dolphins Barn and a QBC at Cork Street, as detailed below in relation to Movement and Transport, as well as future Bus Connects proposals in the area.

- The application includes a Mobility Management Plan, see further consideration of public transport capacity below.

I generally consider that the delivery of residential development on this residentially zoned, serviced site, in a compact form with higher density, would be consistent with the policies and intended outcomes of current Government policy, specifically the NPF, the RSES, the Sustainable Residential Development Guidelines and the Apartment Guidelines, which all look to secure more compact and sustainable urban development in the Dublin Metropolitan Area. I note in this regard that the DCC CE Report also considers that the site is considered suitable for higher density development with regard to national planning policy, subject to further consideration of qualitative criteria.

In terms of quantitative density standards, the development has a stated net density of 262 units/ha, a stated plot ratio of 2.1 and stated site coverage of 41.6%. Third parties dispute the stated plot ratio, submitting that the Z9 lands should not be included in the plot ratio calculation and that the development would actually have a much higher estimated plot ratio of 4.2 if the Z9 lands are omitted. I accept that the Z9 lands are outside the red line site boundary and are currently in the ownership of Waterways Ireland. They are currently inaccessible and do not have any substantial function as a public amenity. However, according to the applicant's documentation and as per the submission of Waterways Ireland, the applicant is currently in negotiation to purchase the Z9 lands and the development includes comprehensive proposals to develop them as a new, publicly accessible amenity, including a pedestrian/ cycle route, which could connect with similar routes at adjoining sites. Given that the implementation of this aspect of the development could be required by condition, I am satisfied that the Z9 lands may be included in the consideration of plot ratio and public open space provision as part of the overall development, notwithstanding that they are outside the red line site boundary, and that the stated plot ratio of 2.1 may therefore be used for consideration of consistency with development plan standards.

Section 16.5 of the 2016 development plan provides an indicative plot ratio standard of 0.5 – 2.0 for Z1 and Z2 zones and an indicative site coverage standard of 45% - 60% for Z1 zones. Table 1 of Appendix 3 of the 2022 plan states that a net density of 100-250 units/ha will be supported within the canal belt with a general presumption

against schemes in excess of 300 units/ha. Table 2 of Appendix 3 specifies an indicative plot ratio of 2.5-3.0 and site coverage of 60-90% within the canal belt. The development is generally within or below these quantitative parameters and I note that the planning authority considers that the site is generally suitable for high density development.

I note policies SC13, QH1, QH7 and QH8 of the 2016 development plan. Policy QH1 refers to the 2015 apartment guidelines, which have been superseded. I also note Policy SC10 Urban Density of the 2022 plan, which refers to the Sustainable Residential Development Guidelines, and policies QHSN6 Urban Consolidation and QHSN10 Urban Density, as set out above. The development may be considered with regard to the criteria specified in Policy SC11 of the 2022 plan, 'Compact Growth In alignment with the Metropolitan Area Strategic Plan' as follows:

enhance the urban form and spatial structure of the city;
The development will result in the redevelopment of a residentially zoned infill site at a highly accessible location and is therefore considered to meet this criterion.
be appropriate to their context and respect the established character of the area;
Having regard to the detailed assessment below, it is considered that the development will have significant adverse impacts on the residential amenities of adjacent properties by way of overbearing, overlooking and overshadowing, also related adverse impacts on the Z2 conservation area at South Circular Road. The development therefore does not meet this criterion.
include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;
The development will result in adverse impacts on residential amenities as above. It is also considered that the development will not provide a satisfactory standard of accommodation for future occupants, due to inadequate private open space provision and to inadequate consideration of daylight / sunlight levels within the proposed apartments. I therefore do not consider that the development meets this criterion.
be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;
The application includes a Social Infrastructure Audit, as discussed below. The development is located in an established residential area and is close to Dublin City Centre. The proposed childcare provision and provision of communal facilities are satisfactory. The development is therefore considered to meet this criterion.
and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.

See below assessment of the quality of the proposed residential accommodation with regard to development plan standards. It is generally considered that the development will make a satisfactory contribution to the public realm and will provide a new public amenity at this location, also that it will not result in adverse visual impacts in the wider area. However, it will have adverse impacts on adjoining residential amenities by way of overlooking, overshadowing and overbearing and will have adverse impacts on the Z2 conservation area at South Circular Road. I am therefore not satisfied that the development will meet this criterion.

Having regard to all of the above, I consider that the proposed residential density of 262 units/ha would contravene development plan Policy SC11 Compact Growth In alignment with the Metropolitan Area Strategic Plan, notwithstanding that higher density development is generally acceptable in principle at the development site.

10.4.3. Building Height

The development has a height of 2-10 storeys, with a maximum height of c. 33m. Section 1.10 of the Building Height Guidelines states in relation to sites within the canal ring in Dublin:

In such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines, for example on suitably configured sites, where there are particular concentrations of enabling infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality.

Section 16.45.2 of the 2016 plan specifies a height limit of 24m for residential development in the inner city, where the development site is located. The 2022 plan was adopted subsequent to the Building Height Guidelines and Appendix 3 of same states a default position that a 6-storey height will be promoted in the city centre and within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities, with the provision of appropriate separation distances and transitions of scale abutting lower density development.

I note Policy SC17 Building Height of the 2022 plan, as set out above. The application includes a Design Statement. While the documentation does not specifically include a Masterplan that addresses the performance-based criteria for building height as set out in Appendix 3 of the 2022 plan, I am satisfied that there is adequate documentation on file to allow for a full consideration of the criteria, with regard to the submitted Planning Report, Design Statement, CGIs, Photomontages, Landscape Report, Microclimate Analysis, BTR Operational Plan, Supplementary Daylight / Sunlight Report, as well as the EIAR, which includes, *inter alia*, detailed Daylight and Sunlight Analysis, a Landscape and Visual Impact Assessment (LVIA), Archaeology Assessment and Cultural Heritage Assessment. Table 3 of Appendix 3 of the plan sets out 10 no. headings and 46 no. criteria to be considered for proposals for buildings that would be higher than those in the vicinity. The stated criteria are generalised expressions of good practice in urban design. I consider that the development would comply with many of the criteria identified, including a highly accessible location; a varied design; improved permeability and pedestrian / cycle connectivity; integration with the public realm and provision of a new public amenity; provision of well designed and overlooked public and communal open spaces with adequate daylight / sunlight penetration; avoidance of adverse microclimate impacts; provision of a satisfactory childcare facility and communal amenities; adequate dual aspect provision; satisfactory surface water management and site services; satisfactory flood risk assessment and inclusion of satisfactory BTR management plan. However, having regard to the detailed qualitative assessment of the development elsewhere in this report, I consider that the development does not meet the following criteria set out in Table 3:

- *Objective 1 To promote development with a sense of place and character*
I consider that the development would have adverse impacts on residential amenities by way of overlooking, overshadowing and adverse visual impacts due to its height and proximity to adjoining residential properties. In addition, due to these issues, it is considered that the development would have an adverse impact on the Z2 conservation area at South Circular Road.
- *Objective 5 To provide high quality, attractive and useable private spaces*
The development does not provide adequate private open spaces given that 28 no. units do not have balconies, see further discussion of same below.

- *Objective 7 To ensure high quality and environmentally sustainable buildings*
The applicant has not satisfactorily demonstrated that residential units within the development will achieve adequate levels of daylight and sunlight, with regard to the lack of proposed compensatory design solutions for individual units.
- *Objective 9 To protect historic environments from insensitive development*
Given the lack of CGIs and detailed drawings submitted, the applicant has not adequately demonstrated that the development will not have an adverse impact on the Z2 Conservation Area at South Circular Road.

I therefore do not consider that the proposed 2-10 storey building height is acceptable in this instance and I consider that it would contravene development plan Policy SC17. I also note in this regard that the DCC CE Report states states concerns about the abrupt transition in height and scale between the development and the adjoining 2-storey residential areas, with consequent potential adverse impacts on visual and residential amenities. The planning authority recommends a condition seeking a removal of 3 no. floors from Block B03 and one floor from Blocks B02 and B04, the feasibility of same is discussed below.

10.5. **Housing Mix and Tenure**

10.5.1. Third parties raise significant concerns about a potential concentration of BTR development in this part of Dublin City, noting that there are several permissions / proposals for BTR developments within the adjacent SDRA 12 area. They also state concerns about the transient nature of rented accommodation, lack of opportunities for local families to buy in the area, and that a BTR development will not integrate with the local community. Third parties also comment that the proposed housing mix is inappropriate and contravenes development plan policy on same, with a preference for a higher proportion of larger units. They also state serious concerns in relation to the proportion of BTR units, in the context of a stated high volume of permissions for BTR developments in Dublin in recent years including several other BTR schemes in the area including those at the adjacent former Bailey Gibson and Player Wills sites.

10.5.2. Section 5 of the 2020 Apartment Guidelines defines 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.

I am satisfied that the BTR aspect of the development meets the requirements of SPPR 7 of the Apartment Guidelines with regard to BTR development. The application is advertised and adequately described in the documentation on file as a BTR development. The application includes a draft section 47 agreement between the developer and the planning authority, which specifies that the development shall remain owned and operated by a single entity for a period of 15 years from the date of permission and that no individual residential units shall be let or sold separately during this period. The application also provides proposals for resident support facilities and resident services and amenities.

10.5.3. Development plan Policy QHSN40 states that BTR accommodation will be facilitated at the following specific locations:

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

The development is considered to meet the first of these criteria as it is adjacent to the Coombe Hospital. Policy QHSN40 also states a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate:

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

The application does not include any such assessment and therefore contravenes Policy QHSN40 in this respect, see further discussion below in the context of Circular Letter NRUP 07/2022.

10.5.4. Development plan Policy QHSN42 Built to Rent Accommodation requires applicants for BTR developments to provide an evidence based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood. The application includes a Build to Rent Market Justification Report, which seeks to justify the proposed housing and tenure mix in the context of demographic trends in the area. The following points of same are noted:

- The development will meet housing demand from the high proportion of one and two person households in Dublin City and suburban (>53% of all households in the 2016 Census).
- The proposed housing mix reflects current market conditions and future population projections.
- The development will meet continuing high demand for rental accommodation in Dublin, in the context of an existing shortfall of same.
- The analysis provides a summary of the local demographic profile, noting an 11% population increase in the period 2011-2016; 47% of the population aged 25-44 (the target age for BTR development); c. 48% of households in Dublin 8 are privately rented, analysis of the local rental market is provided.
- The analysis also notes the significant amount of employment, social infrastructure, services and amenities close to the development site given its location in an established area near Dublin City Centre, also the availability of public transport and cycle infrastructure nearby, as further detailed in the submitted Community and Social Infrastructure Audit and other documentation on file.

I am satisfied that the applicant's Build to Rent Market Justification Report provides evidence of housing need for the development in the local area. The report includes details of the proposed residents' amenities, which will adequately serve residents of the scheme. The Design Report and landscaping proposals detail the treatment of

the linear park at the canal frontage, which will provide a new amenity for the wider area. I therefore consider that the applicant has demonstrated that the development meets a specific housing need in the local area.

10.5.5. The development comprises 335 no. units, 90% BTR and 10% Part V. The overall housing mix comprises 2% 3-bed townhouses, <1% studio units, 59% one-bed apartments, 30% two-bed apartments and <1% three-bed apartments. Policy QHSN38 of the 2022 plan, as set out above, is noted. Development plan Policy QHSN40 states a general presumption against large scale residential developments (> 100 units) which comprise of 100% BTR typology and states a requirement for a 60% of units within a development to be designed as standard apartments in accordance with the requirements set out in the 2020 Apartment Guidelines. The development does not meet this requirement. Section 15.9 of the 2022 plan, which sets out standards for apartment developments, notes SPPR 1 of the Apartment Guidelines, which states that housing developments may include up to 50% 1-bed or studio type units (with no more than 20-25% of the total development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms unless specified as a result of a Housing Need and Demand Assessment (HNDA) carried out by the Planning Authority as part of the development plan process. In addition, section 15.9 of the 2022 development plan also states that 2-bed / 3 person units may be considered within a scheme to satisfy specialist housing demand but will be restricted to a maximum of 10% of the overall unit mix. Such units will only be considered as part of specialist housing provision housing to meet the Part V social housing requirement or to facilitate appropriate accommodation for older people and care assistance and will not be considered as standard residential accommodation. The 2022 development plan includes a HNDA prepared in accordance with the Guidance on the Preparation of Housing Need and Demand Assessment published by the Department of Housing, Local Government and Heritage in April 2021, which includes sub-city level HNDA analysis for two specific areas at the Liberties and the North Inner City. None of these findings relate to the development site and, therefore, the general development plan policies on housing mix apply, in the context of national policy as per the Apartment Guidelines.

10.5.6. Noting the detailed provisions of Circular Letter NRUP 07/2022, which provides that the 2020 guidelines including SPPRs 7 and 8 apply to SHD applications lodged

before the amended Apartment Guidelines came into effect in December 2022, I accept that SPPR 7(i) of the 2020 Apartment Guidelines provides that restrictions on dwelling mix do not apply to BTR developments and therefore there is no restriction on the housing mix of the proposed development. Furthermore, given the specificity of the minister's circular in relation to current applications for BTR schemes and the recognition in the 2022 Guidelines of their role in meeting wider objectives in relation to housing and urban form, I would advise the Board that the status of the proposed BTR development on this site is justified at this time by guidelines and policies issued by the minister despite its contravention of Policy QHSN40 and section 15.9 of the 2022 plan. I therefore do not consider that the proposed housing mix or BTR status of the development warrant a recommendation of refusal in this instance. In addition, while I note the concerns of the planning authority and third parties in relation to tenure and housing mix, I am satisfied overall that the proposed residential type and tenure will provide a viable housing solution to local households where home-ownership may not be a priority and will provide a greater choice for people in the rental sector, one of the pillars of Rebuilding Ireland. The development will also support targets in Housing for All for the delivery of housing to purchase or rent.

10.5.7. Separately, I note that section 16.10.1 of the 2016 plan states that BTR apartment developments may have up to 42-50% of the total units in the form of 1-bed or studio units and that restrictions stated elsewhere in the plan in relation to other apartment developments do not apply to BTR. The proposed development provides c. 60% of 1-bed and studio units and therefore is not in accordance with this aspect of the 2016 plan. The matter is addressed in the applicant's Material Contravention Statement, as discussed below.

10.5.8. Policies QHSN34 and QHSN35 of the 2022 plan are noted in relation to Part V. The development provides 34 no. units (10%) to meet Part V obligations, located in Block B01 and Block B05 and comprising 20 no. one-bed units and 14 no. two-bed units. A site layout plan indicating the Part V units is submitted, along with costings. The CE Report includes comment from DCC Housing and Community Services Department, which states that the applicant has previously engaged with the Housing Department and is aware of the relevant Part V obligations. This is confirmed in the submitted Part V Validation Letter from DCC Housing and Community Services Department,

which states that the applicant has engaged in Part V discussions with DCC. I note the recent Housing for All Plan and the associated Affordable Housing Act 2021, which requires a contribution of 20% of land that is subject to planning permission, to the planning authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant permission, 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. I note third party comments that the Part V provision should be distributed throughout the development rather than concentrated in two blocks. The planning authority has not stated any objection to the location of the proposed Part V units and there may be operational or other reasons for the specific locations of the proposed units. The final location of the Part V units may be agreed by condition to the satisfaction of DCC if permission is granted for the proposed development.

10.6. Design and Layout of Development

10.6.1. Proposed Design and Layout

The proposed layout is focused on an east-west axis route through the site, which links an entrance plaza at the interface with South Circular Road at the northeastern corner of the site through to the proposed new pedestrian and cycle connection to St. James's Terrace to the west, and to a new public route to the linear park at the canal frontage. Blocks B01, B02, B03, B04 and B07 are laid out perpendicular to the south of the east-west axis with a north-south orientation to maximise natural light to apartments and to allow for courtyards/open spaces between the blocks which connect to the canal frontage. There is a public open space between Blocks B03 and B04, to the south of the site entrance from South Circular Road, which provides public access to the canal frontage. The linear park along the canal frontage includes a stretch of green route, which could connect to adjoining lands, as well as landscaping and public seating. There is also an area of mostly hard landscaping to the north of the east-west axis, which includes a public open space at the northwestern corner of the site. The communal residential amenities serving the development, including a café, gym, business hub and events space are located on

the ground floor of Block B03 at the centre of the site and facing the north-south axis, the central public open space and the canal frontage.

In terms of height, the highest 10-storey element is Block B03 at the centre of the site. Blocks B05, B06 and B07 at the eastern end of the site are 2-5 storey with Block B07 stepping down to 3-4 storey where it faces Priestfield Cottages and Block B06 presenting a 2-storey elevation at the eastern site boundary. At the western end of the site, the 4-5 storey Block B01 faces the rear of properties at St. James's Terrace and Block T09 is a row of 3-storey townhouses along the western site boundary to the rear of St. James's Terrace and the Church of Our Lady of Dolours. The development at the northern and eastern site boundaries comprises the 5-storey B05 at the frontage to South Circular Road with a ground floor café and the conversion of no. 307/307a South Circular Road to workspace/ offices. There is also a 2-storey creche building inside the northern site boundary, to the rear of the Z2 zoned conservation area at South Circular Road.

10.6.2. Public Open Space Provision and Treatment of Z9 Lands

Section 16.10.1 of the 2016 development plan and section 15.8.6 of the 2022 plan both specify a requirement of 10% of the total site area as public open space for all new residential developments. Section 15.10.2 of the 2022 plan states that all BTR developments will be required to provide for the same quantum of external communal open space and public open space as required for standard apartment developments. The development provides a total of 1,300 sq.m. of public open space within the Z1 lands comprising the public open space at the centre of the site including the public access to the canal frontage (980 sq.m.) and an area of primarily hard landscaping with a basketball hoop / football goal at the northwestern corner of the site (320 sq.m.). The stated total site area of 1.535 ha entails a requirement of 1,535 sq.m. of open space, which is not entirely met by this provision. I also note the comment of DCC Parks, Biodiversity & Landscape Services that the public open space area includes buffer strips to private buildings which should have been excluded from the overall public open space calculation. However, the proposed provision of public open space is considered satisfactory overall as the development also involves the creation of a new public amenity at the Z9 lands at the canal frontage, such that the total overall public open space provision is stated as 2,160 sq.m. Third parties have submitted that the Z9 lands should not be included in the

total public open space provision as they are outside the red line site boundary. However, as discussed above in relation to plot ratio, given that this area is currently being purchased by the applicant and that the provision of a public park at the canal frontage represents a significant planning gain, I consider it reasonable that the Z9 lands are included in the overall consideration of public open space at the development. The proposed public open space provision is considered satisfactory on this basis.

The applicant's Daylight and Sunlight Assessment, as presented in EIAR Chapter 14, includes a Sun Hours on Ground (SHOG) Analysis of the public open spaces within the development, such that the linear park at the canal frontage, the public realm areas at the centre of the site between Blocks B03 and B04 and the public realm at the western site of the site all achieve the BRE criterion of two or more hours of sunlight to over 50% of their areas on 21st March. There is no analysis of the public open space at the northwestern corner of the site. I consider it unlikely that the space will achieve the BRE criterion given its orientation and location at the corner of the site. However, the standard of sunlight of public open spaces is considered acceptable overall when all public open spaces within the development are taken into account. The submitted Microclimatic Wind Analysis and Pedestrian Comfort Report concludes that the majority of the ground level amenity spaces and roof terraces are suited to short / long term sitting in accordance with the Lawson Criteria, notwithstanding the use of mitigation measures such as planting of trees and shrubbery. Having regard to these technical reports, as well as to the detailed landscaping proposals and materiality strategy, I am satisfied overall that the public open space areas will provide a high standard of public amenity that will serve residents of the scheme and will make a satisfactory contribution to the public realm of the area.

Several third parties state concerns about the removal of trees at the development site and DCC Parks, Biodiversity & Landscape Services does not support the proposed removal of tree no. T6141, an early mature beech tree located at the entrance to the site from South Circular Road. According to the Arboricultural Assessment, tree no. T6141 is grade B, of moderate quality and value, and in good condition. Its removal, along with an adjoining cypress tree, is necessary to construct Block B05 and to facilitate the creation of the plaza at the South Circular Road

access. There is no Tree Protection Order applying to T6141, or to any other tree at the development site. I consider that the removal of T6141 and the adjoining cypress tree is acceptable on balance given that the construction of Block B05, which includes a ground floor café, and the creation of the access plaza, along with the other landscaping and public realm proposals, will create a high standard of public amenity. The Arboricultural Assessment states that the development will involve the removal of 6 no. existing specimens in total, 4 no Grade B 'moderate quality' and 2 no. Grade C 'low quality'. Aside from T6141 and the adjoining tree, the remaining trees to be removed are one specimen at the eastern site boundary and 3 no. specimens at the canal frontage. Their removal is considered acceptable overall in the context of the proposed additional planting and landscaping, which will enhance the amenity and biodiversity of the area.

As discussed above, the Z9 lands are to be acquired by the applicant and to be developed as a public amenity. The applicant has consulted with Waterways Ireland and states that provisions have been made for them to access the canal for maintenance purposes, etc., through the public open space at the centre of the development and I note that the submission of Waterways Ireland states no objection in relation to same. The landscaping proposals and cross sections on file indicate that the buffer between the development site and the canal frontage is to be laid out with a pedestrian / cycle route, public seating and landscaping between the development and the canal towpath. The landscape design includes maintenance of planting along the canal bank, additional biodiversity planting and trees, stepped public seating and other measures to negotiate the difference in levels between the canal bank and the development site. The provision of a café facing the canal on the ground floor of Block B03 will provide an animated frontage to the area. There is scope for the future provision of a greenway or cycle route along the canal bank in the area outside of the redline site boundary, at the location of the canal towpath. Having regard to the detailed landscaping proposals, and subject to conditions recommended by the Department of Housing, Local Government and Heritage in relation to, inter alia, lighting and landscaping, I am satisfied that this area will provide a high quality public amenity space that could connect to adjoining green routes in the future.

I am therefore satisfied overall that the development provides an acceptable quantity and quality of public realm, including at the canal frontage, and addresses the matters raised in the submission of Waterways Ireland.

10.6.3. Communal Open Space and Tenant Amenities

The drawings and documentation on file indicate that the development provides the following communal open space and tenant amenities:

Amenity / Open Space	Area
Block B01 communal open space	200 sq.m.
Block B02 / B03 courtyard communal open space	600 sq.m.
Block B04 / B06 / B07 courtyard communal open space	760 sq.m.
Block B02 roof garden	110 sq.m.
Block B03 roof gardens x 2	117 sq.m. 157 sq.m.
Block B04 roof garden	125 sq.m.
Block B07 Roof garden	91 sq.m.
Ground Floor Block B03 concierge, lounge, gym, private dining, and event space	480 sq.m.
5 th Floor Block B03 cinema, co-working lounge	231 sq.m.
No. 307 / 307 a South Circular Road communal workspaces and meeting rooms	165 sq.m.
Total	3,036 sq.m.

The development therefore provides a total of 2,160 sq.m. of communal open space, 711 sq.m. of tenant amenities and 165 sq.m. of communal workspace / meeting rooms. This total area of tenant amenities is less than the total of 1,001 sq.m. cited by the applicant, however I have excluded circulation areas and service areas, also the café units, which will serve the wider area.

Section 5.11 of the 2020 Apartment Guidelines provides that the nature and extent of the residents' services and amenities serving BTR developments may be agreed by the developer and the planning authority having regard to the scale, intended

location and market for the development. Appendix 1 of the 2020 Apartment Guidelines provides quantitative standards for communal open space at apartment developments, however SPPR 8 (iii) of the Guidelines provides that flexibility shall apply in relation to the provision of communal amenity space as set out in Appendix 1 in relation to BTR development, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. Section 16.10 of the 2016 development plan sets out quantitative standards for communal open space provision that differ from the 2020 Apartment Guidelines. Section 15.9.8 of the 2022 development plan refers to the communal amenity space requirements of the 2020 Apartment Guidelines in relation to apartment developments in general. Section 15.10.1 of the 2022 plan, which relates to BTR developments, states a general guideline of 3 sq.m. of residential support facilities per person, to be assessed on a case by case basis where the applicant can demonstrate a high standard of services and facilities. Section 15.10.2 of the 2022 plan states that all BTR developments will be required to provide for the same quantum of external communal open space as required for standard apartment development, notwithstanding the relaxation provided for under SPPR 8 (iii).

The development may be assessed against these quantitative standards as follows:

Unit Type	No. of Units	Apt Guidelines / 2022 development plan Requirement	2016 Development Plan
Studio Unit	2	4 sq.m. x 2 = 8 sq.m.	4 sq.m. x 2 = 8 sq.m.
One-bed apt	196	5 sq.m. x 196 = 980 sq.m.	5 sq.m. x 196 = 980 sq.m.
Two-bed apt (3P)	5	6 sq.m. x 5 = 30 sq.m.	7 sq.m. x 5 = 35 sq.m.
Two-bed apt (4P)	123	7 sq.m. x 123 = 861 sq.m.	7 sq.m. x 123 = 861 sq.m.
Three-bed apt	2	9 sq.m. x 2 = 18 sq.m.	9 sq.m. x 2 = 18 sq.m.
Total	328	1,897 sq.m.	1,902 sq.m.

The provision of 2,160 sq.m. of communal open space therefore exceeds the quantitative requirements of the 2016 development plan and of Appendix I of the 2020 Apartment Guidelines, notwithstanding the relaxation provided for under SPPR 8 (iii), and noting also the additional tenant amenities provided as set out above.

The courtyard spaces serving the apartment blocks are south facing with buffer planting to ground floor apartments, areas of hard and soft landscaping, public seating and dining areas, as detailed in the submitted Landscape Report, Site Lighting Report and Design Statement. The applicant's Daylight and Sunlight Assessment, as presented in EIAR Chapter 14, includes a SHOG overshadowing assessment of the apartment courtyards and roof terraces, against the BRE.209 criterion of achieving at least two hours potential sunlight on March 21st to the majority of its area. Both of the apartment courtyards / communal open spaces are well in excess of this criterion. A total of five of the seven roof terraces also meet or exceed the BRE criterion. Terraces nos. 2 and 3, at the north facing sides of Blocks B02 and B03 will achieve two or more hours of direct sunlight to 31% and 24% of their areas on 21st March. This is considered acceptable given the northern orientation of the terraces. I note the submitted Microclimatic Wind Analysis and Pedestrian Comfort Report, which is also summarised in EIAR Chapter 15. This concludes that the majority of the ground level amenity spaces and roof terraces are suited to short / long term sitting in accordance with the Lawson Criteria, notwithstanding the use of mitigation measures such as planting of trees and shrubbery. I am therefore satisfied overall that the communal open spaces will provide a high standard of amenity for residents of the development.

Section 15.10.1 of the 2022 development plan, which relates to BTR developments, states a general guideline of 3 sq.m. of residential support facilities per person, to be assessed on a case by case basis where the applicant can demonstrate a high standard of services and facilities. I note the submission of DCC, which calculates that the development provides a total of 3.1 sq.m. of residents' amenities per unit, which they consider sufficient. The proposed quantum of resident amenities is considered acceptable on this basis.

The submitted BTR Operational Management Plan and Outline Resource and Waste Management Plan provide details of the ongoing management and maintenance of the external open spaces and internal communal areas at the completed development. I am satisfied overall with regard to all of the above that the development will provide a high standard of residential accommodation and of communal services and amenities, generally in accordance with development plan standards for residential development as well as national planning policy.

10.6.4. Apartment Floor Areas

The applicant's Housing Quality Assessment (HQA) and Statement of Consistency indicate that the proposed apartments are designed to comply with the minimum floor area requirements set out in SPPR 3 and Appendix I of the Apartment Guidelines, including the overall aggregate floor areas, minimum aggregate floor areas for living / kitchen / dining rooms and minimum widths for the main living/dining rooms, minimum bedroom floor areas/ widths, minimum aggregate bedroom floor areas and minimum storage space requirements, noting that in the case of BTR development SPPR 8 (iv) provides that the requirement that the majority of all apartments in a scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes.

Section 16.10.1 of the 2016 development plan refers to the 2015 Apartment Guidelines and specifies minimum overall apartment floor areas of 40 sq.m for studio units, 45 sq.m. for one bed units, 73 sq.m. for two-bed units and 90 sq.m. for three-bed units. These standards differ from those set out in SPPR 3 and Appendix I of the 2020 Apartment Guidelines, which specify a 37 sq.m. overall floor area for studio units and set out different requirements for 2-bed/ 3 person units (63 sq.m.) and 2-bed/ 4 person units (73 sq.m.). The applicant's Material Contravention statement notes that there are 2 no. studio units in Block B06 that measure c. 37.7 sq.m., below the development plan standard. In addition, there are 5 no. 2-bed / 3 person apartments, which exceed the 63 sq.m. minimum in the apartment guidelines, but do not meet the development plan standard of 73 sq.m. The Material Contravention Statement also notes that 2 no. studio apartments in Block B06 are 4.8m wide and therefore do not meet the development plan requirement of 5m width for studio units, notwithstanding that they exceed the 4m requirement for same set out in the Apartment Guidelines. Section 15.9.2 of the 2022 development plan refers to the floor area requirements specified in SPPR 3, also repeating the requirement that the majority of all apartments in a proposed scheme of 100 units or more must exceed the minimum floor area standard by at least 10% (studio apartments must be included in the total but are not calculable as units that exceed the minimum).

The proposed apartment floor areas are considered satisfactory, given that they meet the requirements of SPPR 3, and they are therefore also consistent with the 2022 development plan. While the development does not meet the 10% requirement,

this is considered acceptable in view of the current transitional arrangements regarding the 2020 Apartment Guidelines, as per Circular Letter NRUP 07/2022.

10.6.5. Provision of Private Amenity Space for Apartments

Appendix I of the 2020 Apartment Guidelines states quantitative requirements for private amenity space comprising 4 sq.m. for studio units; 5 sq.m. for 1-bed units, 6 sq.m. for 2-bed / 3 person units; 7 sq.m. for 2-bed / 4 person units and 9 sq.m. for 3-bed units. SPPR8 (ii) states:

Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

The 2016 development plan states the same private amenity space standards as the Apartment Guidelines except that all 3-bed units are to provide 7 sq.m. of private open space. The 2022 plan refers to the quantitative private amenity space standards of the Apartment Guidelines, noting SPPR 8 (ii), but also states:

There is a general presumption against excessive derogation of these requirements, in particular, private amenity space. Where derogations of private amenity space are sought, there will be an onus on the applicant to demonstrate that the quality of the unit is of a higher standard, e.g. in excess of the minimum floor area, contains unique design features and that the loss/reduction of private amenity is compensated within the communal amenity provision, e.g. if a unit requires 5 sq. m. of private amenity space, this quantum should be offset to provide for an additional 5 sq. m. communal amenity space.

The applicant's Material Contravention Statement notes that a total of 28 no. apartment units are not provided with balconies as private amenity space. I note from the HQA and from the drawings on file that the following units do not have private amenity space:

Unit Type	Unit Nos.	Location
Studio	B06.G102, B06.0103	Block 06 ground and 1 st floors
	Total studio units: 2	
One-bed	B02C.G204, B02C.0104, B02C.0204, B02C.0304, B02C.0404	Block 02 ground, 1 st , 2 nd , 3 rd and 4 th floors
	B03B.0104, B03B.0204, B03B.0304, B03B.0404	Block 03 2 nd , 3 rd and 4 th floors
	B04B.G104, B04B.0104, B04B.0204, B04B.0304, B04B.0404	Block 04 ground, 1 st , 2 nd , 3 rd and 4 th floors
	B07.G103, B07.0104, B07.0204	Block 07 ground, 1 st and 2 nd floors
	Total one-bed units: 17	
Two-bed (3 person)	B05.0101	Block 05 1 st floor
	Total two-bed (3 person) units: 1	
Two-bed (4 person)	B02B.0101, B02B.0201, B02B.0301, B02B.0401	Block 02 1 st , 2 nd , 3 rd and 4 th floors
	B04A.0101, B04A.0201, B04A.0301, B04A.0401	Block 04, 1 st , 2 nd , 3 rd and 4 th floors
	Total two-bed (4 person) units: 8	

It is submitted that flexibility should be applied as per SPPR 8 (ii) and the matter is addressed in the applicant's Material Contravention Statement with regard to the 2016 development plan. SPPR 8 (ii) states that flexibility in terms of private amenity space may be considered on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. I note the provision of communal tenant amenities and open space, as outlined above, which is considered adequate to cater for residents of the development. I am also satisfied that the development provides adequate public open space, including the linear park on the Z9 lands. However, I do not consider that this provision, which would be considered standard for a BTR development, is sufficient to compensate for the lack of any private amenity space for 28 no. units. Development, noting that SPPR 8 (ii) states that the developer is obliged to demonstrate the overall quality of communal

facilities provided and that residents will enjoy an enhanced overall standard of amenity.

Having examined the design and layout of the individual units listed above and with regard to the Design Statement and to the other documentation submitted, I note that the applicant has not sought to justify the lack of private amenity space on the basis of the design of the individual units, e.g. larger floor area or other measures. With regard to the detailed design and floor plans, I note that the following units are south facing and directly overlooking the canal: B02C.0104, B03.B.0104, B04B.0104, B07.0104, B02C.0204, B03B.0204, B04B.0204, B07.0204, B02C.0304, B03B.0304, B04B.0304, B02C.0404, B03B.0404, B04B.0404. These units could be amended by condition to provide a balcony. In addition, unit no. B05.0101, on the first floor of Block 05, is a triple aspect two bed unit overlooking the plaza at the access to the development from South Circular Road. Given the triple orientation, I consider the lack of a balcony to be acceptable in this instance. The following dual aspect north / east facing units have a projecting element, facing the internal east-west axis route, which could be amended by condition to incorporate a balcony: B02B.0101, B02B.0201, B02B.0301, B02B.0401, B04A.0101, B04A.0201, B04A.0301, B04A.0401. I consider that the following studio units, which do not have any obvious compensatory factors such as orientation or view, should be omitted or amalgamated with adjoining units to provide larger units with a balcony: B06.G102, B06.0103. I also note in this regard that the Daylight and Sunlight Assessment finds that ground floor unit BD06.G102 achieves an Annual Daylight Factor (ADF) value of 1.72 %, which is less than the recommended 2% for combined Living / Kitchen / Dining areas.

Having regard to all of the above, I consider that, these amendments could be required by condition if permission is granted, such that the development would provide an acceptable quantum and standard of private amenity space overall. However, given the concerns regarding amendments to developments requiring EIAR and given that there would not be any opportunity for third parties to comment on such amendments and, moreover, in the context of serious concerns on other aspects of the development, I do not recommend that any such condition is imposed in this instance. I therefore consider that the development does not provide adequate private open space.

10.6.6. Provision of Dual Aspect Units

SPPR 4 of the Apartment Guidelines specifies a minimum provision of 33% dual aspect units at central / accessible urban locations. The development provides c. 53% dual aspect units. Having examined the floor plans in detail, I am satisfied that the units referred to are 'true' dual aspect units, i.e. not relying on 'pop out' elements or recessed balconies. This provision also meets the 50% dual aspect requirement of the 2016 development plan. The 2022 development plan refers to the 33% standard specified in SPPR 4.

There are 7 no. north facing single aspect 1-bed units in Block B02a, which overlook the public realm in the northwestern part of the site. These are considered acceptable given that they overlook the public realm and given that they meet acceptable daylight and sunlight criteria, as per the applicant's Daylight and Sunlight Assessment.

10.6.7. Apartment Block Configuration

The block floor plans indicate a range of 3 – 8 no. units per core, in accordance with SPPR 6 of the Apartment Guidelines, which specifies a maximum 12 apartments per floor per individual stair/lift core. This provision is also in accordance with the 2016 development plan, which specifies a maximum of 8 no. units per core per floor. The 2022 plan refers to SPPR 6.

10.6.8. Other Apartment Standards

The development meets the 2.7m floor to ceiling height requirement of SPPR 5, also specified in the 2016 and 2022 development plans. It also meets the storage space requirements of the Apartment Guidelines, which are repeated in the 2016 and 2022 development plans. Having regard to the detailed layout, I consider that there are adequate separation distances between blocks, noting also that fenestration and balconies are staggered to prevent direct overlooking between units.

10.6.9. Daylight and Sunlight to Proposed Residential Units

Section 6.5 of the 2020 Apartment Guidelines states:

The provision of acceptable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity

enjoyed by apartment residents. In assessing development proposals, planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development

Section 6.6 of the guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting', which offer the capability to satisfy minimum standards of daylight provision. Section 15.9.16.1 of the 2022 development plan states the requirement for assessment of the daylight and sunlight received within individual residential units and at communal areas of a proposed scheme but does not refer to any specific policy guidance.

The applicant's Daylight, Sunlight and Overshadowing Assessment, as set out in EIAR Chapter 14 and Appendices 14.1 – 14.15, is based on recommendations outlined in the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice guide' (BRE Guide) which is also referred to as BRE 209 and the "BS 8206-2:2008: Lighting for Buildings - Part 2: Code of Practice for Daylighting". I have considered the assessment submitted by the applicant, along with the Supplementary Daylight/Sunlight and Overshadowing Report, and have had regard to the above guidance documents. 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) but also note that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Building Height Guidelines. It should also be noted at the outset that the standards described in the BRE guidelines are discretionary and not mandatory policy / criteria. The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

The Daylight, Sunlight and Overshadowing Assessment considers daylight to the proposed apartments in terms of Average Daylight Factor (ADF). In general, 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 ADF values 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 daylit living room. This guidance does not give any advice on the targets to be achieved within a combined living/ kitchen / dining layout. It does, however, state that where a room serves a dual purpose the higher ADF value should be applied. All of the proposed apartments include a combined living / kitchen / dining room (LKD). The applicant's assessment provides ADF analysis for all apartments within the development. It considers all LKDs against the 2% ADF target, as well as the lower 1.5% ADF target. I am satisfied that the applicant's ADF assessment is based on a robust methodology, as set out in EIAR Section 14.3, and I see no reason to question its conclusions. The results presented may be summarised as follows:

Block	LKD > 2% ADF	Bedroom > 1% ADF	Total Rooms Compliant	LKD > 1.5%
Block B01	100%	100%	100%	100%
Block B02	83%	93%	89%	93%

Block B03	83%	88%	86%	91%
Block B04	82%	93%	88%	93%
Block B05	100%	100%	100%	100%
Block B06	78%	100%	92%	99%
Block B07	84	100	94%	96%
Block T09	100%	100%	100%	100%

The Assessment also presents aggregate figures for compliance with the BRE guidance, stating that 84.45% of LKDs meet the 2% ADF target value and 93.98% of bedrooms meet the 1% ADF target. It is acknowledged that in a scheme of this nature it is significantly challenging for large open plan LKDs to achieve 2% ADF and do so would unduly compromise the design/streetscape. The ADF for rooms is only one measure of the residential amenity that designers should consider in the design and layout, and to this end, I am satisfied that the applicant has endeavoured to maximise sunlight / daylight to the apartments and where possible achieve 2% ADF.

The Daylight, Sunlight and Overshadowing Assessment also considers Annual Probable Sunlight Hours (APSH) at habitable rooms within the development, against the BRE recommendation that interiors where the occupants expect sunlight should receive at least one quarter (25%) of APSH, including at least 5% of APSH in the winter months between 21st September and 21st March. The results of APSH analysis of windows orientated within 90 degrees of due south may be summarised as follows:

Block	No. of Windows Assessed	APSH Compliant	WPSH Compliant
Block B01	59	39 (66%)	47 (80%)
Block B02	140	57 (41%)	79 (56%)
Block B03	152	78 (51%)	95 (63%)
Block B04	141	88 (62%)	98 (70%)
Block B05	28	15 (54%)	12 (43%)
Block B06	81	26 (32%)	31 (38%)
Block B07	77	39 (51%)	47 (61%)

Block T09	63	17 (27%)	22 (35%)
Total	741	359 (48%)	431 (58%)

The Assessment notes that, of the 310 windows that fall below for winter sunlight, 77 serve bedrooms; and of the 382 windows that fall below the criteria for total sunlight, 96 serve bedrooms, stating that bedrooms are considered less sensitive to alterations in sunlight, as acknowledged in the BRE Guidelines. The APSH analysis provides further consideration of all windows within the development, including north facing windows, and finds that , of the 1,118 windows assessed, 496 windows (44%) will meet the recommended criteria for winter sunlight and 414 (37%) for total sunlight. Detailed tabular APSH results are presented in EIAR Appendix 14.9.

The Assessment provides Sun on Ground figures for external balconies such that 76% of the 306 proposed balconies and terraces assessed in Blocks B01 to B07 will achieve the BRE criterion of two or more hours of sunlight to over 50% of their areas on 21st March. The balconies / terraces that do not meet the criterion are mainly orientated north or east and therefore will have lower access to sunlight.

The Assessment also provide a supplementary Climate Based Daylight Modelling (CBDM) assessment of rooms within the development in terms of target illuminance, with regard to the updated BRE target criteria set out in British Standard BS EN 17037, which is not referenced in the Apartment Guidelines or the Building Height Guidelines. The target values differ based on the function of the room assessed:

- 200 Lux for kitchens;
- 150 Lux for living rooms;
- 100 Lux for bedrooms

The targets are to be met for 50% of the room, for 50% of the daylight hours. Where rooms serve more than one function, the higher target value should be taken. There is also a separate analysis of consistency with the European Standard EN 17037, which provides a range of recommendations for 'high', 'medium' and 'minimum' daylight targets:

- Minimum illuminance 300 lux

- Medium illuminance 500 lux
- High illuminance 750 lux

The minimum target of 300 lux is to be met to 50% of the area of a room, for 50% of daylight hours; and 100 lux is to be met for 95% of the area. The aggregate findings of the supplementary CBDM analysis for compliance with both British and European standards may be summarised as follows:

No. of Habitable Rooms Assessed	EN 17037	BS EN 17037
805	352 (44%) meet 300 lux standard 444 (55%) meet 100 lux standard	75% of rooms meet the 100 lux standard (bedrooms) and 200 lux standard (LKDs)

The Assessment also provides Sun on Ground figures for external balconies such that 76% of the 306 proposed balconies and terraces assessed in Blocks B01 to B07 will achieve the BRE criterion of two or more hours of sunlight to over 50% of their areas on 21st March. The balconies / terraces that do not meet the criterion are mainly orientated north or east and therefore will have lower access to sunlight.

Section 6.7 of the 2020 Apartment Guidelines states in relation to the BRE guidance:

Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to a design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.

Therefore, there is scope to apply discretion in instances where the BRE targets are not met, having regard to local factors including site constraints, and in order to secure wider planning objectives, such as an effective urban design and streetscape solution. Having regard to the detailed results of the Daylight, Sunlight and

Overshadowing Assessment, I note that the rooms that do not meet the recommended criteria are rooms facing the internal courtyards on the lower floors of Blocks B02, B03, B04, B06 and B07, and that many rooms are overshadowed by balconies to units on upper floors. I accept that the development site has an infill urban location and that therefore constraints apply in light of wider planning objectives for compact urban development. However, the Daylight, Sunlight and Overshadowing Assessment does not provide any detailed rationale or consideration of compensatory measures to offset the failure to meet BRE targets in the above instances, e.g. larger units or private open space provision. I therefore consider that the development is not in accordance with section 6.7 of the Apartment Guidelines and that the development consequently does not provide a satisfactory standard of residential amenity in this respect.

In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am not satisfied that the standards achieved will result in an acceptable level of residential amenity for future occupants.

10.6.10. Proposed Townhouses

The proposed 7 no. 3-bed townhouses in Block T09 at the north western corner of the site comprise 2 no. House Type H3A (100.8 sq.m.) and 5 no. House Type H3B (104.3 sq.m.). They generally meet or exceed the recommended minimum space and private amenity space requirements of the Quality Housing for Sustainable Communities design guidance, also the standards for houses set out in section 16.10 of the 2016 development plan and section 15.11 of the 2022 plan and are considered to be satisfactory in terms of design and layout. I note that not all of the rear garden areas meet or exceed the development plan requirement for 40 sq.m. of private amenity space and also do not meet the BRE criterion of two or more hours of sunlight to over 50% of their areas on 21st March, this is due to their northerly orientation. However, I am satisfied that the townhouses will provide a satisfactory standard of residential amenity overall.

10.7. Impacts on Visual and Residential Amenities

10.7.1. There are residential properties immediately adjoining the development site to the east at Priestfield Cottages, to the west at St James's Terrace and Grand Canal View and to the north at South Circular Road. Third parties submit that the development will be overbearing when viewed from adjoining residential areas and that its scale starkly contrasts with that of the surrounding residential streets, also that it will overlook and overshadow adjoining properties. I would note at the outset that the development site is currently occupied by an industrial estate and that the following assessment is based on a comparison between the impacts on residential amenities associated with the existing structures and land use at the development site and those associated with the proposed development.

10.7.2. Interaction with Adjoining Residential Areas

The eastern side of the development site faces existing 2-storey terraced housing at Priestfield Cottages, with the site boundary marked by a stone wall. This area is currently characterised by the two storey An Post Sorting Office and by buildings of similar height within the development site, as well as a surface car park. The CGIs and drawings on file do not provide contextual elevations of Blocks B06 and B07 facing Priestfield Cottages and are considered deficient in this respect. To the north, Block B06 is 2-5 storeys, with a row of 2-storey own door units facing Priestfield Cottages. The landscaping details indicate planted areas and a footpath and a c. 2m high wall between the development and the public realm at the boundary to Priestfield Cottages. This should be omitted by condition if permission is granted, in the interests of permeability and of the creation of an improved, homogenous public realm at Priestfield Cottages. There are distances of c. 11m between the 2-storey facades and the front elevations of the opposing terraced houses at Priestfield Cottages. Block B07 to the south of Block B06 presents a 3-storey elevation to the east, with balconies, with a higher 4-storey element that is angled away from Priestfield Cottages and stepping up to 5 storeys to the rear, towards the centre of the development site. There is an intervening distance of c. 13.2 m between the 2-storey element and the opposing facades at Priestfield Cottages. These are limited intervening distances for first floor windows, however, they are considered acceptable in this instance given (i) the urban infill nature of the development site and (ii) the fact that windows at Priestfield Cottages already face the public realm.

The northern site boundary abuts the rear boundaries of nos. 313-319 South Circular Road. An existing 2-storey industrial building at this location is to be replaced by the 2-storey creche. I do not consider that the creche building, of itself, will result in any significant additional impacts by way of overlooking or overshadowing or visual impacts to the rear of the properties on South Circular Road to the immediate north of the development site. However, I have significant concerns about overshadowing at this location from the overall development, as discussed further below.

The western site boundary abuts the rear gardens of a row of 2-storey terraced houses at St. James's Terrace. There is also an access to an existing individual industrial unit within the development site at no. 12a St. James's Terrace. At the southern end of the site, no. 13 St. James's Terrace is a detached 2-storey house and Grand Canal View is a 3-storey apartment building overlooking the canal, accessed to the rear via St. James's Terrace. Elected members and third party submissions state strong concerns about the proximity of the 5-storey Block B01 to adjacent properties at St. James's Terrace, in particular no. 13 St. James's Terrace, with consequent potential overshadowing and overlooking from balconies in Block B01. I note that the western elevation of Block B01 includes windows to habitable rooms which face the private open space at the rear of no. 13 St. James's Terrace, however it would not result in overlooking of Grand Canal View given that the eastern elevation of same does not have windows to habitable rooms. The northern elevation of Block 01 includes 4 no. balconies to units on upper floors at the northwestern corner of the block, which are c. 7m from the nearest rear garden at no. 12 St. James's Terrace. There also windows to habitable rooms on the same elevation. I consider that, due to the proximity of the balconies to the adjacent private amenity space, Block 01 would result in an unacceptable degree of overlooking of the rear garden of no. 12 St. James's Terrace. In addition, given its seven-storey scale and its proximity to the adjacent rear gardens, and given the lack of CGI's or photomontages to demonstrate otherwise, I consider that Block 01 is likely to be visually overbearing in views from the adjacent rear gardens at St. James's Terraces, with consequent associated adverse impacts on residential amenities.

The upper floors of the rear elevations of the 3-storey townhouses in Block T09 at the northwestern corner of the site are c. 17m – 22m, from the rear elevations of the adjacent houses at nos. 4-11 St. James's Terrace (noting the potential discrepancies

in the documentation on file, as discussed below in relation to Daylight and Sunlight Assessment). The DCC CE Report considers that the townhouses could have an overbearing impact to the rear of properties at St. James's Terrace. I accept that the townhouses will change the outlook from the rear of properties at St. James's Terrace. However, with regard to (i) the urban infill nature of the development; (ii) the detailed design and materiality; (iii) the relatively modest scale of the townhouses and (iv) noting that their rear elevations are designed to obviate overlooking at first floor level, I am satisfied overall that these intervening distances are adequate and that the townhouses would not result in significant adverse visual or overbearing impacts at this location such as would warrant a refusal of permission or the omission of this element of the overall development by condition.

Third party submissions state concerns about the proposed location of bin storage adjacent to the access to St. James's Terrace, noting that there are currently significant problems associated with illegal dumping in the area. I consider that the proposed refuse storage area will not have a significant adverse impact on residential amenities subject to proper management including the implementation of the proposed Operational Waste Management Plan and noting the proposals for the overall management of the scheme as set out in the submitted BTR Operational Plan.

10.7.3. Daylight and Sunlight Impacts on Residential Properties

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. The Daylight, Sunlight and Overshadowing Assessment provided in EIAR Chapter 14 and associated appendices considers potential effects of the development on daylight Vertical Sky Component (VSC) and Annual Probable Sunlight Hours (APSH) at adjacent residential properties, with regard to the BS 2008 Code of Practice for Daylighting and the BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). As discussed in relation to daylight levels within the proposed apartments, the applicant's analysis also refers to the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), however this updated guidance does not have a material bearing on the outcome of this assessment and the relevant guidance documents in

this case remain those referred to in the Urban Development and Building Heights Guidelines, i.e. BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting’. I have used these guidance documents to assist 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 an area identified for residential development/ compact growth, and to increase densities 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 Daylight, Sunlight and Overshadowing Assessment considers daylight and sunlight impacts at the following locations:

- Nos. 289, 309-319 (odd), 344-384 (even), 390 South Circular Road
- Nos. 1-7 Priestfield Cottages
- Nos. 1-9 Priestfield Drive
- Nos. 113-116 and 123-136 Parnell Road
- Nos. 41-43 Dolphins Barn
- Nos. 1-25 and 13A St James’s Terrace.

I am satisfied that these are the residential properties most likely to experience effects on daylight and sunlight as a result of the development, with regard to their orientation and proximity to the development.

I note at the outset that several third parties have stated concerns regarding the applicant’s Daylight, Sunlight and Overshadowing Analysis. It is submitted that the drawings and models on file do not accurately represent the existing scale, form and fenestration to the rear of nos. 6 and 13 St. James’s Terrace and at other properties at St. James’s Terrace, also that there is insufficient analysis of overshadowing of adjacent private open spaces or impacts on solar panels. These concerns are noted. EIAR section 14.4 presents a summary of relevant sources of information on adjacent residential properties, which includes some estimates as it was not possible to gain access to the rear of private properties. This is reasonable and I consider overall, with regard to the detailed 3D modelling and window layouts provided in the appendices to EIAR Chapter 14, that the Daylight, Sunlight and Overshadowing

Analysis provides an acceptable estimate of impacts on adjacent properties, to provide for a reasonably comprehensive assessment.

The Daylight, Sunlight and Overshadowing Assessment considers effects on daylight Vertical Sky Component (VSC) with regard to the BS 2008 Code of Practice for Daylighting and the BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2011). As discussed in relation to the daylight and sunlight within the proposed apartments, the applicant's analysis also refers to the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), however this updated guidance does not have a material bearing on the outcome of this assessment and the relevant guidance documents in this case remain those referred to in the Urban Development and Building Heights Guidelines, i.e. BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. In general, VSC is a measure of the amount of sky visible from a given point (usually the centre of a windows) within a structure. The BRE guidelines state that if the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight. The Assessment considers potential impacts against the existing baseline situation. The results of the applicant's VSC analysis at each location, as set out in EIAR Appendix 14.4, may be considered separately as follows (note only non-compliant instances are detailed here):

Property / Window	Baseline VSC	Proposed VSC	Ratio of Proposed VSC to Baseline VSC
289 South Circular Road			
GF window R1/10 compliant			
GF window R2/10	31.39	24.43	0.78
1st floor window R2/11 compliant			
309 South Circular Road			
Ground floor window R1/260 compliant			
Ground floor window R1/270	33.13	20.91	0.63
Ground floor windows x 2 R2/270 compliant			

1 st floor windows R1/261, R2/271 compliant			
1 st floor window R2/261	29.39	19.93	0.69
1 st floor window R1/271	36.11	23.61	0.65
1 st floor window R2/271	24.57	17.65	0.72
2 nd floor window R1/272 compliant			
311 South Circular Road			
Ground floor window R5/240	17.98	13.46	0.75
Ground floor windows x 2 R9/250 compliant			
Ground floor windows x 2 R10/250 compliant			
1 st floor window R5/241 compliant			
1 st floor windows x 3 R5/251 all compliant			
315 South Circular Road			
Ground floor window R3/240	19.24	14.86	0.77
Ground floor windows R5/250	32.44	23.87	0.74
Ground floor windows x 2 R5/250 compliant			
Ground floor windows x 2 R6/250 compliant			
1 st floor window R3/241 compliant			
1 st floor windows x 3 R2/251 all compliant			
319 South Circular Road			
GF window R1/240	18.87	14.98	0.79
GF windows R1/250, R2/250 all compliant			
1 st floor windows R1/241, R1/251 compliant			
Nos. 313, 317, 344 – 390 (evens) South Circular Road	All windows compliant		
1 Priestfield Cottages			
GF window R1/20	29.95	23.17	0.77
1 st floor window R1/21	33.43	26.20	0.78
1 st floor window R2/21	33.05	25.95	0.79
2 Priestfield Cottages			

GF window R3/20	29.71	22.69	0.76
1 st floor window R3/21	32.87	25.67	0.78
1 st floor window R4/21	32.87	25.68	0.78
3 Priestfield Cottages			
GF window R1/30	29.05	21.85	0.75
1 st floor window R1/31	33.25	25.90	0.79
1 st floor window R2/31	34.31	26.62	0.78
4 Priestfield Cottages			
GF window R4/30	31.49	22.72	0.72
1 st floor window R3/31	34.71	26.60	0.77
1 st floor window R4/31	35.09	26.51	0.76
5 Priestfield Cottages			
GF window R5/30	31.84	22.81	0.72
1 st floor window R5/31	35.37	26.43	0.75
1 st floor window R6/31	35.68	26.17	0.73
6 Priestfield Cottages			
GF window R8/30	29.00	18.95	0.65
1 st floor window R7/31	35.87	25.87	0.72
1 st floor window R8/31	36.02	25.59	0.71
7 Priestfield Cottages			
GF window R10/30	33.51	21.44	0.64
1 st floor window R9/31	36.15	25.42	0.70
1 st floor window R10/31	36.30	25.46	0.70
Nos. 1 - 9 Priestfield Drive	All windows compliant		
Nos. 113 – 116, 123 – 136 Parnell Road	All windows compliant		
Nos. 41 – 43 Dolphins Barn	All windows compliant		
Nos. 1 - 9 St. James's Terrace	All windows compliant		
10 St. James's Terrace			
GF window R4/120	21.18	16.90	0.78

GF window R1/130 compliant			
1 st floor windows R5/121, R3/121 compliant			
11 St. James's Terrace			
GF window R5/120	29.67	22.92	0.77
GF window R5/120	19.41	14.64	0.75
5 x GF windows R5/120 all compliant			
1 st floor windows R6/121, R7/121 compliant			
12 St. James's Terrace			
GF window R6/120	26.38	19.52	0.74
GF window R7/120	31.69	23.24	0.73
1 st floor windows R8/121, R9/121, R10/121 all compliant			
2 nd floor windows R1/122, R3/122 compliant			
13 St. James's Terrace			
GF window R1/110	32.37	19.97	0.62
GF windows x 2 R1/110 both compliant			
1 st floor window R1/111	29.3	19.2	0.66
1 st floor window R2/111	37.43	23.7	0.63
1 st floor window R3/111	26.18	19.11	0.73
13a St. James's Terrace	All windows compliant		
Nos. 14 – 25 St. James's Terrace	All windows compliant		

The Daylight, Sunlight and Overshadowing Assessment also considers impacts on Annual Probable Sunlight Hours (APSH) at the above residential properties, where relevant, with detailed results of same set out in EIAR Appendix 14.4. British Standard BS 8206: Part 2:1992 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours, including at least 5% of annual probable sunlight hours during the winter months (21st September to 21st March). If the available sunlight hours are both less than the amount given and less than 0.8 times their former value, either over the

whole year or just during the winter months and reduction in sunlight across the year has a greater reduction than 4%, then the occupants of the existing building will notice the loss of sunlight. The BRE recommendations note that if a new development sits within 90° due south of any main living room window of an existing dwelling, then these should be assessed for APSH. The Assessment therefore calculates APSH for adjacent windows meeting the following criteria:

- The existing building has living room with a main window which faces within 90 degrees of due south.
- Existing building is located to the North, East, or West of the proposed development.
- VSC of the existing window is less than 27%.

EIAR Appendix 14.4 presents the following detailed results for APSH and WPSH at the above locations (note only non-compliant instances are detailed here):

Property / Window	Existing % WPSH	% loss of WPSH	Existing APSH	% loss of APSH
289, 319, 344, 346 S.C. Rd	All windows meet BRE criteria			
309 South Circular Road				
1 st floor window W1/270	21%	76.19%	72%	33.33%
All other GF and 1 st floor windows compliant				
311 South Circular Road				
GF window W5/240	13%	76.92%	39%	28.21%
All other GF and 1 st floor windows compliant				
313 South Circular Road				
GF window W4/240	4%	25%	22%	4.55%
1 st floor window W9/251	4%	50%	25%	8%
1 st floor window	4%	50%	29%	6.9%
All other GF and 1 st floor windows compliant				

315 South Circular Road				
Ground floor window W10/250	18%	77.78%	55%	29.09%
Ground floor window W11/250	20%	80%	54%	31.48%
All other GF and 1 st floor windows compliant				
317 South Circular Road				
Ground floor window W2/240	5%	40%	24%	8.33%
1 st floor window W3/251	5%	60%	26%	11.54%
1 st floor window W4/251	5%	60%	27%	11.11%
All other GF and 1 st floor windows compliant				
Nos. 1 – 5, 7 Priestfield Cottages	All windows meet BRE criteria			
6 Priestfield Cottages				
GF window W14/30	3%	100%	33%	45.45%
All other GF and 1 st floor windows compliant				
2 St. James's Terrace				
Ground floor window W7/140	3%	25%	33.3%	4%
All other GF and 1 st floor windows compliant				
4 St. James's Terrace				
Ground floor window W13/140	2%	100%	14%	14.29%
1 st floor window W7/141	5%	40%	38%	5.26%
All other GF and 1 st floor windows compliant				
7 St. James's Terrace				
GF window W8/130	4%	31%	75%	16.13%
GF window W9/130	8%	50%	39%	12.82%
All other GF and 1 st floor windows compliant				
9 St. James's Terrace				

Ground floor window W3/120	3%	33.33%	30%	3.33%
1 st floor window W4/121	22%	27.28%	65%	10.77%
GF window W2/120 compliant				
10 St. James's Terrace				
Ground floor window W1/130	3%	66.67%	34%	8.82%
All other GF and 1 st floor windows compliant				
11 St. James's Terrace				
Ground floor window W5/120	12%	75%	54%	31.48%
All other ground and 1 st floor windows compliant				
12 St. James's Terrace				
Ground floor window W13/120	19%	68.42%	55%	27.27%
All other GF and 1 st floor windows compliant				
13 St. James's Terrace				
Ground floor window W3/110	11%	81.82%	43%	51.16%
Both other GF windows compliant				
1 st floor window W1/111	5%	100%	42%	30.95%
Both other 1 st floor windows compliant W2/111, W3/111				

The Assessment considers overshadowing of 19 no. adjacent private amenity spaces to the north and west of the development site on the basis of a Sun Hours on Ground Overshadowing (SHOG) Assessment. The areas selected include the rear gardens of nos. 309-319 South Circular Road and nos. 1-12 St. James's Terrace. I accept that these adjacent private amenity spaces are those most likely to be impacted by the development. The assessment considers overshadowing impacts with regard to the BRE criterion of two or more hours of sunlight to over 50% of their areas on 21st March, with the results presented in tabular form and in figures nos. 4 and 5 in EIAR Chapter 14, with further detailed drawings in EIAR Appendix 14.7. The results indicate that 13 no. of the 19 no. existing neighbouring amenity areas

assessed will meet the BRE criterion. The following 6 no. locations do not meet the criterion:

- Area 2, rear of No. 12 St. James's Terrace.
- Area 4, rear of No. 9 St. James's Terrace
- Area 15, rear of No. 317 South Circular Road
- Area 16, rear of No. 315 South Circular Road
- Area 17, rear of No. 313 South Circular Road
- Area 19, rear of No. 309 South Circular Road

The assessment also considers transient overshadowing impacts at the 19 no. adjacent private amenity spaces, comparing impacts on 21st March with impacts on 21st June and 21st December, concluding that there are minor adverse impacts in June and December. The impact on adjacent amenity spaces is assessed overall as minor adverse (not significant), with isolated moderate adverse impacts. However, with regard to the tabular and results and the overshadowing drawings on file, I consider that there are significant adverse impacts at several individual adjacent private amenity spaces, in particular the rear of nos. 313, 315 and 317 South Circular Road and the rear of nos. 9 and 12 St. James's Terrace.

The Supplementary Daylight, Sunlight and Overshadowing Report provides additional assessment to that set out in EIAR Chapter 14 and associated appendices. The supplementary assessment also refers to the 2011 BRE Guidelines. It is submitted that, whilst there are incidences of neighbouring windows and rooms falling below the BRE target criteria, the majority (89%) will meet the suggested BRE target criteria and that those which do not will experience minor to moderate adverse impacts. The supplementary assessment considers potential sunlight impacts against an alternative target criterion, noting that guidance set out in BRE Appendix F recommends adopting alternative target criteria that draws upon appropriate and relevant precedents. The Summary of the BRE Guidelines states:

It is purely advisory, and the numerical target values within it may be varied to meet the needs of the development and its location.

The supplementary assessment provides analysis of historic and contemporary residential properties in Dublin to determine an alternative daylight VSC target, including Spencer Dock; Castleforbes Square North Wall Quay; Guinness Iveagh House Mansion Blocks; Merchants Quay; and Aloft Hotel, Mill Street and Blackpitts. The analysis indicates that a VSC of c. 10-15% is achieved at ground floor level across all six sites. Several of the sites still achieve existing VSC levels of circa 10-15% at first floor level, and the remaining sites achieve c. 15-20% VSC at first floor level. The supplementary assessment selects an alternative target criterion of 18% VSC on this basis. It finds that 362 (98.4%) of the 368 neighbouring windows assessed, were would either meet the alternative BRE criteria, or retain a VSC of at least 18% (i.e., the suggested alternative target criteria). The remaining 6 no. windows were found to have a minor or moderate change in skylight. In terms of sunlight, 92% of windows were found to meet the BRE criteria for both WPSH and APSH; with 99% meeting the Annual APSH test. In terms of overshadowing (SHOG), while several neighbouring gardens were found to fall below the 21st of March test, albeit all gardens were found to achieve at least two hours of direct sunlight. While I note the findings of the Supplementary Daylight, Sunlight and Overshadowing Report, I consider that these findings are not particularly relevant to the development site, given that they are based on existing developments at inner city urban locations rather than a mixed use residential area, albeit within the canal ring.

Aside from the properties where the assessed impacts are within the recommended BRE criteria, I consider with regard to all of the above analysis that adverse daylight and sunlight impacts will be marginal at the following adjacent properties: 289 South Circular Road, 319 South Circular Road and 10 St. James's Terrace. There are moderate adverse impacts at 9 and 11 St. James's Terrace and at nos. 1 – 4 Priestfield Cottages. I consider that the development will have significant adverse overshadowing impacts on habitable rooms at the following locations:

- No. 309, 313, 315 and 317 South Circular Road to the north of the development
- Nos. 6, 7 and 9 Priestfield Cottages to the east
- Nos. 12 and 13 St. James's Terrace to the west

I note in particular the concerns about overshadowing of nos. 12 and 13 St. James's Terrace, which would be compounded by issues relating to overlooking of these

properties from Block B01 as discussed above. I therefore concur with the assessment of DCC, as outlined in the CE Report, that the development will have significant adverse impacts on residential amenities by way of overshadowing.

10.7.56. Visual Impacts

Third parties raise concerns about overbearing and substantial visual impacts in the adjacent residential areas and at individual properties, as considered in detail above. The development will also be visible from many locations in the wider area, including at the canal frontage and the opposite side of the canal. In addition, the site adjoins a Conservation Area at South Circular Road and the protected structure of Our Lady of Dolours Church and its curtilage (RPS no. 1846). However, the site is not subject to any other development plan objectives relating to protected views or prospects. I also note with regard to visual impacts that the development site is currently occupied by an industrial estate (generally 2-storey) that does not make a significant positive contribution to the appearance of the area or to the public realm.

I note the 18 no. photomontage locations indicated in the Landscape and Visual Impact Assessment (LVIA) as presented in EIAR Chapter 16, as well as the CGI's of the development submitted under separate cover. Several third party submissions comment that the LVIA does not give adequate consideration to immediately adjacent residential areas. I accept and concur with these comments, noting that the LVIA and CGI's do not include immediate views of the development from Priestfield Cottages, Priestfield Drive or St. James's Terrace and noting also that the submitted contextual elevations do not include composite views from Priestfield Cottages. While the LVIA methodology is more suited to views from the wider area, I consider that additional CGI's and contextual elevations could have been provided to give more information on the existing context immediately around the development site. I accept that most of the development will not be directly visible from the public realm at St. James's Terrace, however the side / rear elevations Blocks T09 and B01 will be directly visible from the residential properties at this location. The LVIA and EIAR are therefore considered to be deficient in these respects as they are insufficient for a comprehensive assessment of visual impacts of the development.

The findings of the LVIA, as set out in EIAR Chapter 14, may be summarised as follows:

- Views from areas to the south of the Grand Canal (views nos. 01 and 14). The upper floors of the development will be visible from these locations. Impacts are assessed as 'moderate'.
- Views from Dolphins Barn and South Circular Road (views nos. 02, 03, 08, 09, 10, 15, 18). Impacts are assessed as 'slight' to 'moderate'. The upper floors of the development will be visible and will add a new element to the existing urban context. The development will create a new context at its immediate surroundings on South Circular Road.
- Views from the wider area to the west (views nos. 04, 11, 12, 13, 17). Assessed as 'slight' to 'moderate'. The development will be visible in the distance. Not visible from some locations.
- Distant views (nos. 05, 06, 07) The development will not be visible or will not form a significant element in these views. Assessed as 'slight' or 'imperceptible'.

These conclusions are generally accepted on the basis that the upper floors of the development will be visible from surrounding urban areas and will add a new element to the existing urban context. As pointed out by third parties, the EIAR and LVIA do not include any substantial consideration of cumulative impacts associated with adjacent development at SDRA 12. However, this is considered acceptable given that the planning outcomes of several sites within SDRA 12 have not yet been finalised.

While I note the concerns of third parties and the planning authority, I consider with regard to the LVIA and to the site inspection and to my knowledge of the area, that the development will not have significant adverse visual impacts on the wider area, including on views from the opposite side of the canal, notwithstanding the issues discussed above in relation to impacts on adjacent residential properties. In reaching this conclusion, I have had regard to the varied urban setting of the development site and to the fact that its context in Dublin 8 is currently undergoing significant and continuing transformation with the partially permitted redevelopment of the Bailey Gibson and Player Wills lands at Strategic Development and Regeneration Area (SDRA) 12, the redevelopment of St. Teresa's Gardens, and the zoning of Dolphins Barn as a Key Urban Village with the Z4 zoning objective.

I also accept that the development has been designed with regard to the presence of adjoining residential streets and that the scale of the development steps down at the eastern, western and northern site boundaries. In addition, having regard to the submitted Design Statement, landscaping details and materiality details, I consider that the development will result in substantial improvements to the public realm at South Circular Road, Priestfield Cottages and St. James's Terraces, including hard and soft landscaping and accessibility improvements, and will provide a significant new public amenity at the linear park at the canal frontage. However, given the lack of adequate assessment and information regarding the direct interaction with St. James's Terrace to the west and Priestfield Cottages to the east and given the overall scale of the development and the proximity of higher elements of the development (5-storey Block 01 to the west and the 5-storey elements of Blocks 06 and 07 to the east) to adjoining residential properties, I consider that the development is likely to have an overbearing impact and to be visually obtrusive when viewed from individual residential properties at these locations. These impacts will be exacerbated by the adverse overlooking and overshadowing impacts as discussed above. I therefore consider that the development will have a significant adverse impact on visual amenities overall.

10.7.57. Construction Impacts on Residential Amenities

Third party submissions state concerns about potential impacts on residential amenities relating to dust, noise, and construction traffic during the construction period, as well as potential anti-social behaviour at the construction site. The EIAR includes consideration of these issues, as set out below, and outlines associated proposed mitigation measures. The application also includes an Outline Construction Management Plan and Construction Traffic Management Plan which include details of construction traffic management and proposals for monitoring at neighbouring properties during construction and an Outline Construction and Demolition Waste Management Plan. All of these documents address potential adverse impacts on residential amenities during construction and I am satisfied that, subject to the implementation of a detailed Construction Management Plan and a Construction Traffic Management Plan, which may be required by condition if permission is granted, the construction phase of the development would not have any significant adverse impacts on residential amenities.

10.8. Archaeology and Cultural Heritage

10.8.1. Archaeology

The development site is close to, but outside the Zone of Archaeological Potential for Dublin City (DU018-020). The zones of archaeological potential for 3 no. recorded monuments are located within a 200m radius. All three monuments are historic watercourses (DU018-020576, DU018-020692 and DU018-043002), with the closed being DU018-020576, located c. 58m to the north.

EIAR Chapter 17 includes an archaeological assessment of the development site, based on documentary evidence and a field inspection without testing. No previous archaeological investigations have taken place within the site. The archaeological assessment provides details of 4 no. previous investigations that have been carried out within 200m of the site, none of which found any features or deposits of archaeological significance. Cartographic evidence indicates that the development site was used as docks associated with the Grand Canal from 1821. The site is indicated as occupied by a laundry in O.S. maps dating from 1888. The field inspection did not find any visible remains of the former canal docks at the site, however it is highly likely that remains survive beneath the current ground level in the form of basins 3-4m in depth with masonry revetting walls. None of the buildings associated with the White Heather Laundry survive on the site today.

The archaeological assessment considers that development site has high archaeological potential in relation to post-medieval industrial remains. It is possible that earlier features may also survive within the site, although very few features predating the post medieval period have been identified within the immediate surrounding landscape. It is possible that ground disturbances associated with the development may have a direct negative significant impact on these remains and may have a direct negative impact on any surviving previously unrecorded archaeological feature or deposits that have the potential to survive beneath the current ground level. The significance of effect, without mitigation, may range from moderate to profound, dependant on the nature, extent and significance of any remains. It is proposed to carry out a programme of test trenching within the site following demolition and clearance of the existing building, to be carried out under licence. Further mitigation may be required based on the results of same, such as

preservation in-situ or by record (archaeological excavation), subject to agreement from the National Monuments Service of the DoHLGH and the Dublin City Archaeologist. Archaeological monitoring of ground works is also proposed. No significant residual or cumulative impacts are predicted.

I note that the submission by the Department of Housing, Local Government and Heritage recommends a condition requiring archaeological testing and monitoring. DCC Archaeology Section makes a similar recommendation. I am satisfied that the development would not result in any significant adverse impacts on archaeology subject to the recommended mitigation measures.

10.8.2. Impacts on the Setting of Our Lady of Dolours Church Protected Structure

The protected structure Our Lady of Dolours Church (RPS no. 1894) is located to the immediate north of the site at South Circular Road. There are no other protected structures in the immediate vicinity of the development site. The church is listed in the National Inventory of Architectural Heritage (ref. no. 50080748), where it is assessed as of Regional importance, noting that it plays an important social role in the local community. EIAR Chapter 18 considers impacts on architectural heritage with section 18.6.2.1 addressing effects on protected structures, with impacts on Our Lady of Dolours Church assessed as 'significant', without detailed elaboration. EIAR Chapter 18.8.2 states in relation to impacts of the completed development:

While the existence of the proposed development is likely to result in a significant change to the visual environment from some nearby viewpoints, having regard [sic] scale and the pattern of development that has taken place in the area proposed changes on the White Heather lands may be considered by some observers to be consistent with existing and emerging trends for development in the area.

I consider that the EIAR assessment of impacts on the protected structure of Our Lady of Dolours Church is limited at best, given that there is no detailed consideration of impacts on boundaries, or visual impacts on the setting of the church. In addition, the submitted drawings, LVIA and CGIs provide only limited views of the existing church in the context of the new development, ref. View no. 02, however the development will alter views of the church from various vantage points in Dolphins Barn and at South Circular Road. Having regard to the detailed site context elevations and cross sections, I consider that while the development will

undoubtedly alter the setting of the protected structure, it will replace an existing industrial complex and that any development at this residentially zoned site will change its setting. The development is likely to have overshadowing impacts on the curtilage of the church, given the relative orientation and with regard to the Daylight, Sunlight and Overshadowing Assessment, however these are considered acceptable given the non-residential use of the protected structure. I consider that potential issues associated with construction impacts, boundary treatments, tree protection, etc., could be resolved by condition to the satisfaction of the planning authority. On balance, I therefore consider overall that the development would not have any significant adverse impact on the setting of the protected structure that would warrant a recommendation of refusal in this instance, noting that the DCC CE Report has not stated any specific concerns in relation to same.

10.8.3. Impacts on the Z2 Conservation Area at South Circular Road

Nos. 313 – 319 South Circular Road have the Z2 zoning objective ‘Residential Neighbourhoods (Conservation Areas)’. I note development plan Policy BHA9, which seeks to protect the special interest and character of conservation areas identified under the Z8 and Z2 zoning objectives and states:

Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

EIAR Chapter 18 on Architectural Heritage does not consider impacts on the Z2 conservation area and is considered deficient in this respect. As discussed above in relation to impacts on the setting of the Our Lady of Dolours Church protected structure, I accept that any development at this residentially zoned site will change views of the Z2 conservation area from the surrounding area. I also note section 13.10 of the Architectural Heritage Protection Guidelines, which states that, where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged, subject to appropriate scale. However, as also discussed above, there are particular concerns about impacts on the residential amenities of properties at South Circular Road by way of overshadowing and overbearing visual impacts. I therefore consider that the development would have an adverse impact on the Z2 conservation area, in

contravention of development plan Policy BHA9 to protect the special interest and character of Z2 Conservation Areas.

10.9. Social Infrastructure and Childcare Provision

10.9.1. Social Infrastructure

Third party submissions comment that there will be several new large scale, high density developments in the area, beyond the capacity of local services to support the new population. I note that a community hub was recently permitted at the nearby Player Wills factory site under ABP-308917-20, within SDRA 12, on the northern side of South Circular Road. In addition, the overall vision for the SDRA 12 lands includes the provision of several public open spaces and other amenities, which will also serve the wider area. I also note that the site is located in an established residential area with access to a wide range of services and amenities and that it is within walking distance of the city centre, as well as a range of public transport services. In addition, the proposed linear park at the canal frontage will make a substantial contribution to the public realm of the area. The submitted Community and Social Infrastructure Audit details the existing provision of social and community facilities in the vicinity of the development site, in the context of local demographic information drawn from Census data. It identifies that the area is well served by social and community infrastructure within a 1 km catchment including transport, schools, medical facilities, childcare facilities, public parks, retail, bars and restaurants, also the Coombe Hospital, St. James's Hospital and the National Stadium. I am satisfied on this basis that the area is served by a wide range of social and community infrastructure.

10.9.2. Childcare Provision

The Childcare Facilities Guidelines for Planning Authorities recommend a minimum provision of 20 no. childcare places per 75 no. dwellings. Section 4.7 of the Apartment Guidelines states that the threshold for the provision of childcare facilities 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. One bed or studio units should generally not be considered to contribute to a requirement for any childcare provision and, subject to location, this may also apply in part or whole to units with two or more

bedrooms. The development includes 2 no. studio units and 196 no. 1-bed apartments. This entails a maximum childcare requirement of c. 37 no. childcare places, to serve all of the 2 and 3-bed units. The proposed creche is to provide c. 74 no. childcare places and it is submitted that this is sufficient to cater for childcare demand generated by the development. The Community and Social Infrastructure Audit provides additional information on existing childcare facilities in the area. The development therefore exceeds the requirements of the Childcare Guidelines with regard to the quantum of childcare provision.

10.10. Movement and Transport

10.10.1. Existing and Proposed Movement and Transport Infrastructure

The development site currently has a vehicular access to South Circular Road, which also serves the An Post Sorting Office, with an adjoining access serving Priestfield Cottages and Priestfield Drive. The speed limit at this location is 50 kph. A separate access from St. James's Terrace serves an individual industrial unit at no. 12 a St. James's Terrace, within the red line site boundary.

There are several Dublin Bus routes at South Circular Road, as well as a QBC at Dolphins Barn / Cork Street, connecting to the city centre. Table 3.6.4 of the Traffic and Transport Assessment (TTA) provides details of local bus services, including frequency, such that there is a combined peak frequency of 27 buses per hour. The TTA provides further analysis of bus capacity for the Dolphins Barn QBC and the South Circular Road orbital route, using passenger data from the NTA's 2020 Eastern Regional Model (ERM), which is compared against the number of buses that serve the routes in the morning peak period, to give an indication of the residual capacity for passengers along the two routes. The analysis finds that there is spare AM capacity for 400 passengers along the Dolphins Barn route and 620 passengers along the South Circular Road route. It is submitted that this is ample residual capacity to cater for demand created by the proposed development. The proposed Bus Connects Greenhills – City Centre Core Bus Corridor runs along Dolphins Barn, to have frequencies of 2.7 – 3.7 minutes along Dolphins Barn / Cork Street. Bus Connects also provides for a new orbital route along South Circular Road with a frequency of 5-10 minutes. The Bus Connects proposals also include works to the South Circular Road / Dolphins Barn junction to the northeast of the development

site, including modifications to the existing layout to improve alignments, pedestrian and cycle facilities. The nearest Luas stop is at Fatima, c. 800m from the site, on the red line, with a peak frequency of one service every four minutes. The site is within walking distance of the city centre (c. 30 minutes) and there are formal cycle lanes from Dolphins Barn Cross to the city centre. The Greater Dublin Area Cycle Network Plan includes a greenway along the Grand Canal. Development plan Objective GI06 is to support the development of metropolitan greenways and local cycleways / walkways, including along the Grand Canal.

It is proposed to reconfigure the existing access to South Circular Road to create a new vehicular, pedestrian and cycle access to the development, with a separate access to serve Priestfield and the sorting office. The access is laid out as a 5.5m wide priority junction. Details of visibility splays are submitted. The proposed layout indicates the access to the Bailey Gibson site on the northern side of South Circular Road. There is also a publicly accessible pedestrian / cycle connection to the linear park at the canal frontage, which could connect to a future green route at this location. The development also involves the creation of a new pedestrian / cycle access from St. James's Terrace, which will connect to the east / west axis through the site and the connection to the canal frontage. The internal layout is designed as a shared surface, based on DMURS and the National Cycle Manual. It is also designed to accommodate emergency vehicles, service and delivery vehicles, and refuse collection, with swept path / Auto Track analysis submitted.

Third parties state concerns that the proposed South Circular Road access will be hazardous for pedestrians and cyclists. I note the submitted DUMRS Statement and Road Safety Audit (RSA), also that the proposed access layout will provide substantially improved pedestrian facilities. In addition, residents at St. James's Terrace state concerns that the proposed new pedestrian / cycle access at this location will result in an increase in pedestrians and cyclists in proximity to several vehicular exits, a narrow street and potential conflict between pedestrians, cyclists and vehicular traffic. I am satisfied that the layout will improve pedestrian and cycle permeability in the area and I note that DCC Transportation Planning states no objection subject to conditions including clarification of visibility splays at the new access to Priestfield Cottages, also that issues raised at pre-planning stage have been resolved satisfactorily. The proposed roads / pedestrian / cycle layout is

considered satisfactory overall on this basis, subject to conditions, which may be imposed if permission is granted.

10.10.2. Car and Cycle Parking

Third parties state concerns that the development provides an inadequate quantum of car parking, which will lead to additional demand for on-street parking in adjacent residential areas. The development provides a total of 106 no. car parking spaces, which may be broken down as follows:

- 103 no. residential spaces comprising 65 no. spaces at undercroft / basement level (including 4 no. car club spaces) and 38 no. spaces at surface level (including 3 no. car club spaces). The surface level provision includes spaces to serve individual townhouses. The overall provision equates to c. 0.3 spaces per residential unit.
- Surface level set down area with 3 no. spaces to serve the creche, concierge and taxi use.

The TTA and Mobility Management Plan (MMP) provide details of proposed car parking management in the context of other mobility management measures including car club usage. Table 2 of development plan Appendix 5 sets out maximum car parking standards, such that 0.5 spaces per dwelling is required at parking Zone 1 within the canal cordon, i.e. 168 no. spaces to serve the proposed development. Section 4.0 of Appendix 5 states that a relaxation of maximum car parking standards will be considered in parking Zones 1 and 2 for any site located within a highly accessible location, subject to a range of criteria, which are addressed in the submitted TTA, including proximity to high-frequency public transport (10 minutes walk), walking and cycling accessibility/permeability and any improvement to same; the range of services and sources of employment available within walking distance of the development; availability of shared mobility; impacts on the amenities of surrounding properties or areas including overspill parking, traffic safety impacts and the robustness of the MMP. I consider that the proposed car parking provision is acceptable (i) in view of the highly accessible location of the site adjoining an orbital route and in close proximity of a QBC, where residual passenger capacity has been identified on both routes; (ii) having regard to the submitted car parking management proposals and to the BTR nature of the development which obviates ownership of

parking spaces and (iii) given that the development incorporates significant improvements to pedestrian and cycle infrastructure and permeability. The TTA provides comparison of development plan car parking standards with international examples of residential car parking ratios, such that many European cities have adopted lower car parking provision. I consider that the current car parking provision is acceptable with regard to the accessible location of the development site and in the context of the capacity of currently available public transport in the area, as discussed above. I note in this regard the following statement in the report of DCC Transportation Planning Division:

Having regard to the precedent in the vicinity together with a clear rationale within Section 6 of the TTA along with a Car Parking Management Strategy, Section 7.2, the level of car parking serving the development is acceptable to this division.

The applicant's Material Contravention Statement addresses the issue of car parking provision in view of the car parking standards set out in Table 16.1 of the previous 2016 development plan. Table 16.1 states a maximum requirement for 1 car parking space per residential unit in parking Zone 1. Section 16.38 of the 2016 development plan states:

Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety. In addition, the planning authority may require the maximum number of car parking spaces specified in Table 16.1 to be further reduced where it is considered that the surrounding road network is not sufficient to cater for the volume of traffic likely to be generated by the proposed development. Given the high accessibility by public transport to Zone 1 there shall be no minimum requirement for car parking in that zone.

Section 16.38 of the 2016 plan also states that DCC will consider a relaxation of the maximum car parking standards for Zone 1 for any site in close proximity to quality public transport, and subject to several requirements comprising locational suitability and advantages; ease of access to alternative and sustainable transport modes; availability of car sharing/car clubs and/or charging points for electric vehicles; also that applicant must adequately demonstrate that the lack of car parking on the site should not reasonably give rise to negative impacts on the amenities of surrounding

properties or on the immediate street once the development is occupied. Having regard to these detailed provisions, I consider that the proposed car parking provision does not materially contravene the 2016 plan with given that the 1 space per unit is a maximum requirement and with regard to the applicant's car parking rationale as considered above, notwithstanding that the matter is addressed in the Material Contravention Statement in the context of section 37(2)(b).

The development provides a total of 556 no. cycle parking spaces, in accordance with the requirements of the Apartment Guidelines, comprising 488 no. secure residential spaces and 62 no. visitor spaces. There are 8 no. cargo bike spaces. The cycle parking is provided at surface level (352 no. spaces) and in the undercroft car park (206 no. spaces), with all of the visitor cycle parking provision in the form of Sheffield stands at various locations at surface level. Development plan Appendix 5 sets out a cycle parking standard of 1 no. space per residential unit + 1 no. visitor space per 5 units, which entails a total requirement of 402 no. spaces, which is exceeded by the development. I note that DCC Transportation Planning Division welcomes this cycle parking provision and I consider it to be satisfactory.

10.10.3. Traffic Assessment

The TTA baseline analysis of existing travel patterns in the area based on Census data finds that combined walking and cycle trips account for over half of all commuting trips made from the local area. The TTA provides further analysis of car ownership, car usage and existing trip generation at the White Heather Industrial Estate, including the An Post sorting office. Traffic generated by the proposed development is estimated based on a traffic model developed for the adjacent Bailey Gibson development, which uses local traffic count information (pre-Covid May 2019). The development site currently generates 35 no. vehicular trips during the morning peak hour and 28 no. in the evening peak hour. When account is taken of the extant use at the site, the development would generate 6 no. additional vehicular movements in the morning peak and 3 no. additional movements in the evening peak hour. The assessment finds that the existing South Circular Road site access junction currently operates with significant reserve capacity during both AM and PM peaks. The modelling indicates that the junction will continue to operate well in the future year scenarios in 2024, 2029 and 2039 and that the development will have a negligible impact on its operation. Planned improvements in the local roads and

public transport network, including Bus Connects, are likely to ameliorate any future traffic impacts. These conclusions are accepted given the proposed limited car parking provision and with regard to the industrial nature of the current land use at the development site which, of itself, currently generates a significant amount of traffic, and noting also that DCC Transportation Planning Division and the submission of TII state no objection on traffic grounds.

I note that the TTA does not consider cumulative impacts associated with the development of adjacent zoned lands at SDRA 12 and that third parties have raised concerns in relation to same. EIAR section 10.10 considers cumulative impacts in general and does not indicate any significant such impacts. This conclusion is accepted and I do not consider that a detailed cumulative assessment is necessary given that the development will have negligible traffic impacts.

The DCC CE Report comments that the development, being substantially car free, is likely to generate a significant amount of service and delivery trips. However, given that it will have negligible traffic impacts overall when compared with the current land use at the development site, I do not consider that this issue warrants revisiting the conclusion of the TTA.

10.10.4. Construction Traffic

The submitted Construction Traffic Management Plan provides estimates of construction traffic generated at the development site, including traffic generated by construction workers and HGV trip generation. It is envisaged that there would be an average of c. 22 construction/HGV vehicle movements per day, c. 255 days of the year, over a period of approximately 3.5 years. It is recognised that there will be some variation in flows on a day to day basis, with the largest variation likely to be during the bulk excavation period, when the undercroft car park is being built. The Outline Construction Management Plan provides details of construction traffic management including haul routes, parking arrangements, management of deliveries, pedestrian safety measures, measures to minimise construction vehicle movements and liaison with local residents. Moderate volumes of construction traffic are anticipated given the limited scale of the development. I am satisfied that, subject to the implementation of a final Construction Traffic Management Plan, which may be required by condition, the construction traffic associated with the development will

not have any significant adverse impacts on adjacent residential areas or adverse traffic impacts.

10.11. Drainage, Flood Risk and Site Services

10.11.1. The development will connect to the existing surface water infrastructure in the area. The submitted Engineering Services Report provides details of the proposed surface water drainage design which includes SuDS measures allowing for a 20% climate change factor, such as green roofs, rain gardens, geocellular attenuation systems, etc. The system will attenuate discharge in accordance with the Greater Dublin Strategic Drainage Study. DCC Drainage Planning states no objection subject to conditions.

10.11.2. The Site Specific Flood Risk Assessment (SSFRA) states that the site is entirely within Flood Zone C. I note that the planning authority states no concerns in relation to flood risk at the site. I am satisfied from the SSFRA that the development is not located in an area at risk of flooding and will not result in any increased risk of downstream flood impacts.

10.12. I note third party concerns regarding the capacity of water and foul infrastructure to cater for the development. The development will connect to the existing foul sewerage network and public watermain. The Engineering Services Report provides details of projected water demand and foul outflows from the development and new watermains and foul network design. Irish Water issued a statement of Design Acceptance for the development on 2nd March 2022. No significant infrastructural or capacity issues are identified. The proposed water supply and foul drainage arrangements are considered satisfactory on this basis.

10.13. Material Contravention Issues

10.13.1. The applicant's Material Contravention Statement refers to 6 no. separate grounds of material contravention comprising (i) building height; (ii) housing mix; (iii) private amenity space; (iv) car parking standards; (v) studio apartment widths and (vi) unit floor areas, all with reference to the 2016 development plan which was in force when the application was lodged. Each of these issues may be considered separately as follows with regard to relevant policies of the 2016 and 2022 development plans, along with the separate matter of consistency with development plan policy on BTR development.

10.13.2. Building Height Material Contravention

As discussed above, the proposed building height of c. 33m exceeds the height limit of 24m for residential development in the inner city, as set out in section 16.45.2 of the 2016 development plan. I therefore consider that the development materially contravenes the 2016 plan in this respect. The applicant has submitted a rationale for the proposed building height with regard to the development management criteria set out in the Building Height Guidelines and the Material Contravention Statement submits that the proposed building height is justified at this location with regard to national planning policy on compact urban development and location on a public transport corridor. The above assessment considers the proposed building height in the context of the 2022 plan, adopted subsequent to the Building Height Guidelines, and the relevant policies set out in Appendix 3 of same. As per the assessment, I consider that the development does not meet the criteria for building height as set out in Table 3 of Appendix 3 of the 2022 plan and therefore it would contravene Policy SC17 of that plan in relation to building height.

10.13.3. Housing Mix Material Contravention

The proposed provision of c. 60% 1-bed and studio units exceeds the limit of 42-50% of such units in BTR apartment developments, as specified in section 16.10.1 of the 2016 development plan. The Material Contravention Statement seeks to justify the proposed housing mix with regard to SPPR 8 of the 2020 Apartment Guidelines. I consider that there is some flexibility for consideration of the development management standards set out in the 2016 development plan in individual cases, including those in relation to housing mix and that the proposed housing mix therefore does not represent a material contravention of that plan. As per the above discussion, the proposed housing mix is considered to be in accordance with current national planning policy with reference to Circular NRUP 07/2022 and is therefore justified at this time by guidelines and policies of the minister despite its contravention of Policy QHSN40 and section 15.9 of the 2022 plan.

10.13.4. Private Amenity Space Material Contravention

The proposed private amenity space provision does not meet the quantitative requirements for apartment developments as set out in section 16.10.1 of the 2016 development plan. The Material Contravention Statement seeks to justify the

proposed provision of private amenity space with regard to SPPR 8 of the 2020 Apartment Guidelines. As per the above discussion of housing mix, there is some scope for flexibility in the development management standards set out in the 2016 plan. However, as considered in detail elsewhere in this report, I note that there are 28 no. units within the development that do not have any private amenity space provision. I do not consider that this lack of provision is adequately justified by the overall provision of communal open space, public open space or other tenant amenities within the development. The proposed development is therefore considered inadequate in this respect and I do not consider that it comes within the scope of SPPR 8 (ii), noting that SPPR 8 (ii) states that the developer is obliged to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity.

10.13.5. Car Parking Material Contravention

The proposed car parking provision of 106 no. spaces does not exceed the maximum requirement for residential development in parking Zone 1 as set out in Tale 16.1 of the 2016 development plan. The Material Contravention Statement seeks to justify the proposed car parking provision with regard to SPPR 8 (iii) of the Apartment Guidelines. Given that the proposed car parking provision does not exceed the development plan maximum for parking Zone 1, I do not consider that the proposed development materially contravenes the 2016 plan in this respect. The above assessment also concludes that the proposed car parking provision does not contravene the car parking policy set out in Appendix 5 of the 2022 development plan.

10.13.6. Studio Apartment Widths Material Contravention

Section 16.10.1 of the 2016 plan includes a requirement for studio units to be 5m wide. There are 2 no. studio units within Block B06 that do not meet this requirement. The Material Contravention Statement seeks to justify the proposed internal layout with regard to SPPR 8 (iii) of the Apartment Guidelines. As per the above discussions of housing mix and private amenity space, there is some scope for flexibility in the development management standards set out in the 2016 plan in individual cases and I therefore do not consider that the development materially contravenes the plan in this respect. The above assessment concludes that the

proposed apartment layouts are satisfactory with regard to SPPRs 3 and 8 of the Apartment Guidelines, having regard to Circular NRUP 07/2022, and are therefore justified at this time by guidelines and policies of the minister.

10.13.7. Unit Floor Areas Material Contravention

The development does not meet the minimum apartment floor areas specified in section 16.10.1 of the 2016 plan in all instances. The Material Contravention Statement seeks to justify the proposed internal layout with regard to SPPR 8 (iii) of the Apartment Guidelines. As per the above discussion, there is some scope for flexibility in the development management standards set out in the 2016 plan in individual cases and I therefore do not consider that the development materially contravenes the plan in this respect. The above assessment concludes that the proposed apartment layouts are satisfactory with regard to SPPRs 3 and 8 of the Apartment Guidelines, having regard to Circular NRUP 07/2022, and are therefore justified at this time by guidelines and policies of the minister.

10.13.8. Build to Rent Policy Material Contravention

The matter of consistency with development plan policy on BTR is not addressed in the Material Contravention Statement. However, the above assessment concludes that the subject application does not meet the requirement of Policy QHSN40 that applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate, inter alia, that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR. The application does not include any such assessment and therefore contravenes Policy QHSN40 in this respect. However, having regard to the above assessment, and with regard to Circular Letter NRUP 07/2022, I accept that the provisions of the 2020 Apartment Guidelines, including SPPRs 7 and 8, currently apply for a transitional period and I consider that the proposed BTR development is justified at this time by guidelines and policies issued by the minister despite its contravention of Policy QHSN40 of the 2022 plan.

10.14. Legal Issues

- 10.14.1. Third parties comment that the subject application should not have been validated as the SHD application documents and link to the development website were not uploaded to the ABP website when third party submissions were lodged.
- 10.14.2. The occupants of the Storage World premises at the development site submit that the applicant does not have their permission to lodge the application and that the application should have been invalidated on this basis. I note in this regard that the granting of planning permission does not entitle the applicant to carry out works, if the consent of third parties is required, as per section 10(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended), and that arbitration on land ownership matters is outside the scope of this assessment.
- 10.14.3. It is submitted that the EIAR is invalid as it does not accurately describe the Storage World premises, referring to them as industrial whereas they are in fact 'a repository' or 'walk in self storage units', with reference to definitions provided in article 5(1) of the Planning and Development Regulations 2001-2022. Having regard to the detailed descriptions of the development site that are provided in each chapter of the EIAR, I do not consider that the application should be invalidated on this basis, notwithstanding that I consider the EIAR deficient in other respects.
- 10.14.4. It is submitted that the development does not comply with Article 297(2)(d) of the Planning and Development Regulations 2001 (as amended) as the applicant has failed to demonstrate that there is capacity in both the water and wastewater networks and insofar as Irish Water has purported to confirm capacity, those confirmations are manifestly incorrect. In addition to this, section 20(D) of the application form has been inaccurately completed by the applicant since it incorrectly indicates compliance with Article 297(2)(d). The above assessment of site services considers same satisfactory with regard to the submission of Irish Water.
- 10.14.5. It is submitted that Ringsend WWTP cannot currently support the proposed development, as accepted in EIAR section 8.4.1.3 and section 6.1.2 of the AA Screening Assessment. There is no assessment or no adequate assessment of cumulative impacts on Ringsend WWTP. This matter is addressed below in the context of AA.

10.14.6. It is submitted that the application does not adequately justify why EIA has been 'screened in'. I accept that the submitted EIAR does not provide a detailed justification for sub-threshold EIA. However, the matter is addressed in the EIA section below, on the basis of cumulative impacts.

10.15. Planning Assessment Conclusion

10.15.1. The proposed Build to Rent accommodation is acceptable in principle at this site with regard to the relevant 'Z1' zoning objective under the Dublin City Development Plan 2022-2028 and to the central and accessible location of the site adjacent to a Quality Bus Corridor and in an established residential area with a wide range of social infrastructure and public amenities. An appropriate development on this site has the potential to contribute to the provision of high-quality housing within the area, at a density and scale that would achieve the optimum use of the zoned and serviced lands adjacent to a public transport corridor, in accordance with national planning policy. I also accept that the development provides significant and welcome improvements to the public realm, including the provision of a linear park at the site frontage to the Grand Canal.

10.15.2. However, I have serious reservations in relation to the proposed development in terms of quality of the layout and design and potential impacts on visual and residential amenities and I therefore do not consider that it achieves the optimum design solution for the development site. The layout and design are considered to be of poor quality and if permitted would not meet the standard of provision required under the various section 28 guidelines including the Urban Design Manual – A Best Practice Guide 2009 and the 12 criteria therein, in particular criteria nos. 01 Context, 06 Distinctiveness, 10 Privacy and Amenity and 12 Detailed Design. In particular, the development would not achieve acceptable standards of daylight / sunlight within apartments (in the absence of detailed proposals for compensatory measures) or adequate provision of private amenity space. I also consider that the development will have a significant adverse impact on the visual and residential amenities of the area by way of overlooking, overbearing and overshadowing of adjacent residential properties at St. James's Terrace, South Circular Road and Priestfield Cottages, with related adverse impacts on the Z2 Conservation Area at South Circular Road. The proposed development would, therefore, be contrary 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, and would be, therefore, be contrary to the proper planning and sustainable development of the area.

10.15.3. I note the recommendation of Dublin City Council that, if the Board decides to grant permission, conditions should be imposed seeking the removal of the top 3 no. floors from Block B03 and one floor from each of Blocks B02 and B04. The above assessment also considers various measures, which could be required by condition, in order to improve the overall quality of the development. However, I do not consider it appropriate to address these issues by condition. The approach suggested by the planning authority could result in an unbalanced development, where due consideration has not been given to the overall design and proportions of the blocks. I therefore do not recommend such as condition as a way of addressing the above issues. I consider that the concerns raised above are complex, interrelated, and fundamental in nature and cannot easily be addressed by way of amendments such as may be required by condition.

10.15.4. I therefore recommend that the Board refuse permission in this instance.

11.0 Environmental Impact Assessment

11.1. Statutory Provisions

11.1.1. The application was accompanied by an Environmental Impact Assessment Report (EIAR). Item 10 (b) of Part 2 of Schedule 5 provides that an EIA is required for infrastructure projects comprising of either:

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

The development would provide 335 no. dwellings on a site of c. 1.535 ha on zoned lands on an infill site in a built up urban area. The total of 335 no. units is below the 500 unit threshold and the site area of 1.535 ha is below the above area thresholds. The EIAR document does not clearly set out a rationale for the submission of a sub-threshold EIAR. However, having regard to the permitted development of 492 no.

apartments and 240 no. shared accommodation units on the adjacent Player Wills site, ref. ABP-308917-20, the combined developments would cumulatively exceed the 500 unit threshold and it could thus be concluded that an EIA is necessary on the basis of potential cumulative impacts.

11.1.2. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, observers and prescribed bodies has been set out previously in this report. A summary of the main contents of the EIAR are listed below, with a detailed assessment of the environmental aspects after.

- Volume I of the EIAR comprises the Non-Technical Summary
- Volume II comprises the Written Statement
- Volume III includes the Appendices to the EIAR
- Chapter 4 of the Written Statement provides a consideration of alternatives
- Chapter 20 of the Written Statement considers interactions and cumulative impacts

11.1.3. The individual chapters describe the expertise of those involved in the preparation of the report. The likely significant effects of the development are considered under the headings below which generally follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and Human Health
- Biodiversity
- Land, Soils, Geology and Hydrogeology
- Water & Hydrology
- Material Assets – Built Services
- Material Assets – Transportation
- Material Assets – Waste Management
- Air Quality and Climate

- Noise and Vibration
- Microclimate – Daylight, Sunlight and Overshadowing
- Microclimate – Wind
- Landscape and Visual Impact Assessment
- Cultural Heritage – Archaeology
- Cultural Heritage – Architectural Heritage

I am satisfied that the information contained in the EIAR has been prepared by competent experts and generally complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.

11.1.4. EIAR section 1.10 addresses scoping and EIAR section 20.4 addresses cumulative impacts. Table 20.2 indicates that potential cumulative impacts associated with following permitted developments are considered in the EIAR:

- ABP-307221-20 former Bailey Gibson Site. See section 4.0 above for details.
- ABP-308917-20 Player Wills Site Phase I. See section 4.0 above for details.
- DCC reg. ref. 3537/21. The Coombe Hospital, Dublin 8. Permission granted for the development of a new dedicated Colposcopy /Women's Health Unit building of three no. storeys plus rooftop plant room which will be attached to the existing Colposcopy building to the west by way of glazed link.

11.1.5. This section on Environmental Impact Assessment should be read in conjunction with the above planning assessment, noting that this section refers to certain parts of the EIAR, which are summarised elsewhere in this report, in the interests of brevity and the avoidance of repetition.

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

11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. EIAR Chapter 19 addresses Risk Management. The development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous

Substances Regulations i.e. SEVESO and so there is no potential for impacts from this source. The Outline Construction Management Plan (OCMP) outlines a number of potential hazards during construction stage including inter alia: water pollution, noise and vibration from machinery, hazardous and contaminated materials, construction traffic, crane movements, adverse weather conditions and contamination/disturbance from dust and dirt. Other relevant potential risks at construction stage relate to traffic accidents, mechanical failure, explosions, fire and building/scaffold collapse. Construction of the development in accordance with the submitted OCMP will reduce the risk of accidents during construction to acceptable levels. The main potential risks associated with the completed development are fire, adverse weather events, flooding and building collapse. The submitted SSFRA addresses the issue of flooding and the development site is not in an area at risk of flooding. The fire risk mitigation for the project will comprise all fire safety measures necessary to comply with the requirements of Part B (Fire) of the Second Schedule to the Building Regulations 1997-2019. There are no significant sources of pollution in the development with the potential to cause environmental or health effects aside from asbestos, which is addressed in the OCMP and the submitted Outline Resource & Waste Management Plan. I am satisfied that the proposed land uses are unlikely to be a risk of themselves.

- 11.2.2. Having regard to the location of the site and to the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

11.3. **Alternatives**

- 11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment. EIAR Chapter 4 deals with alternatives and sets out a rationale for the development. Having regard to the fact that the zoning of the development site expressly provides for residential development and noting that the development plan was subject to SEA, alternative locations are not considered in detail. A number of site layout and alternative designs were considered during the iterative design process in consultation with the planning authority and ABP. The development as now proposed is considered to have arrived

at an optimal solution in respect of making efficient use of zoned, serviceable lands whilst also addressing the potential impacts on the environment relating to residential, visual, natural and environmental amenities and infrastructure. The description of the consideration of alternatives in the EIAR is reasonable and coherent, and the requirements of the directive in this regard have been satisfactorily addressed.

11.4. Assessment of the Likely Significant Direct and Indirect Effects

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

11.4.2. Population and Human Health

Population and human health impacts are considered within a 1 km catchment radius, based on data from the 2016 Census. The majority of the catchment area population (69%) were within the 20-64 age cohort. This figure was a 10% increase on the national average and a c. 6% increase on the figure for County Dublin. The population aged 65 years and over accounted for c. 12% which is similar to the national figure (c.13%) and the percentage of the population aged 0-4 years (6%) was again similar to the State. However, there was an 8% difference between the catchment area (c.13%) and the State (c.21%) in terms of the 5-19 age range. The portion of the population within the catchment area who were in their 20s and 30s was c. 9% above the national average. It is therefore submitted that the catchment was characterised by a low-level of younger people when compared with the state.

The construction phase of the development is likely to have a positive effect on local employment and economic activity. A 36 month construction phase is anticipated and an estimated c. 300-400 no. construction personnel will be directly employed. Potential construction impacts on human health in terms of air quality and noise will be managed as per the OCMP.

The completed development will provide 335 no. residential units which will positively contribute to achieving NPF housing targets, including 34 no. social units to be transferred to Dublin City Council in accordance with Part V. The changing demographic profile arising from the completed development is likely to facilitate a balanced age profile within the local area. The development will have a slight

positive effect in terms of changing profile that will be long term in duration and moderate in significance. The café, childcare facility/creche, the facilities management and the ongoing maintenance of the development will generate employment and the increased population as a result of the development will also support the local economy. The potential impacts in terms of economic activity are considered to be moderate, positive and long term. The development will create new links within the site and through the site, increasing permeability with the wider area.

Potential cumulative impacts on population and human health are considered with regard to the permitted developments at ABP-308917-20 and ABP-307221-20. No significant cumulative construction impacts are envisaged subject to the implementation of the OCMP. No significant cumulative impacts on population and human health are identified in association with the completed development.

I note third party concerns regarding public health impacts associated with the potential removal of asbestos at the development site. This matter is specifically addressed to my satisfaction in section 7 of the submitted OCMP and section 4.3 of the Outline Resources and Waste Management Plan. Full details of same may be agreed by condition if permission is granted.

I note third party comments on potential adverse impacts on local services. The attention of the Board is also drawn to the assessment above, which considers the submitted Social Infrastructure Audit and the principle of BTR development at this location.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

11.4.3. Biodiversity

The EIAR assessment of biodiversity impacts is based on bird, mammal and habitat surveys of the site carried out in May and July 2021 and February 2022. Bat surveys were also carried out on 19th May and 3rd August 2021 and a static bat detector was

installed along the Grand Canal for eight nights between 26th July and 2nd August 2021.

The boundary of the Grand Canal pNHA (site code 002104) includes lands at the White Heather Industrial Estate. However, the site surveys confirm that the habitats within the development site are Built Land and Artificial Surfaces (BL3) with Amenity Grassland (GA1) and individual trees and none of the qualifying interests or habitats identified for the pNHA are present within the development site. Sycamore and Elm trees overhang the Grand Canal outside the site boundary. There is a stand of butterfly bush (*Buddlei davidii*) present at the bank of the Grand Canal and the amenity grassland verge. The southern towpath of the Grand Canal supports a denser riparian zone. These will not be affected or removed as part of the development. The trees on the canal bank (outside the site boundary) and mature lime trees within the boundary of the church grounds provide some woodland habitat for fauna and are considered to be of local importance. There are no plant species protected under the Flora Protection Order (2015) identified within the development site. Two such species Meadow Barley (*Hordeum secalinum*) and Opposite-leaved Pondweed (*Groenlandia densa*) were recorded at the Grand Canal, outside the site boundary. As the development site does not support species or habitats that have been identified as forming part of the Grand Canal pNHA, and given the presence of a linear area of amenity grassland with occasional individual trees that provide a buffer between the development and the Grand Canal itself, no significant impacts on the Grand Canal are identified subject to the implementation of the OCMP and design measures including the proposed surface water management strategy.

The South Dublin Bay pNHA is located downstream of the development site. Given the distance of approximately 8km between the development and this pNHA; being drained by the river between the development and the pNHA; and the tidal influence on the waters of the pNHA, it is considered that any emissions from the development site to the River Tolka will be entirely attenuated, diluted and dispersed prior to draining to this pNHA. As such the hydrological pathway connecting the project site to this pNHA will not have the potential to function as an impact pathway and undermine the status of this pNHA.

Given that the habitats present at the site have low nature conservation importance, their loss will represent an impact of minor negative significance. The loss of trees at

the site is discussed above in the context of the submitted Arboricultural Report. While this loss represents a high impact on individual tree level, the retention of the mature lime trees and in particular the trees associated with the riparian zone of the Grand Canal are of higher ecological value and represents a positive impact. In addition, the proposed landscaping within the development and at the linear park at the canal bank will have the potential to increase and enhance habitat occurring within the site for invertebrates, including pollinators and enhance the foraging resource for other insect-predating species such as birds and bats, a positive impact for the local biodiversity.

There are no aquatic habitats occurring within the development site and there will be no loss of such habitat or other potential direct impacts to freshwater aquatic habitats. See discussion below of potential water impacts.

The buildings at the development site provide some nesting opportunities for swallows (a protected species under the Wildlife Acts and on the Birds of Conservation Concern - Amber List). However, no breeding swallows or evidence of past breeding in the form of old nests were recorded within the buildings at the site during field surveys. The site provides very limited suitable foraging habitat for bird species. The bird fauna recorded at the site was typical of urban habitats at the Grand Canal. No red listed bird species such as yellowhammer were heard or seen during the habitat surveys. No wetland birds such as mallard or mute swan were recorded during site visits however the Grand Canal outside the site boundary does provide suitable habitat to support such species. No such habitat is present on site to support these wetland bird species. The site is assessed overall as being of low sensitivity for birds. The removal of 7 no. trees at the site will result in a minor loss of potential nest habitat for bird species. There is potential for a minor negative impact on birds associated with noise disturbance during construction.

The site does not support any resting or breeding sites for protected non-volant mammals. There are no habitats within the development site that are suitable for otters. The Grand Canal provides commuting and resting habitat for otters. However, the urban character, and presence of humans and frequently dogs on the southern towpath reduces the overall attractiveness of this section of the Grand Canal for otter. In addition, no evidence indicating the presence of otters was recorded along the stretch of the canal at the development site. The nearest evidence of otter

activity (spraints, holts) are northwest of the project site at the River Camac approximately 1847m northeast; otter activity identified at River Poddle which is culverted for much of its length is identified in Tymon Park, approximately 4.5km southwest of the development site. The site is considered to be of low value (Rating E) for protected non-volant mammals and they have not been identified as a key biodiversity receptor within the site. The development does not have the potential to result in significant disturbance to non-volant terrestrial mammals as no breeding sites or resting places for protected terrestrial non-volant mammals such as badgers or otters occur within or immediately adjacent to the site.

The bat surveys of the site included examination of existing structures and trees for roost potential. The Grand Canal and its banks with vegetation provide foraging and commuting habitats for bat species habituated to urban environments. There are no structures on site that have the potential to function as bat roosts. The early mature sycamore tree that straddles the eastern site boundary does not support features that could support roosting bats. Three species of bats were recorded foraging at the site during bat surveys, comprising Common pipistrelle, Soprano pipistrelle and Leisler's Bat. Soprano pipistrelle was the dominant species recorded at the site, while Common pipistrelle was recorded and very occasionally Leisler's bat were also recorded. All three species are widespread and have favourable conservation status at a national range in Ireland. During both activity surveys, bat activity was concentrated exclusively along the Grand Canal itself with visual confirmation of bats commuting over and adjacent to the water and along the treeline vegetation. The overall levels of bat foraging and commuting activity were low. Based on the survey results and the widespread populations of these species, the development site is considered to be of Local importance (lower value) (Rating E) for populations of these species. The development will have no direct impacts on bats given the absence of roost sites. Potential impacts on the local bat population are assessed as negligible, noting that the proposed planting will provide additional habitat for bats. The lighting design for the development will not result in changes to the existing night time light conditions in adjacent areas, particularly at the Grand Canal and will not result in significant negative disturbance to bat species.

Proposed mitigation measures generally comprise construction management measures, as per the OCMP and the submitted Outline Resource & Waste

Management Plan, also surface water management to control any potential runoff to the Grand Canal. In addition, the landscaping proposals will provide new habitats, along with ecological enhancement measures including bird boxes, bat boxes, insect hotels and leaf litter piles. Vegetation will be cleared outside of the bird nesting season. No significant residual impacts are anticipated.

There is a potential cumulative risk associated with cumulative noise, disturbance and surface water risks due to the location of any other nearby construction sites. The EIAR states that the discharge of wastewater from the site during construction and at the completed development will not have the potential to negatively affect the water quality of the transitional/coastal waters, due to the low volumes of water runoff discharging to the Grand Canal and to the dilution of any potentially polluting surface water entering the Grand Canal and the Liffey Estuary downstream at Dublin Bay. As such the wastewater pathway to Dublin Bay does not have the potential to function as an impact pathway and the discharge of wastewater from the project site will not result in likely significant effects to Dublin Bay to the river.

I note the comments of the Department of Housing, Local Government and Heritage on nature conservation. The Department states that there is evidence that the Grand Canal in this area forms a definite feeding and commuting corridor for the two pipistrelle bat species, with roosts of these species identified upstream of the site. In addition, otters have regularly been reported at the canal adjacent to the site which, along with other recorded evidence such as spraint, suggests that at least one otter holt must be located on the neighbouring canal level, and almost certainly at an area immediately downstream of the development site. The Department recommends conditions to control light disturbance as a result of the development, including consultation with a bat specialist on same, also additional trees and planting at the Grand Canal and with the permission of Waterways Ireland the installation of an artificial otter holt. I am satisfied that these measures may be required by condition if permission is granted.

The invasive plant species Butterfly bush (*Buddleja davidi*) and Winter Heliotrope (*Petasites pyrenaicus*) are recorded at the Grand Canal. The implementation of an Invasive Species Management Plan may also be required by condition if permission is granted.

I have considered all of the submissions and having regard to the above, I consider that the EIAR is based on adequate survey information, noting in particular the habitat surveys, bat survey and topographical information on file. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. While I note third party concerns about potential biodiversity impacts associated with tree removal and impacts on the ecology of the Grand Canal, I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity.

11.4.4. Land, Soils, Geology and Hydrogeology

The development site is a brownfield site with previous and current commercial and light industrial site use, which is currently mainly covered in hardstanding. It is not located in any area of geological interest as per GSI records. GSI subsoil mapping classifies the site subsoil as Limestone Till (Carboniferous). The Teagasc Soil Information System classifies the topsoil and subsoil beneath the site as made ground. The primary Groundwater Body (GWB) in the region is the Dublin Urban GWB, which is the Calp Limestone bedrock aquifer. The Lucan Formation, located in the vicinity of the development site, is classified by the GSI as a Locally Important (LI) aquifer which is moderately productive only in local zones with generally low permeability. The majority of flow is in the upper weathered bedrock and is common within fractures and fissures at depths of up to 50m below ground level (mBGL). Regional groundwater flow is towards Dublin Bay and the Irish Sea to the east. The overlying Dublin Boulder Clay is not considered as an aquifer due to its low permeability properties, which act as a barrier to the recharge of the limestone bedrock aquifer. The groundwater vulnerability beneath the site is Moderate. Due to the generally low permeability of the aquifers within the Dublin Urban GWB, a high proportion of the recharge will run off and discharge rapidly to surface watercourses via the upper layers of the aquifer, effectively reducing further the available groundwater recharge to the aquifer. A significant amount of recharge also occurs from leaking sewers, mains, and storm drains in Dublin where non-revenue water is estimated to be around 40%.

Details of 5 no. previous adjacent site investigations are provided, including one in 2010 at the An Post site. The investigations generally indicated the presence of fill materials ranging from 0.7 to 2.8m thick underlain by brown gravelly clay with possible sands or silts. Some deeper investigations also encountered grey gravelly clays underlying these. The presence of bedrock was confirmed at a depth of 20.73mOD on the Dolphin's Barn bridge site. Shallow groundwater ingress was encountered during a number of the investigations. Due to the presence of fill materials, gravelly clays, and gravels, it is possible that water bearing lenses may create a discontinuous perched water table at the site. Depth to the water table was not determined during the investigations but is assumed to be less than 15 m due to the low-lying elevation. Investigations for soil contamination were not noted in the reports except at the Players Mills site where low levels of polycyclic aromatic hydrocarbon and lead contamination were encountered in the fill material by limited environmental testing.

The proposed works will require relatively shallow excavation to approximately 2.0 m bGL including the undercroft area. Based on the results of earlier site investigations, it is anticipated that the dig will occur primarily or completely within dry soils or the perched water table and, therefore, will not affect local hydrogeology. In addition, studies of deep excavations on groundwater flow associated with the proposed Metro North rail line indicated that where basements are founded in low permeability tills such as sandy gravelly clay (Dublin boulder clay), there are no impacts on groundwater regime since it is evident that there is very little water flow in these low permeability horizons regardless of their porosity.

There is potential for the presence of historic contamination sources at the site including those associated with the use and infill of the former canal basins, the subsequent use of the site as a laundry, and for later commercial and light industrial uses. Detailed soil investigation will be carried out prior to development, with any risk identified to be incorporated within a Waste Soil Assessment. This matter is addressed in the Outline Resource & Waste Management Plan. A detailed Conceptual Site Model (CSM) has been produced to assess potential source-pathway-receptor contamination linkages. There are no expected potential pollutant linkages associated with the construction or operation phases of the development subject to the implementation of proposed mitigation measures (construction

management, surface water management and waste management as per the OCMP). While there may be some dewatering, a detailed dewatering strategy will be developed to manage any associated impacts. No significant residual or cumulative impacts are predicted (including consideration of nearby permitted developments).

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to land, soil and geology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of land, soil, and geology.

11.4.5. Water & Hydrology

The development site is located within the Liffey Catchment under the Water Framework Directive (WFD) and the Dodder sub-catchment (SC 010). The nearest water feature is the Grand Canal at the southern site boundary of the site. The development is c. 8 m from the Grand Canal corridor. There are no surface watercourses occurring within the development site. The Grand Canal is located adjacent to the project site and forms a hydrological pathway between the site and Dublin Bay via the River Liffey, c. 1.6 km downstream to the north, noting however that the water in the canal does not flow towards Dublin Bay in the manner of a river or other watercourse. The Grand Canal enters the Liffey at the Grand Canal dock which is classified as moderate status under the WFD but improves to Good status again when draining out to the Liffey Estuary lower at the main channel of the river. The River Camac flows underneath the Grand Canal at this location. The Camac drains to the Liffey which flows into Dublin Bay. The River Poddle is approximately 836 m to the east, however the Poddle is culverted for much of its length in the city centre and there is no connection between the development site and this watercourse. The Liffey has a “good” status under the Water Framework Directive 2013-2018 programme but is “at risk” of not achieving good status by 2027.

A SSFRA is submitted. The site and its vicinity are located in Flood Zone C and are not at risk of fluvial, tidal, or groundwater flooding. The Grand Canal has a flood probability of 0.1% AEP.

Surface water from the site currently discharges to the surface water network. The development will result in the discharge of surface water runoff from the site during both the construction phase and operation phases. The demolition and excavation of quantities of hardstanding areas and underlying soil may result in surface water runoff containing increased silt levels or polluted by waterborne silt, cementitious material and other debris. In addition, there is potential for contamination of the surface water runoff with soil particles and debris when discharging to the public network. Heavy siltation or grit in the surface water runoff would lead to maintenance issues for the receiving gravity sewerage network on the South Circular Road. The combined sewerage network flows to the Ringsend Wastewater Treatment Works. During the construction of the new water utilities infrastructure systems, there is the potential for unattenuated and untreated surface water to be discharged to the existing public wastewater sewer /water supply systems due to pipes and manholes being left open. There is a risk of groundwater/watercourses/surface water network pollution by accidental spillage of wastewater effluent when making connections to live sewers. Pollution of groundwater/watercourses/soils by accidental spillage of oils/diesel from temporary storage areas, or where construction equipment is maintained, with particular risk to the adjacent Grand Canal. EIAR sections 8.6 and 8.7 and Table 8.1 outline proposed surface water management measures during construction. The proposed surface water management system and SuDS at the completed development, as discussed above, will attenuate surface water runoff to equivalent greenfield runoff rates, following the Greater Dublin Strategic Drainage Study (GDSDS) and Dublin City Council requirements. Car park drainage will discharge to the wastewater network via a class 1 fuel separator. No significant residual or cumulative impacts are predicted.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to water and hydrology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of water and hydrology.

11.4.6. Material Assets – Built Services

EIAR Chapter 11 considers impacts on the material assets of surface water drainage, wastewater drainage, water supply, electrical supply, gas supply and telecoms in the vicinity. No significant impacts are predicted, including cumulative impacts.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to material assets – built services would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of material assets – built services.

11.4.7. Material Assets – Transportation

EIAR Chapter 10 considers traffic and transportation impacts associated with the development. The findings of EIAR Chapter 10 are based on the findings of site visits, traffic observations, on-site traffic counts and architectural plans. The Board is referred to the above assessment in respect of traffic and transportation, which summarises the EIAR findings and considers relevant issues raised in third party submissions. No significant impacts are predicted, including cumulative impacts, noting the highly accessible location of the development site, the limited provision of car parking within the development, and with regard to the submitted Mobility Management Plan.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Material Assets Transportation would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Material Assets Transportation.

11.4.8. Material Assets – Waste Management

EIAR Chapter 11 outlines potential waste generation and proposed waste management measures for the construction and operational stages of the development, including site excavation and demolition of the existing structures and

hardstanding on site. Waste generated during construction will be managed according to the submitted Outline Resource & Waste Management Plan and OCMP. A proposed Operational Waste Management Plan is set out in EIAR Appendix 11.2. No significant residual or cumulative impacts are predicted.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Material Assets Waste Management would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Material Assets Waste Management.

11.4.9. Air Quality and Climate

The occupation of the development would not be likely to have a significant effect on climate or air quality. The construction phase could affect air quality at nearby sensitive receptors through the emission of dust. However, any such effects can be properly limited through the proposed dust mitigation measures set out in EIAR Section 12.7 and the Dust Minimisation Plan in Appendix 12.2. No significant residual impacts are predicted.

I note third party concerns regarding dust impacts during construction. I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to climate and air quality would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of climate and air quality.

11.4.10. Noise and Vibration

EIAR Chapter 13 considers potential noise and vibration impacts associated with the development, primarily during the construction phase. The closest neighbouring noise sensitive locations (NSLs) are houses at South Circular Road, St James' Terrace and Priestfield Cottages and at Parnell Road to the south of the Grand Canal, also Our Lady of Dolours church.

The EIAR assessment of construction noise and vibration impacts refers to the documents 'BS 5228 2009+A1 2014 Code of practice for noise and vibration control on construction and open sites', which provides guidance on permissible noise levels relative to the existing noise environment and 'BS 5228-2:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Vibration'. The EIAR assessment of construction noise and vibration impacts is based on baseline noise monitoring carried out at two locations at the development site in January and May 2020 and January 2022. Potential construction noise impacts associated with plant use and construction traffic are indicated in EIAR Table 13.12. The calculated noise levels in show that the criteria for residential receptors will be exceeded at locations that are up to 35m from areas of construction works. Given that the nearest NSLs are located some 10-20m from the site boundary, therefore the contribution of construction noise is predicted to be in the range of +11 to +5 dB above the recommended criteria and a negative, significant to very significant and short-term impact is expected at these nearest NSLs. The predicted construction noise levels at residential NSLs at 35m from works is predicted to be below the recommended noise criteria and therefore a negative, moderate and short term impact is predicted. Construction works will be carried out in accordance with best practice control measures for noise and vibration from construction sites as per BS 5228 (2009 +A1 2014) Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2. EIAR Table 13.15 details proposed construction noise management measures. Residual construction noise levels are predicted to be above the Construction Noise Threshold to varying degrees at NSLs less than 35m from construction works. Impacts are therefore predicted to be negative, significant to very significant and short-term at distances of up to 10m and negative, moderate to significant and short-term at distances of 20 m. At distances of 35m and greater, the impact is predicted to be negative, slight to moderate and short-term.

The proposed route for construction traffic to and from the development is along the South Circular Road. It is considered that construction traffic will not result in a significant noise impact.

There is potential for cumulative noise impacts associated with construction at adjacent permitted developments. Liaison between construction sites is recommended.

The predicted vibration levels during construction, including piling and excavation, are expected to be below the vibration threshold for building damage based on experience from other sites. Vibration levels at the nearest buildings are not expected to pose any significance in terms of cosmetic or structural damage. In addition, the range of vibration levels is typically below a level which would be likely to cause disturbance to occupants of nearby buildings.

There are no significant predicted noise or vibration impacts associated with the completed development, including consideration of traffic noise impacts.

I note third party concerns about noise impacts during construction and also potential structural impacts at adjacent residential properties. While there is potential for significant noise impacts during construction at nearby NSLs, these impacts are short term, will be reduced by the implementation of proposed mitigation measures, and would be the case for any development of these zoned and serviced lands. I am satisfied overall that impacts predicted to arise in relation to noise and vibration would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

11.4.11. Microclimate – Daylight, Sunlight and Overshadowing

EIAR Chapter 14 considers impacts associated with daylight, sunlight and overshadowing. The Board is referred to the above assessment, which summarises the findings of the applicant's Daylight, Sunlight and Overshadowing assessment and also considers the submitted Supplementary Daylight, Sunlight and Overshadowing Report.

I have considered all the submissions and having regard to the above and I note the significant third party concerns in relation to this matter. Having regard to the above assessment, I am satisfied that the submitted Daylight, Sunlight and Overshadowing assessment is adequate to assess related impacts on residential amenities in the

context of recommended BRE criteria, notwithstanding third party comments in relation to same. However, I consider that the development will have significant adverse daylight and sunlight impacts on residential amenities. I am therefore not satisfied that impacts predicted to arise in relation to daylight, sunlight and overshadowing would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of daylight, sunlight and overshadowing.

11.4.12. Microclimate – Wind

EIAR Chapter 15 considers potential wind microclimate impacts associated with the completed development with regard to guidance provided in the UK Buildings Research Establishment BRE DG 520: Wind Microclimate Around Buildings and the document Sustainable Design and Construction, The London Plan Supplementary Planning Guidance, 2006, Mayor of London's Office and Sustainable Design and Construction, Supplementary Planning Guidance, April 2014. The Board is referred to the above assessment, which summarises the findings of EIAR Chapter 15 and the submitted Microclimatic Wind Assessment and Pedestrian Comfort Assessment. There are no expected microclimate impacts associated with the construction phase.

I note third party comments that the EIAR does not consider localised heating as a result of high rise development. I do not consider that significant impacts are likely to arise in this regard given the limited scale of the proposed development and the low-rise nature of the area immediately around the development site.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Microclimate – Wind would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Microclimate - Wind.

11.4.13. Landscape and Visual Impact Assessment

The Board is referred to the above assessment of landscape and visual impacts as set out in the LVIA and the submitted photomontages and CGI's. Having regard to

the above, I note that the submitted LVIA, photomontages, drawings and other documentation on file do not give adequate detailed consideration to visual impacts at several locations, including at Priestfield Cottages and the Z2 conservation area at South Circular Road. The EIAR is therefore considered to be deficient in this respect.

I have considered all the submissions and having regard to the above and noting third party concerns about overbearing impacts at adjacent residential properties, particularly at Priestfield Cottages and St. James's Terraces. I have considered all the submissions and having regard to the above, I am not satisfied that the predicted visual impacts would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of visual impacts.

11.4.14. Cultural Heritage – Archaeology and Architectural Heritage

EIAR Chapter 17 considers Archaeological and Cultural Heritage and Chapter 18 considers Built Heritage, as summarised and discussed above.

The EIAR assessment of archaeology impacts is satisfactory and I am satisfied that the predicted impacts on archaeology would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions, noting also the comments of DCC Archaeology Section and of the Department of Housing, Local Government and Heritage in relation to this matter.

Having regard to the limited photomontages, CGIs and drawings and to the lack of assessment of potential impacts on the Z2 conservation area at South Circular Road, I do not consider that the EIAR adequately considers architectural heritage impacts. The EIAR is therefore considered to be deficient in this respect. Therefore, I am not satisfied that impacts predicted to arise in relation to Architectural Heritage would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Architectural Heritage.

11.5. Cumulative Impacts

11.5.1. I have addressed the cumulative impacts in relation to each of the environmental factors above, noting that these are considered in the individual EIAR chapters. EIAR Chapter 20 presents a summary of cumulative impacts and interactions and I consider that the EIAR presents a comprehensive consideration of the relevant developments within the wider area where there is potential for cumulative impacts with the proposed development.

11.6. Reasoned Conclusion on the Significant Effects

11.6.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR including the proposed mitigation measures outlined in the individual EIAR chapters, to the supplementary information which accompanied the application, and the submissions from the planning authority, observers, and prescribed bodies in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Positive impacts on population and human health due to the increase in the housing stock within the Dublin 8 area. Potential impacts on human health during construction will be mitigated by the measures set out in the Outline Construction Management Plan (OCMP) and the Resource Waste Management Plan. No adverse impacts on demographics or employment are identified. I am satisfied that, after the proposed mitigation measures, there are no likely significant residual adverse impacts on population or human health for the construction or operational phases of the development.
- Biodiversity impacts, which will be mitigated by construction management measures including dust management, noise management and waste management; landscaping; measures to protect surface water quality during construction and operation including SuDS measures; landscaping proposals which will provide new habitats and ecological enhancement measures including bird boxes, bat boxes, insect hotels and leaf litter piles. I am satisfied that, after the proposed mitigation measures, there are no likely significant residual adverse impacts on biodiversity for the construction or operational phases of the development.

- Land, Soils and Geology impacts, which will be mitigated by the measures set out in the OCMP and the Resource Waste Management Plan including control of soil excavation/ infill and export from site; fuel and chemical handling, transport and storage and control of water during construction, also by the proposed surface water management measures that are part of the completed development. I am satisfied that, after the proposed mitigation measures, there are no likely significant residual adverse impacts on land, soils and geology for the construction or operational phases of the development.
- Water impacts, which will be mitigated by construction management measures as per the OCMP; SuDS measures, surface water management and monitoring. I am satisfied that, after the proposed mitigation measures, there are no likely significant residual adverse impacts on water for the construction or operational phases of the development.
- Noise and Vibration impacts, which will be mitigated by best practice control measures for noise and vibration and monitoring during construction and by façade design to acoustic performance specifications in the completed development. I am satisfied that, after the proposed mitigation measures, there are no likely significant residual adverse noise or vibration impacts for the construction or operational phases of the development.
- Daylight, Sunlight and Overshadowing Impacts. As discussed above, I am satisfied that the submitted Daylight, Sunlight and Overshadowing assessment is adequate to assess related impacts on residential amenities in the context of recommended BRE criteria, notwithstanding third party comments in relation to same. However, I consider that the development will have significant adverse daylight and sunlight impacts on residential amenities at adjacent properties. I am therefore not satisfied that impacts predicted to arise in relation to daylight, sunlight and overshadowing would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions.
- Landscape and Visual Impacts. I consider that the submitted LVIA, photomontages, drawings and other documentation on file do not give adequate detailed consideration to visual impacts at several locations, including at

Priestfield Cottages and the Z2 conservation area at South Circular Road. The EIAR is therefore considered to be deficient in this respect. In addition, I am not satisfied that the predicted visual impacts would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of visual impacts.

- Having regard to the limited photomontages, CGIs and drawings and to the lack of assessment of potential impacts on the Z2 conservation area at South Circular Road, I do not consider that the EIAR adequately considers architectural heritage impacts. The EIAR is therefore considered to be deficient in this respect. Therefore, I am not satisfied that impacts predicted to arise in relation to Architectural Heritage would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Architectural Heritage.

11.6.2. Having regard to the above, I consider that the likely significant environmental effects arising as a consequence of the proposed development have not been satisfactorily identified, described, and assessed in the submitted EIAR.

12.0 Appropriate Assessment

12.1. AA Introduction

12.1.1. This assessment has had regard to the submitted AA document, prepared by Doherty Environmental, dated March 2022. I have had regard to the contents of same. The report concludes that the possibility of any significant effects on any European Sites arising from the proposed development are not likely to arise, whether considered on its own, or in combination with the effects of other plans or projects. The assessment is informed by the other environmental reports on file, including the Engineering Services Report and the EIAR, in particular Chapter 6 Biodiversity and Chapter 8 Hydrology. I am satisfied that adequate information is

provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used.

12.2. The Project and Its Characteristics

12.2.1. See the detailed description of the proposed development in section 3.0 above.

12.3. The Development Site and Receiving Environment

12.3.1. See site description in section 2.0 above. There are no designated sites within or immediately adjacent to the development. No Annex I habitats for which European Sites within 15 km have been designated were recorded within the development site or in the immediate vicinity. The desktop study and site surveys carried out by the applicant found no records of any species or habitats within the subject lands, their immediate environs, or 2 km from the subject lands, for which European sites within 15 km are designated. No species or habitats for which European sites within 15 km are designated for were recorded during the field surveys.

12.3.2. The development site is located within the River Liffey and Dublin Bay catchment (in the Dodder sub-catchment and the Poddle sub-basin. There are no surface watercourses present on or in the immediate vicinity of the site. The Grand Canal is adjacent to the southern site boundary. See above discussion of the Grand Canal pNHA in the context of EIA.

12.4. Stage I Appropriate Assessment

12.4.1. In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site.

12.4.2. 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 development is likely to have significant effects on a European site(s). There are no designated sites within or immediately adjacent to the development. The applicant's Stage I screening assessment identifies the following designated sites within c. 15km of the development:

European Site (code)	Distance to Development	Qualifying Interests/ Conservation Objectives
SAC		
South Dublin Bay SAC (000210)	7.5 km downstream	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
North Dublin Bay SAC (000206)	7.5 km downstream	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Baldoyle Bay SAC (000199)	13.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of</p>

		<p>the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
Howth Head SAC (000202)	13.7 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
Rockabill to Dalkey Island SAC (003000)	13.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitat and Annex II species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p>Phocoena (Harbour Porpoise) [1351]</p>
Glenasmole Valley SAC (001209)	13.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats:</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p>
Wicklow Mountains SAC	10.3 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of</p>

(002122)		<p>the following Annex I habitats and Annex II Species, as defined by specific attributes and targets:</p> <p>Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
Rye Water Valley / Carton SAC (000206)	1.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II Species,</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p>
Knocksink Wood SAC (000725)	14.5 km	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats:</p>

		<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p>
SPA		
<p>South Dublin Bay and River Tolka Estuary SPA (004024)</p>	<p>7.5 km downstream</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>North Bull Island SPA (004006)</p>	<p>7.5 km downstream</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p>

		<p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>
Dalkey Islands SPA (004172)	14.5 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>
Wicklow Mountains SPA (004040)	10.3 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Merlin (<i>Falco columbarius</i>) [A098]</p> <p>Peregrine (<i>Falco peregrinus</i>) [A103]</p>
Baldoyle Bay SPA (0004016)	13.5 km	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p>

		Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]
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12.4.4. I do not consider that any other European Sites fall within the zone of influence of the project, having regard to the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

12.4.5. I consider that there is no possibility of significant effects on the following designated sites within 15 km, with regard to their conservation objectives, due to intervening distances, to the nature of the intervening land uses and to the absence of a hydrological or any other linkage between the development and the European Site, and/or due to the presence of a substantial marine water buffer between the surface water discharge point and / or the WWTP outfall pipe at Ringsend and the European site and potential for pollution to be dissipated in the drainage network. I have therefore excluded them from the remainder of this AA screening.

- Baldoyle Bay SAC (000199)
- Howth Head SAC (000202)
- Rockabill to Dalkey Island SAC (003000)
- Glenasmole Valley SAC (001209)
- Wicklow Mountains SAC (002122)
- Rye Water Valley / Carton SAC (000206)
- Knocksink Wood SAC (000725)
- Dalkey Islands SPA (004172)
- Wicklow Mountains SPA (004040)
- Baldoyle Bay SPA (0004016)
- Howth Head Coast SPA (004113)

12.5. Potential Effects on Designated Sites

12.5.1. Having regard to the potential zone of influence and to the submitted AA document, the following Natura 2000 sites are identified as lying within the potential zone of influence of the development due to potential indirect hydrological connections between the development and the European Sites in Dublin Bay via the surface water sewer network and the foul sewer network:

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

12.5.2. I consider that the only likely significant risks to the four European sites arise from potential construction and/or operation related surface water discharges from the development site and the potential for these effects to reach the downstream European sites. I found no evidence to the contrary in my assessment or in the contents of the submissions received. The following points are noted in this regard:

- The nature and scale of the proposed development being a moderately sized residential development on zoned and serviced land.
- The development cannot increase disturbance effects to birds in Dublin Bay given its distance from these sensitive areas. There are no sources of light or noise over and above that this is already experienced in this built-up, urbanised location.
- Habitats on the site are not suitable for regularly occurring populations of wetland or wading birds which may be features of interest of the South Dublin Bay and River Tolka Estuary SPA. The development will not lead to any decrease in the range, timing, or intensity of use of any areas within any SPA by these QI bird species. The development will not lead to the loss of any wetland habitat area within either SPA. No ex-situ impacts can occur.
- With regard to potential hydrological connections, there is a hydrological pathway between the development site and Dublin Bay via the Grand Canal. The downstream Dublin Bay European Sites are linked to the development via this

hydrological pathway, however the extent of the connection is limited given the nature of the canal, which does not flow towards the sea as would be the case with a watercourse.

- There is potential for surface water from the development to reach the above designated sites from surface water discharges during the construction and operational phases. However, the potential for surface water generated at the development site to reach the designated sites, during both the construction and operational phases, is negligible due to the distance and consequent potential for dilution. The Dublin Bay designated sites are c. 7.5 km downstream of the development site and the Grand Canal and the waters discharging from it to the Liffey Estuary represent a minor fraction of the overall volume of freshwater draining into the Liffey estuary and Dublin Bay. In addition, studies have shown that pollutants in the estuary are rapidly mixed and become diluted within the estuary and Dublin Bay.
- Given this hydrological distance and the estuarine / coastal mixing processes and dilution that would occur between the development site and these designated areas, it is unlikely that the development would lead to any significant decrease in water quality in Dublin Bay which would affect these European Sites or their qualifying interests. In addition, water quality is not a target for the maintenance of any of the QIs within either SAC of Dublin Bay. The targets relate to habitat distribution and area, as well as vegetation structure and control of negative indicator species and scrub. The development will not lead to any impacts upon these QIs, by virtue of changes to the physical structure of the habitats or to the vegetation structure which defines their favourable conservation status. I am satisfied that no significant effects will occur to the SACs or SPAs from surface water leaving the site during construction, and as a result of the distance and temporary nature of works. No significant effects to the SACs or SPAs will occur during construction or operation as pollution sources will be controlled through the use of best practice site management and standard drainage proposals including SUDS measures. Even in the absence of these standard best practices, I am satisfied that no significant ill effects will arise given the separation distances to designated sites and to the potential for dilution, as discussed above.

- The EIAR, the Engineering Services Report, the OCMP and the Outline Resource & Waste Management Plan detail standard construction management measures to control the possibility of potential pollutants exiting the site during construction and operation (in respect of SuDs), including surface water management, material storage, waste management and other environmental management measures. These works / measures are a standard approach for construction works in an urban area and it should be noted that their implementation would be necessary for a residential development on any site in order to protect the surrounding environs regardless of proximity or connections to any European Site or any intention to protect a European Site. I am satisfied that the measures outlined are typical and well proven construction methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission.
- I also consider that, even if the aforementioned best practice construction management measures were not in place, the possibility of significant effects on designated sites is unlikely given the nature and scale of the development, the intervening distance between the development and the designated sites and the resultant dilution factor with regard to the conservation objectives of the relevant designated sites and habitats and species involved. I therefore do not include these measures as 'mitigation measures' for the purposes of protecting Natura sites.
- The development will be served by a public wastewater sewer. Therefore, there is a weak / indirect / interrupted hydrological link between the Site and South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA via discharges from Ringsend WWTP during the operational phase. The potential for foul waters generated at the development site to reach European sites within Dublin Bay and cause significant effects, during the construction and operational phases, is negligible due to:
 - The potential for dilution in the surface water network during heavy rainfall events.
 - The upgrade works to Ringsend WWTP which will increase the capacity of the facility from 1.6 million PE to 2.4 million PE.

- It is considered that effects on marine biodiversity and the European sites within Dublin Bay from the current operation of Ringsend WWTP are unlikely.
- The main area of dispersal of the treated effluent from Ringsend WWTP is in the Tolka Basin and around North Bull Island. South Dublin Bay is unaffected by the effluent from the plant (Irish Water, 2018).
- The increase of Population Equivalent (PE) at the facility as a result of the proposed development, assuming each PE unit was not previously supported by the WWTP, is considered to be an insignificant increase in terms of the overall scale of the facility. This potential maximum increased load does not have the capacity to alter the effluent released from the WWTP to such an extent as to result in likely significant effects on this SAC. In addition, upgrade works are currently on-going at Ringsend WWTP to increase the capacity of the facility from 1.6 million PE to 2.4 million PE by 2025. This plant upgrade will result in an overall reduction in the final effluent discharge of several parameters from the facility including BOD, suspended solids, ammonia, DIN and MRP (Irish Water, 2018).

12.5.3. I am therefore satisfied that there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on them, in view of their qualifying interests and conservation objectives.

12.1. In Combination Effects

12.1.1. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, including the Dublin City Development Plan 2022-2028 covering the location of the application site. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and

surface water. While this project will marginally add to the loadings to the municipal sewer, evidence shows that negative effects to Natura 2000 sites are not arising. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is currently operating under EPA licencing which was subject to AA Screening. Similarly, I note the planning authority raised no AA concerns in relation to the proposed development.

- 12.1.2. The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any SAC or SPA. There are no projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

12.1. AA Conclusion and Screening Determination

- 12.1.1. In conclusion, therefore, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations outlined above, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites

13.0 Recommendation

- 13.1. Section 9(4) of the Act provides that the Board may decide to:

- (a) grant permission for the proposed development
- (b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision

- (c) grant permission, in part only, for the proposed development, with or without any other modifications as it may specify in its decision, or
- (d) refuse to grant permission for the proposed development and may attach to a permission under paragraph (a), (b) or (c) such conditions it considers appropriate.

Having regard to the documentation on file, the submissions and observations, the site inspection, and the assessment above, I recommend that that section 9(4)(d) of the Act of 2016 be applied and that permission for the above described development be **REFUSED** for the reasons and considerations set out below.

14.0 Recommended Board Order

Planning and Development Acts 2000 to 2023

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 11th day of April 2022 by Avison Young on behalf of U and I (White Heather) Limited.

Proposed Development:

Permission for a Strategic Housing Development on lands at the White Heather Industrial Estate, South Circular Road and 307/307a South Circular Road and 12a St James's Terrace, Dublin 8.

The development will consist of:

1. Demolition of all existing buildings on site except 307/307a South Circular Road including industrial storage warehouses and office buildings and construction of a mixed residential and commercial development with a total floorspace of circa 30,242 square metres. The total proposed residential floorspace is circa 26,119 square metres and consists of a total of 335 number Build to Rent residential units including Part V provision as follows:

- A terrace of seven number three-storey three bed townhouses
- Block B01 (five storeys) comprising 24 number units
- Block B02 (5–7 storeys) including a link to Block B02A (five-storeys) comprising 84 number units
- Block B03 (5-10 storeys) including 77 number units and residents amenities including Concierge/Management Office, Gym, Events Suite,

Co-Working/Lounge, Cinema/Media Room, Dining/Kitchen area, external roof terrace at fifth floor level and a 'Canal Café' at ground floor level

- Block B04 (5-7 storeys) comprising 72 number units
 - Block B05 (five storeys) comprising ten number units with a café unit at ground floor level
 - Block B06 (2-5 storeys) comprising 29 number units
 - Block B07 (3-5 storeys) comprising 32 number units
2. A two-storey Childcare Facility / Creche (circa 260 square metres);
 3. A total of circa 2,960 square metres of landscaped Public Open Space including a Pedestrian Priority Street between Blocks B03 and B04 to a publicly accessible landscaped Linear Park along the Grand Canal within the Z9 Amenity/Open Space Lands;
 4. Communal Open Space of circa 2,160 square meters;
 5. Part V provision of 34 number units and 10% of the total units to be provided at Block B01 and Block B05 as 20 number one-bed units and 14 number two-bed units;
 6. 106 no. car parking spaces are provided with 41 number car parking spaces at grade, including 5 number parking spaces within the curtilage of townhouses, and 65 number car parking spaces at undercroft area with lobbies linking to Blocks

B02 and B03 entrance lobbies, cycle parking storage areas, staff area, refuse store areas and plant areas;

7. 558 number cycle spaces at surface (352 number spaces) and undercroft levels (206 number spaces) of which 491 number are secure bicycle spaces and 67 number are visitor spaces;
8. Realignment and improvement works to the existing entrance junction on South Circular Road and the existing entrance to Priestfield Cottages to provide road markings, footways and formal uncontrolled crossing points;
9. Works to surface treatments to provide pedestrian and cycle access only to the existing entrance at St James's Terrace;
10. A change of use of the existing two-storey residential units 307/307a South Circular Road from residential to shared workspace/office space (circa 165 square metres);
11. Three number electricity sub-stations in Blocks B02, B03 and B04; and
12. All enabling and site development works, hard and soft landscaping, public realm works, public art, lighting, services and connections, waste management and all other ancillary works.
13. The application is accompanied by an Environmental Impact Assessment Report (EIAR).

Decision:

Refuse permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered:

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

Reasons and Considerations

1. Having regard to the provisions of the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, to accompany the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020, and the design and layout of the proposed development, it is considered that the proposed development by reason of inadequate provision of private open space for apartment units and inadequate standards of daylight and sunlight within apartment units, in the absence of detailed compensatory measures, would contravene policies QHSN36 High Quality Apartment Development and QHSN37 Houses and Apartments of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the design and layout of the development and in particular the scale and proximity of elements adjacent to existing residential properties, it is considered that the development would have significant adverse impacts on residential amenities by way of overlooking, overbearing and overshadowing. The

development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would have an adverse impact on the adjoining Z2 Conservation Area at South Circular Road, in particular houses nos. 309-319 South Circular Road by way of overlooking, overshadowing and visual impacts, contrary to Policy BHA9 of the Dublin City Development Plan 2022-2028, which seeks to protect the special interest and character of Z2 Conservation Areas. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

Sarah Moran
Senior Planning Inspector
2nd March 2023