



An
Bord
Pleanála

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

Inspector's Report ABP-313289-22

Strategic Housing Development

472 no. apartments, creche and associated site works.

Location

'Hartfield Place', Swords Road,
Whitehall, Dublin 9.
(www.hartfieldshd.ie)

Planning Authority

Dublin City Council

Applicant

Eastwise Construction Swords Limited

Prescribed Bodies

Department of Housing, Local
Government and Heritage.

Irish Water

National Transport Authority

Transport Infrastructure Ireland

Observer(s)

Ciaran Hanratty
Colm O'Brien
Dennis Storey
Elaine and Kieran Weldon
High Park Residents Association
Ivan and Hilda Bolton
Julie Marchand
Karl McCarren
Orla Moran
Paavo Evans and Niamh Heraughty
Patricia Roe
Robert Murphy
Róisín Shortall
Sean Bolger
Sean O'Flaherty
Sharon Weldon

Date of Site Inspection

27th September 2022.

Inspector

Elaine Power

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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 subject site is located in Whitehall on the eastern side of the Swords Road (R132), c.160m south of the junction with Collins Avenue and c. 4km north of Dublin city centre. The surrounding area is characterised by traditional low density suburban housing and institutional lands. The site is bound to the north by vacant lands owned by Dublin City Council and to the north east by Whitehall GAA grounds. To the south the site is bound by Highfield Hospital Alzheimer's care centre and mental health centre, which campus includes 2 no. protected structures. To the east the site is bound by Beech Lawn Nursing Home and High Park residential estate. To the west the site is bound by the Swords Road. On the opposite side of the Swords Road are a number of two-storey houses and a row of neighbourhood shops at the junction with Iveragh Avenue.
- 2.2. The site has a gross area of 3.89 ha, which includes works to public road and infrastructure connection and a net developable area of 2.73 ha. The site is generally square in shape and level. The site was previously used as a depot for the construction of the Port Tunnel, which generally runs in a north-south direction under the eastern side of the site.
- 2.3. Permission was previously granted for 374 no. apartments and associated works (ABP Ref. PL29N.238685, Reg Ref. 3269/10), as amended by Reg Ref 3405/19. Works have commenced on site, however, there was no active construction work during my site visit on the 27th October 2022. There is high quality hoarding along the sites entire boundary with the Swords Road with a variety of boundary fencing, walls and vegetation along the sites northern, southern and eastern boundaries. There is also an existing vehicular access to the site from the Swords Road.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed development comprises the construction of 472 no. residential units, a creche (c.445.76sqm) and a café unit (c.99sqm) in 7 no. urban blocks ranging in height from 4 to 8 storeys over basement. The apartments comprise 32 no. studios, 198 no. 1-beds, 233 no. 2-beds, and 9 no. 3-beds. The scheme also incorporates internal residential amenity space (c.511sqm).
- 3.2. The scheme includes 337 no. car parking spaces, 982 no. cycle parking spaces and 14 no. motorcycle spaces at basement and surface level, public open space and communal open spaces at ground and roof levels.
- 3.3. Vehicular access is proposed from the Swords Road with associated works / upgrades to the existing public road layout, junctions, bus lane and footpath network to facilitate same. 2 no. additional pedestrian / cyclist only accesses are provided from the Swords Road as well as a separate pedestrian and cyclist access to the southwest which also facilitates emergency vehicular access.
- 3.4. The proposed development also includes the introduction of a signalised fourth arm to the existing Swords Road / Iveragh Road junction, provision of pedestrian crossings to all arms of the new junction, the removal of one existing street car parking space from the western side of Swords Road to facilitate the new junction and pedestrian crossings, the provision of a right turn pocket on the northbound approach of Swords Road and a left turn filter lane on the southbound approach into the development site and the replacement of the existing public footpath along Swords Road along with a new grass verge and a cycle path.
- 3.5. The application includes all development works, landscaping, ESB substations, plant areas, bin storage, surface water attenuation, and site services required to facilitate the proposed development. Upgrades to the Irish Water network to facilitate the development are also proposed.
- 3.6. Key Development Statistics are outlined below:

| | Proposed Development |
|--------------------------|--|
| Site Area | 3.89 ha gross / 2.73 ha net |
| No. of Units | 472 no. |
| Unit mix | 32 no studio's (7%), 198 no. 1-bed's (42%), 233 no 2-bed's (49%) and 9 no. 3-bed's (2%) |
| Density | 173 units per ha |
| Plot Ratio | 1.47 |
| Site Coverage | 29.2% |
| Height | Block A: 5 - 8 storeys Block B: 5 - 6 storeys Block C: 4 – 6 storeys Block D: 7 - 8 storeys Block E: 4 – 8 storeys Block F: 5 - 6 storeys Block G: 4 – 6 storeys |
| Dual Aspect | 55.6 % dual aspect. No single aspect north facing units |
| Other Uses | Creche (c. 445.76 sqm) Café unit (c. 99 sqm) |
| Public Open Space | 6,165 sqm net (22.5% of site area) |
| Car Parking | 337 no. spaces |
| Bicycle Parking | 982 no. spaces |

3.7. The application included the following:

- Response to An Bord Pleanála Opinion
- Planning Report
- Design Statement
- Schedule of Accommodation
- Housing Quality Assessment
- Housing Quality Assessment – Part V
- Environmental Impact Assessment – Volume 1 – Main Statement
- Environmental Impact Assessment – Volume 2 – Appendices
- Environmental Impact Assessment – Volume 3 – Non-Technical Summary
- Appropriate Assessment Screening Report
- Landscape Design Strategy

- Landscape Management and Maintenance Plan
- Arboricultural Assessment
- Traffic and Transport Assessment
- Mobility Management Plan
- Car Parking (Management) Strategy
- Site Servicing and Operation Plan / Operational Service Management Plan
- Quality Audit Report
- Quality Audit - Additional Information / Response from Designer
- Engineering Services Report
- Tunnel Impact Assessment
- Operational Waste Management Plan
- Resource and Waste Management Plan
- Construction and Environmental Management Plan
- Outline of Proposed Structures Report
- Site Specific Flood Risk Assessment
- Public Lighting Report
- Flood Lighting Report
- Building Lifecycle Report
- Acoustic Design Statement
- Energy Statement
- Verified Photomontages

4.0 **Planning History**

4.1. **Subject Site**

Strategic Housing Development 309608-21: Permission was refused in 2021 for 475 no. apartments and a café unit arranged in 7 no. blocks and a separate single storey creche building. The reason for refusal related to an under provision of public open space which would materially contravene the development plan.

ABP PL29N.238685 / Reg. Ref. 3269/10: Permission was granted in 2011 for 358 no. apartments, a creche, 3 no retail / commercial units in 7 no. blocks with a maximum height of 7 storeys. An extension of duration of permission was granted in 2016.

Reg. Ref 3405/19: Permission was granted in 2020 for amendments to Block F to provide an additional 16 no. residential units, which results in a total of 374 no. residential units.

4.2. **Surrounding Area**

Strategic Housing Development: 304061-19: Permission was granted in 2019 for 101 no. apartments in 3 no. blocks with a maximum height of 5 storeys at Highfield Park c. 80m south east of the subject site.

Strategic Housing Development: ABP-306721-20: Permission was granted in 2020 for 124 no. apartments in a single block ranging in height from 5-6 storeys, at the Bonnington Hotel, c. 200 south of the subject site.

5.0 **Section 5 Pre Application Consultation**

5.1. A Section 5 pre-application virtual consultation took place on the 25th January 2022 in respect of a development of 472 no. residential units and a creche. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Land Use and development principle and previous refusal
- Residential Amenity
- Transport and Parking

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 28th January 2022 (ABP-311749-21) An Bord Pleanála stated that it was of the opinion that the documents submitted constituted a reasonable basis for an application for strategic housing development. The following specific information was requested: -

1. Drawings and documentation clearly describing the design and layout of the proposed junction with the Swords Road / Iveragh Road and proposed modifications to the existing road, footpath and cycle path networks. The application should demonstrate how the proposed development, will facilitate,

and not interfere with, the implementation of Bus Connects proposals at this location.

2. Any subsequent planning application should address the matters raised in the report of the Dublin City Council Transportation Planning Division dated 14th November 2021.
3. A Draft Construction and Waste Management Plan.
4. A Tunnel Impact Assessment having regard to Policy MT22 of the Dublin City Development Plan and Appendix 6.
5. An assessment of the noise environment and an Acoustic Design Statement
6. A report which addresses the matters raised in the report of the Dublin City Council Drainage Division dated 4th November 2021.
7. A comprehensive daylight and sunlight assessment.
8. A report that addresses issues of residential amenity.
9. A detailed rationale for the proposed housing mix.
10. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
11. A report that specifically addresses the proposed materials and finishes.
12. A Building Lifecycle Report
13. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018 unless it is proposed to submit an EIAR at application stage

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

1. Minister for Housing, Local Government and Heritage
2. An Taisce- The National Trust for Ireland.
3. The Heritage Council.
4. Irish Water
5. National Transport Authority (NTA)
6. Transport Infrastructure Ireland (TII)
7. Dublin City Childcare Committee

5.4. ***Applicant's Statement***

5.4.1. A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016 and a summary is provided below. With regard to items 1 – 13 outlined above the following specific information was also submitted

1. The submitted drawings and reports identify the new signalised access off Swords Road opposite Iveragh Road, changing this three armed priority junction into a 4 armed signalised junction. This also accommodates all footpath and cycle path networks. Drawings and reports demonstrate how the development will operate with the existing road arrangements and also incorporating the requirements of BusConnects. It is confirmed that this development can incorporate any future works to accommodate BusConnects.
2. Prior to submitting the application the applicant engaged with Dublin City Council. An updated TTA, including DMURS statement, an MMP and Parking Management Strategy, an Operational Service Management Plan included Swept Path analysis, a Quality Audit including RSA, an Outline Construction Traffic Management Plan have been submitted with the application.
3. A Resource and Waste Management Plan has been submitted with the application.
4. A Tunnel Impact Assessment and a Construction Environmental Management Plan have been submitted.
5. An Acoustic Design Statement has been submitted.
6. Prior to submitting the application the applicant engaged with Dublin City Council. Details of the proposal are provided in Appendix A of the Engineering Services Report.
7. A Daylight & Sunlight Assessment has been submitted.
8. The response to item 8 specifically addresses potential overlooking, overshadowing, visual impact and the potential effects of flood lighting of adjoining playing fields. An Overshadowing Assessment forms part of the Daylight, Sunlight and Overshadowing Report. A Landscape Visual Impact Assessment forms Chapter 10 of the EIAR and a Flood Lighting Report was submitted.

9. The response to item 9 includes a detailed rationale for the proposed housing mix.
10. A site layout plan indicating what areas are to be taken in charge has been submitted.
11. An Architectural Design Statement which includes details on the proposed materials and finishes has been submitted.
12. A Building Lifecycle Report has been submitted.
13. An EIAR has been submitted.

6.0 Relevant Planning Policy

6.1. *Dublin City Council Development Plan 2016 - 2022*

The site and adjoining lands to the north, within the ownership of Dublin City Council, are zoned 'Z12 Institutional Land (Future Development Potential)' with the objective *'to ensure that existing environmental amenities are protected in the predominantly residential future use of these lands'*. Section 14.8.12 notes that where Z12 lands are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The predominant land-use will be residential. A masterplan setting out a clear vision for the future for the development of the entire land holding will be required. Development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development. The minimum 20% public open space shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play.

Chapter 4 - Shape and Structure of the City emphasises the importance of high quality developments and reaffirms Dublin as a predominantly low rise city. Relevant policies include **SC13**: sustainable densities; **SC14**: variety of housing types; and **SC16**, **SC17** and **SC18** relating to height.

Chapter 5 – Quality Housing supports the delivery of quality homes in a compact city. Relevant policies include **QH5**: active land management; **QH6**: variety of housing; **QH7**: sustainable urban densities; **QH8**: development of under-utilised sites; **QH13**:

adaptable and flexible homes; **QH17**: private-rented accommodation; **QH18**: high-quality apartments.

Chapter 16 sets out indicative standards including density, plot ratio, site coverage and car parking standards. Section 16.7.2 sets out a 16m height restriction for residential developments in the outer-city. It also sets out assessment criteria for higher buildings. Section 16.10 deals with Standards for Residential Accommodation. Proposed developments shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment Report).

6.2. ***Whitehall Framework Plan 2008 (as extended)***

This is a non-statutory Schematic Framework Plan and Site Brief for Z12 zoned lands previously used as the Port Tunnel Depot at the junction of Swords Road and Collins Avenue. The Framework Plan boundary includes the subject site and lands to the north, which are owned by Dublin City Council and currently undeveloped. Section 3.6 of the Framework Plan states that any proposal for development over or near the Port Tunnel must show that no additional loading of greater than 22.5KN/m² will be imposed on the tunnel. Any proposal must satisfy the Dublin Port Tunnel designers that this criterion is met. The plan also notes that the introduction of planned Quality Bus Corridors (QBC) on Swords Road (overall road width of 22m) and Collins Avenue would require the site boundaries to be set back to accommodate dedicated bus and cycle lanes. The Framework Plan includes indicative locations for preferred vehicular access points from the Swords Road. Section 5.0 sets out a vision and proposed site layout for the lands.

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

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the 'Dublin Metropolitan Area'. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The following RPOs are of particular relevance:

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

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

6.4. ***National Planning Framework***

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include

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

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

6.5. **Section 28 Ministerial Guidelines**

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

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

6.6. **Applicants Statement of Consistency**

The applicant has submitted a Statement of Consistency (as part of the Planning Report) as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the relevant Development Plan.

6.7. **Material Contravention Statement**

Chapter 8 of the Planning Report comprises the applicants Material Contravention Statement. The statement provides a justification for material contraventions of the Dublin City Development Plan 2016 - 2022 in relation to Building Height, Unit Mix, Site Coverage, Density, Car Parking, Open Space Provision, Masterplan. The statement is summarised below: -

Overarching Justification for Material Contraventions:

The proposed development is of strategic national importance, and meets the criteria defined as a Strategic Housing Development. It is in accordance with the provisions Rebuilding Ireland - Action Plan for Housing and Homelessness' and the National Planning Framework. The scheme is in compliance with Section 37(2)(b)(i) of the 2000 Act.

Building Height: Section 16.7 of the Development Plan prescribed a maximum height of 16m for residential and commercial development in the Outer City. This equates to approximately 5 storeys for residential developments. The proposed development ranges in height up to 8 storeys which exceeds the maximum building height of 16m, and therefore materially contravenes the Development Plan.

It is considered that the proposed development meets the criteria under Section 3.2 of the Building Height Guidelines. The proposed development will integrate appropriately with the surroundings, having regard to the location of the subject site on the Swords Road within an existing built-up area, close to Drumcondra, DCU, Beaumont and Dublin City Centre. It is well served by public transport and in proximity to employment locations, services and facilities. The set back of the building and the stepping height results in the buildings presenting an attractive and appropriate urban streetscape in the area. It is considered that the subject site is capable of and appropriate for additional height and density having regard to the introduction of the National Planning Framework and the Building Height Guidelines which encourages increased height and density in highly sustainable and underused sites such as these. The proposed development has been designed to ensure the protection and amenity not only of future occupants of this development but also those of the existing residents in the adjacent properties. The highest elements have been located furthest away from existing residents at the least sensitive locations within the subject site.

Unit Mix: Section 16.10.1 of the Development Plan states that in proposals of 15 units or more each development shall contain a maximum 25-30% one bedroom units and a minimum of 15% three or more bedroom units. The proposed development includes 6.8% studio units, 41.9% one beds, 49.4% two beds and 1.9% three beds. This mix materially contravenes section 16.10.1 of the Development Plan.

The Apartment Guidelines identify the need for apartments with a variation in mix and sizes are appropriate to meet the existing housing need in Ireland. SPPR 1 of the Apartments Guidelines, which states that *developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).* The Development Plan does not include an evidence-based Housing Need and Demand Assessment. Therefore, on the basis of the current Development Plan, the proposed housing mix is not justified on evidence-based need for the area.

The area surrounding the site is predominantly larger traditional two storey housing with few apartments in the immediate vicinity. The proposed development and unit mix is therefore considered in line with national policy.

Site Coverage: Section 16.6 of the Development Plan sets out an indicative site coverage of 50% for Z12 lands. The proposed development has a site coverage of 29.2% which is significantly below the figure stated. Section 16.5 and Section 16.6 of the Development Plan provide criteria for circumstances where higher site coverage and plot ratio may be permitted.

Should the Board consider the site coverage figure to be a material contravention of Section 16.6 this is justified by the Apartment Guidelines and the National Planning Framework which move away from rigidly applied, blanket planning standards in relation to building design, in favour of performance based standards to ensure well-designed high quality outcomes. Section 2.24 of the Apartment Guidelines state that *“there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland’s cities.”* As such, while this proposal is below the target site coverage, despite being a higher density development, it will as a result provide a significant quantum of public and communal open space. The provision of a well-designed development with large areas of open space is considered to outweigh to meet the need to achieve an unduly restrictive performance based criteria.

Density: Section 16.4 of the Development Plan states “The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable. The proposed development has a net site density of 172.6 units per ha which is significantly higher than the existing low density, two storey suburban residential development in the area immediately surrounding the site. Given the wording of Section 16.4 the Board may consider the density of the proposed development to be a Material Contravention of the Development Plan.

The Development Plan was adopted prior to the Building Height Guidelines and Apartment Guidelines. These guidelines provide a clear mandate as Government policy that building heights must generally be increased along with increase in density of development. As such the increase in density is considered in line with current National Planning Policy Guidance.

Car Parking: Table 16.1 of the Development Plan outlines car parking standards for city. The application site is located within Parking Zone 3 and has a maximum residential parking provision of 1.5 space per unit. Section 16.38 of the Plan states that “*parking is an integral element of overall land-use and transportation policy within the city, and the purpose of the parking standards set out in Tables 16.1 and 16.2 is to ensure that an appropriate level of parking is provided to serve new development.*” The scheme includes 337 no car parking spaces, of which 313 no. are residential car parking spaces, which equates to 0.66 spaces per residential unit. Whilst this provision is below the maximum standard outlined in Table 16.1, given the significant reduction in parking the Board may consider that the level of parking contravenes the development plan.

The proposed level of car parking is justified having regard to Section 4.19 of the Apartment Guidelines and Objective 13 of the National Planning Framework which allow for flexibility in car parking standards.

Open Space Provision: Section 14.8.12 states that *where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public*

open space. With regard to lands zoned Z12, Section 16.3.4 also requires that 20% of the total site area be provided as public open space.

A total of 6,165sqm of public open space is proposed on site. This comprises 5,679sqm public open space between blocks D/E/F/G and a 486sqm public plaza between Blocks A/B/C. This equates to 22.5 % of the net site area and is in excess of the 20% required under the Z12 zoning in the Development Plan. However, if the hard standing public plaza area was excluded then the public park (5,679sqm), open space comprises 20.77% of the net site area. The public park excludes the defensive space/privacy strips and grass margins alongside and between the adjoining apartment blocks. Assuming a stringent/overliteral interpretation of the Z12 zoning objective were to exclude these hard standing elements then the area of “green” open space would fall (albeit just) below the minimum 20% / c. 5,486sqm requirement in this instance. If so, then this may be considered a material contravention of the Development Plan in relation to Section 14.8.12.

It is considered that the proposed scheme is justified with regard to policies set out in the NPF to achieve higher densities in urban areas and the redevelopment of brownfield sites, particularly NPO 35, as well as RSES Regional Policy Objective 4.3, which seeks to support the consolidation and re-intensification of infill/ brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs.

The development provides a robust and acceptable justification for this shortfall, in accordance with national policy, given the desirability of redeveloping this long standing vacant site at a very accessible location in the north of the city along one of the main roads and public transport arteries into the city centre. Furthermore, we note the significant contribution that the public park proposed, along with the new public plaza and services, will contribute to the public realm and amenities of the area and which will complement the other parks in the area including Ellenfield Park to the north.

Masterplan: Section 14.8.12 states that *in considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future for*

the development of the entire land holding. In particular, the masterplan will need to identify the strategy for the provision of the 20% public open space requirements associated with any residential development, to ensure a co-ordinated approach to the creation of high-quality new public open space on new lands linked to the green network and/or other lands, where possible.

The current scheme has had significant regard to the non-statutory Whitehall Framework Plan prepared in 2008. Reference is also had to the previous Inspector's (ABP-309608.21), which considered that the Framework Plan and the applicant's detailed consideration of same, was in accordance with the development plan requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. If a literal interpretation of Section 14.8.12 is applied, then the fact that the current application does not include a Masterplan may be considered a contravention of the Development Plan.

The development provides a robust and acceptable justification for this exclusion, given the strong consistency demonstrated with the previous Framework Plan prepared for the overall lands by DCC. In addition, NPO 35 of the National Planning Framework aims to achieve higher densities in urban areas and the redevelopment of brownfield sites and Objective 4.3 of the Regional Social and Economic Strategy seeks to support the consolidation and re-intensification of infill/ brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs. Furthermore, strong accordance with national policy is demonstrated which recommends the redevelopment of this long standing vacant site at a very accessible location in the north of the city along one of the main roads and public transport arteries into the city centre.

Conclusion:

Having regard to the following:

- The location of the site, which is close to existing neighbourhood centres, employment centres, and a variety of existing and planned high frequency public transport;

- Its potential to contribute to the achievement of the Government's policy to increase delivery of housing and to achieve greater density and height in residential development in a planned new urban town close to public transport and centres of employment;
- Its accordance with the provisions of the National Planning Framework (in particular objectives 3a, 3b, 11, 13 and 35); and
- Its accordance with the Guidelines for Sustainable Residential Developments in Urban Areas (in particular section 5.8)

It is considered that this statement provides appropriate justification for the Board to grant permission for the development in accordance with national policy and guidelines.

7.0 Third Party Submissions

16 no. third party submissions were received. The submissions are generally supportive of the development of the site. The concerns raised are summarised below: -

Design Strategy

- The proposed scheme is not in keeping with the surrounding areas and would devalue existing properties.
- The height is a material contravention of the development plan and is excessive. Any increase in height should be confined to the centre of the scheme.
- The scheme does not comply with SPPR3 and, therefore, the height is not justified.
- The scheme would result in overshadowing and overlooking of existing properties.
- It is essential that the external materials are reflective of High Park Convent which is a protected structure.
- Concerns that the pedestrian access through High Park would result in anti-social behaviour.
- Concerns that the connections to the public foul and water networks would negatively impact on the public realm.

- The public open space is not very accessible. Its location away from public roads and behind five blocks of apartments results in the space being semi-private.
- Given the high visibility of this site the external materials should be of a high standard and public areas should be well presented.
- Concerns regarding the limited size of the residential units.
- Concerns regard the high number of 1-bed and studio apartments. The housing mix is not appropriate for this suburban area of Dublin as it would not foster a settled community or address the local housing need.

Infrastructure

- There is insufficient social infrastructure in the area to accommodate the proposed population and the cumulative impact of other proposed developments in the vicinity of the site.
- Concerns regarding the capacity of the foul and storm water networks

Transportation

- The surrounding road network is already at capacity and the proposed scheme in combination with other approved and proposed schemes in the area would exacerbate the situation.
- Insufficient public transport capacity to accommodate the proposed development.
- Concerns regarding potential connectivity to High Park. There is no justification for this additional access.
- Additional traffic would be a traffic hazard.
- Negative impact on existing residents from construction traffic.
- Insufficient detail regarding the upgrade to the junction of Swords Road / Iveragh Road / proposed development.

Other Issues

- No consultation with local residents regarding the proposed scheme.

8.0 Planning Authority Submission

8.1. The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 7th June 2022. The report includes a summary of the site location and description, relevant planning history, the proposed development, pre-planning consultations, prescribed bodies submissions third-party submissions and policy context. The views of the elected members at the North Central Area Committee on the 13th May 2022 are included in Appendix B and summarised as follows: the proposed height, which is a material contravention of the development plan, impact on existing residential amenities, traffic management and congestion, impact on proposed Bus Connect and cycleways, site permeability, quality of finishes and materials, housing mix, open space provision and tenure. Appendix A includes Internal Reports from Housing and Community Services; Transportation and Planning Division; Parks and Landscaping Services; Drainage Division; Waste Regulation; Air Quality Monitoring and Noise Control; and Archaeology Section. The key planning considerations of the Chief Executive's report are summarised below.

Principle of Development: The proposed development complies with the Z12 Zoning.

The open space provision is acceptable. Regarding the zoning requirement for a masterplan, it is noted that both the subject development, and the Part 8 Development on the site to the north, have regard to the non-statutory Whitehall Framework Plan.

Height: The proposal represents a material contravention of the Dublin City Development Plan 2016 – 2022 with regard to building height.

Density, Site Coverage and Plot Ratio: In line with national and Development Plan policy, a higher density is to be encouraged on the site.

The Development Plan provides an indicative site coverage standard of 50% for Z12 lands. The proposal for 29.2% site coverage is below the quantitative standard. This is not unusual. The Development Plan provides an indicative plot ratio standard of 0.5 - 2.5 for Z12 lands. The proposal has a plot ratio falling within this range, of 1:1.47.

Residential Quality Standards: The Housing Quality Assessment largely confirms compliance with the minimum spatial requirements of both the City Development Plan and the ‘Sustainable Urban Housing Design Standards for New Apartments’.

Housing Mix: While the most extensive land use is low-density housing, it has not been demonstrated that the prevailing accommodation type in the study area is larger units, or that there are insufficient small units to meet demand. It has not been demonstrated, from the information submitted, that the unit mix is appropriate for the site, that the proposal positively contributes to the mix of dwelling typologies available, or that the proposal complies with the Dublin City Development Plan 2016-22 policies QH6 or QH19.

Aspect: The proposed development has a stated 55.6% of dual aspect apartments, with a mix of straight through and corner units. These are largely genuinely dual aspect apartments. However, there are concerns about the predominantly northern orientation of a number of the designated dual aspect apartments, some of which have predominantly north-facing balconies, for example in Block C, and the north end of Block D. It is also noted that some of the single aspect apartments, notwithstanding a favourable orientation have very poor sunlight.

Daylight and Sunlight Assessment: It is considered that the proposal does not comply with relevant daylight and sunlight guidelines as 32% of the living room/kitchen/dining rooms will have under 2% average daylight and consequently will have room(s) that look dull and are likely to require artificial lighting without the provision of adequate compensatory measures. Notwithstanding the location of the site over the port tunnel, it is disappointing that the design of the proposal in a suburban location does not meet the 2% daylight and sunlight guidelines for most, if not all living room/kitchen/dining rooms in the development. A significant improvement in daylight factor would necessitate a revised design. In this context, it is considered that the proposed development would be contrary to Ministerial guidelines issued to planning authorities under section 28.

Block Configuration: The block configuration is similar to that of the unbuilt permitted scheme and constrained by the location of the Port Tunnel. There are some pinch points that affect daylight and sunlight, and some that have privacy impacts – for

example, directly facing secondary living room windows on the gables of Blocks D and E c.5.5m apart, and a similar arrangement of bedroom windows on the gable ends of blocks F and G.

Permeability: The provision of a number of pedestrian and cycle accesses from the Swords road are welcomed and additional connectivity to the lands to the north should be created, as this will be developed in the future.

A pedestrian link between High Park to the east of the site is also proposed. The concerns of the third parties are noted, however so too is the benefit of increased permeability, and shorter walking and cycling distances to bus stops, schools, and other amenities on the Swords Road, or to the new crèche, park, and playgrounds. The estate appears to have been designed in anticipation of such a connection, with the road and footpaths leading right up to the boundary, rather than ending in a turning circle. It is not possible to simply attach a condition to any grant of planning permission requiring that such links be provided as the rights of adjoining private landowners might be affected. Nonetheless, permeability should be designed in on the Hartfield Place side, as it has been on the High Park side.

Open Space:

Private Open Space: All apartments meet or exceed the quantum of open space standards as set out in the Apartment Guidelines.

Public Open Space: 20% of the site area is required for public open space, and this has been achieved, overcoming the reason for refusal on the previous SHD application, although it is unfortunately heavily overshadowed by Blocks D and E on summer evenings. The public open space would not be taken in charge. Therefore, a condition is required to ensure it remains accessible to the public. A public artwork should be provided in the public open space.

The provision of green roofs is welcomed.

Communal Amenity Space: the communal open space provision exceeds the standard as set out in the Apartment Guidelines. The provision of roof terraces to the blocks which do not have direct access to the ground level communal open space is

welcomed. It is noted that no micro-climate assessment has been submitted, nor has micro-climate been addressed in any depth in the EIAR.

Resident Facilities: The Planning Authority requests that a condition is attached to any grant which requires that the resident facilities shall be occupied as part of the development, shall be available to residents, and shall not be occupied as separate, commercial facilities.

There are communal facilities at the ground floor of Block A. There is no objection to these facilities, subject to appropriate management and mitigation measures, including noise mitigation, to ensure the amenity of immediately adjacent residents.

Childcare Facility: The provision of a 63-space crèche is welcomed.

Social Audit and School Capacity Assessment: The proposed development has only 9 three-bedroom units, and as such is unlikely to generate a large population of school-age children.

The provision of communal amenity facilities at the ground floor of Block A is welcomed.

Transportation: It would not be appropriate to refuse permission on a serviced appropriately zoned site within a built up area due to pre-existing traffic congestion in the area.

Both the Transportation Planning Division and the NTA noted car spaces should not be assigned based on unit size, and car clubs should be targeted at all residents, not just those of one-bed apartments. In the event of a grant, the relevant conditions including the submission of a robust Mobility Management Plan should be attached.

Port Tunnel: The submission from TII proposes conditions regarding Construction Management and Supervision. The Local Authority supports this.

Archaeology and Built Heritage: Both the City Archaeologist and the DAU concur, that no further archaeological requirements are necessary.

Appropriate Assessment: The Board are the competent authority.

Environmental Impact Assessment: The Board are the competent authority.

Conclusion and Recommendation:

It is considered that the proposal does not comply with relevant daylight and sunlight guidelines as 32% of the living room/kitchen/dining rooms will have under 2% average daylight and consequently will have room(s) that look dull and are likely to require artificial lighting without the provision of adequate compensatory measures. Notwithstanding the location of the site over the port tunnel, it is disappointing that the design of the proposal in a suburban location does not meet the 2% daylight and sunlight guidelines for most, if not all living room/kitchen/dining rooms in the development. A significant improvement in daylight factor would necessitate a revised design. In this context, it is considered that the proposed development would be contrary to Ministerial guidelines issued to planning authorities under section 28 and it is recommended that permission be refused.

1 . The proposed development does not comply with the provisions of the 'Site Layout Planning for Daylight and Sunlight - A guide to good practice (Building Research Establishment Report) 2011' as 32% of the living room/kitchen/dining rooms will provide less than 2% average daylight factor and will consequently have rooms that look dull and are likely to require artificial lighting without the provision of adequate compensatory measures as outlined in Sustainable Urban Housing: Design Standards for New Apartments (December 2020). The proposed development would therefore, by itself and by the precedent it would set for other development, be contrary to Ministerial guidelines issued to planning authorities under section 28, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

If permission is being contemplated 28 no. recommended conditions are provided.

9.0 Prescribed Bodies

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

- Minister for Housing, Local Government and Heritage
- An Taisce- The National Trust for Ireland.
- The Heritage Council.
- Irish Water
- National Transport Authority (NTA)
- Transport Infrastructure Ireland (TII)
- Dublin City Childcare Committee

9.2. The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 12th April 2022. A summary of the comments received are summarised below.

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

Archaeology: On the basis of the information submitted and the description of the archaeological impacts and the previous ground disturbance at the development site as set out in the EIAR, Vol. 1, Section 14.6, pages 14-4 and 14- 5 it is the considered that there are no further archaeological requirements in this case.

Nature Conservation: The bat activity surveys of the development site recorded foraging over it by three bat species. It is recommended that a condition be attached to any grant of permission that a finalised external and internal lighting design scheme be signed off by a bat specialist.

9.4. ***Irish Water***

Water: The scheme should be connected to the existing 300 mm DI main in Collins Avenue with a new pipe (200mm ID and approximately 180m in length). Installation of a bulk meter at the connection point of the Development is also required. There are no plans to extend or commence upgrade works to its network in this area. The applicant will be required to fund these works as part of a connection agreement. It is expected these works will be within the public domain.

Wastewater: In order to serve the proposed development, there may be local network upgrades required of c. 500m in length on High Park and Grace Park Road. The

upgrade size and or remedial works will be determined as part of the connection application phase. There will be a requirement for a Road Opening Licence to be arranged by Irish Water.

9.5. ***National Transport Authority***

Strategic Overview: The site of the proposed development is served by the number 16 bus service, which runs at a frequency of every 10-12 minutes all day linking the site directly to the city centre and onwards to south city, Terenure and Ballinteer, as well as to Dublin Airport. The 41/41C routes combine to provide an additional peak hour 10 minute frequency service to the site. The proposed development is also within cycling distance of Dublin City Centre, Dublin Airport and the major employment centres at Clonsaugh, East Point and Beaumont Hospital.

In the medium term, the site will benefit from major transport infrastructural investment in the form of the BusConnects Swords Road Core Bus Corridor (CBC) scheme which will provide bus priority between the site and the city centre. As such, the proposed development is considered to be broadly consistent with the land use planning principles of the Transport Strategy.

Car Parking: While the level of parking provision is considered to be appropriate overall, the manner in which these are proposed to be allocated seems to be based solely on unit size rather than any clear transport planning rationale. It is considered that the quantum of car sharing spaces could benefit from being more ambitious as a means of encouraging sustainable transport modes for all future occupants.

BusConnects: It is confirmed that the proposed development facilitates the delivery of the scheme.

9.6. ***Transport Infrastructure Ireland***

To protect the integrity of the Tunnel, TII highlight that where the development is within Zone 1 or Zone 2 a Tunnel Assessment is required in accordance with Dublin City Council City Development Plan 2016-2022, policy MT22. The application includes a report to address this requirement entitled Tunnel Impact Assessment.

There are concerns that development has commenced on this site and that there is a requirement to comply with enabling permission conditions related to the Tunnel prior to the commencement of development. These conditions as yet have not reached the necessary compliance. The Authority is further aware that this non-compliance was the subject of enforcement action by the planning authority.

In the interests of tunnel protection during the construction and operation of development arising, it is recommended that formal written commitment to the submission of a construction management plan is required. The construction management plan should expressly include a method statement for works above the tunnel for the written agreement of the planning authority with written approval by TII. In addition, a commitment to the appointment of an appropriate qualified TII representative to supervise and monitor the development practises and works in proximity to, and in the vicinity of the Dublin Tunnel is required. The TII representative shall report and act on TII's behalf. Observance to these requirements is critical given the location of the proposal over the Dublin Tunnel.

9.7. No response was received from An Taisce- The National Trust for Ireland, the Heritage Council of the Dublin City Childcare Committee

10.0 **Assessment**

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the statutory development plan and has full regard to the chief executives report and submission by prescribed bodies and third parties. The assessment considers and addresses the following issues: -

- Principle of Development
- Density
- Design Strategy
- Building Height
- Open Space

- Residential Amenity
- Port Tunnel
- Transportation
- Water Services and Flood Risk
- Material Contravention
- Chief Executives Report

10.2. ***Principle of Development***

10.2.1. The subject site is zoned Z12 'Institutional Land' with the associated land use objective to ensure existing environmental amenities are protected in the predominantly residential future use of these lands. Section 14.8.12 of the development plan states that the predominant land-use will be residential, and this will be actively encouraged. A residential development with associated café and creche is permissible in principle and considered to be in accordance with the zoning objectives for the site.

10.2.2. Section 14.8.12 of the development plan set out additional guidance for the development of institutional lands. It is my opinion that the main elements can be summarised as open space, masterplan and tenure. In the interest of clarity each of these issues is addressed below.

Open Space

10.2.3. Section 14.8.12 also states that where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The minimum 20% public open space shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise.

10.2.4. An area of public open space (5,679sqm) is proposed in the centre of the scheme, between blocks D/E and F/G. This equates to 20.8% of the net site area (2.73ha). It is also proposed to provide an additional 486sqm public plaza between Blocks A and B. this equates to a total area of public open space of 6,165sqm which is 22.5 % of

the net developable area. The Applicants Material Contravention Statement notes that if a literal interpretation of the Section 14.8.12 was applied and all hardstanding areas and defensive space/privacy strips and grass margins alongside and between the adjoining apartment blocks were excluded from the calculations then a total of 5,679sqm of green open space is provided. This equates to 20% of the net developable area. In an overabundance of caution, the applicant stated that the proposed provision of public open space may be considered a material contravention of the plan. However, having regard to the information submitted I am satisfied that the quantum of open space provided is in accordance with the provisions of Section 14.8.12 of the development plan and would not be a material contravention. It is also noted that the planning authority and third parties raised no concerns regarding a material contravention with regard to public open space.

Masterplan

- 10.2.5. Section 14.8.12 notes that in considering any proposal for development on lands subject to zoning objective Z12, there is the requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding.
- 10.2.6. A site specific masterplan has not been submitted with the application. However, the subject site forms part of a larger land parcel that is within the boundary of the non-statutory Whitehall Framework Plan (2008). Section 5.0 of the Framework Plan sets out a Vision and Structuring Concept for the overall lands and addresses indicative site layouts, movement strategy, public space strategy (including the 20% provision), land use and density, building heights and a capacity study. I am satisfied that the Framework Plan and the information submitted with the application, in particular the Architectural Design Statement meets the development plan requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. It is noted that the planning authority and third parties raised no concerns regarding a material contravention with regard to a masterplan.

Housing Tenure

- 10.2.7. Section 14.8.12 also states that for the avoidance of doubt, at least 10% social and affordable housing requirement, as set out in the housing strategy in this plan, will apply in the development of lands subject to the Z12 zoning objective.
- 10.2.8. The information submitted indicates that it is proposed to provide 47 no. 1 and 2 bed units in Block C. This equates to c. 10% of the proposed units and is, therefore, in accordance with the provisions of the development plan. Notwithstanding this, the Affordable Housing Act, 2021 requires that land purchased on or after the 1st of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both. The documentation submitted does not indicate when the site was purchased. Therefore, the Part V required is unclear. However, I am satisfied that this could be addressed by way of condition.
- 10.2.9. Overall, I am satisfied that the proposed development, which comprises residential use with a café and creche is appropriate at this location and in accordance with the land use zoning objective and the provisions of Section 14.8.12 of the development plan. The planning authority also consider that the proposed development is acceptable in principle.

10.3. ***Density***

- 10.3.1. The scheme has a density of 173 unit per ha. The development plan does not set out density standards. However, Section 16.4 of the development plan states that an urban design and quality-led approach to creating urban densities will be promoted. To control the scale and mass of a development and to prevent overdevelopment of a site the development plan sets out indicative plot ratio and site coverage standards. In this regard an indicative plot ratio of 0.5 – 2.5 and an indicative site coverage of 50% is envisioned for Z12 lands. The proposed scheme has a plot ratio of 1.47 and a site coverage of 29%. The proposed plot ratio is in accordance with the indicative standard set out in the development plan. While it is noted that the site coverage falls below the indicative standard, having regard to the quantum of public open space proposed and the sites location over the Port Tunnel, the site coverage is considered acceptable in

this instance. It is noted that the applicant addressed the issue of site coverage in the submitted Material Contravention Statement, however, having regard to the flexibility of the wording within the development plan and as the indicative site coverage standard does not relate to a policy of the plan it is my view that this is not a material contravention. The planning authority raised no objection to the proposed site coverage and noted that a site coverage below the quantitative standard is not unusual. It is my opinion that the proposed quantum of development is appropriate in this instance and generally in accordance with the provisions of the development plan.

- 10.3.2. While it is acknowledged that the proposed scheme has a significantly higher density than the existing residential estates in the environs of Whitehall, it is my view that the proposed scheme should be viewed in the context of the surrounding area which has experienced a transition from a low density, single and two storey suburban area to a more urban area, with a mix of different types of dwellings, including apartment blocks of varying heights and significantly increased densities. A recent applications include: ABP-306721-20 for the construction of 124 no. apartments in a single block ranging in height from 5-6 storeys, at the Bonnington Hotel, c. 200 south of the subject site. This scheme has a density of 219 units per ha. ABP - 304061-19 for the construction of 101 no. apartments in 3 no. blocks with a maximum height of 5 storeys at Highfield Park c. 80m south east of the subject site. This scheme has a density of 47 units per ha. Permission was previously granted on the subject site for 374 no apartments (ABP Ref. PL29N.238685, Reg Ref. 3269/10), which equates to a density of 136 units per ha.
- 10.3.3. Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.
- 10.3.4. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2020 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations.

The apartments guidelines identify accessible urban locations as 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 subject site is located c. 4km north of Dublin city centre and is in close proximity to a range of employment and educational locations, including DCU, c. 1km west of the site and Beaumont hospital c. 1.5km north east of the site. The site is well served by a range of services and facilities within Whitehall / Beaumont. The site is also in close proximity to public transport with both north and south bound Dublin Bus stops within c. 100m of the site on the Swords Road. The no. 16 is a high frequency route operating every 10 min in the peak period and each bus has a capacity of 125 no. passengers. Therefore, it is my view that the scale of the development complies with national guidance and is suitable for higher density.

- 10.3.5. In conclusion, it is my view that the proposed scheme would not result in overdevelopment of the site and that the proposed density is appropriate in this instance having regard to national and regional policy, the area's changing context, proximity to employment and educational centres, proximity to a wide variety of services and amenities and to public transport. It is also noted that the planning authority raised no objection in principle to the proposed density.

10.4. ***Design Strategy***

- 10.4.1. The proposed scheme represents the comprehensive and significant development of a 2.73 ha brownfield site within Dublin city. The surrounding area is characterised by traditional suburban housing and institutional buildings. To the north the site is bound by vacant lands in the ownership of Dublin City Council and to the north east the site is bound by Whitehall GAA grounds. To the south the site is bound by Highfield Hospital Alzheimer's care centre and mental health centre, which campus includes two protected structures. Beech Lawn Nursing home is located to the east of the site, accessed from High Park via Grace Park Road. To the west, the site is bound by the Swords Road. There are two-storey houses and a row of neighbourhood shops on the opposite side of the road.
- 10.4.2. The is square in shape and is generally level. It was previously used as a construction depot for the construction of the Port Tunnel, which generally runs in a north-south

direction under the eastern side of the site. Permission was previously granted on the site for 374 no. apartments and associated works (ABP Ref. PL29N.238685, Reg Ref. 3269/10, as amended by Reg Ref 3405/19.) Works have commenced on site, however, there was no active construction work during my site visit on the 27th October 2022.

- 10.4.3. The proposed development comprises the construction of 472 no. apartments, a creche (c.445.76sqm), a café unit (c.99sqm), in 7 no. urban blocks (Blocks A, B, C, D, E, F and G) ranging in height from 4 to 8 storeys over basement. The main vehicular access to the site is proposed from Swords Road via a new upgraded 4-arm junction with Iveragh Road. Additional pedestrian / cycle access is proposed from the Swords Road at the south west corner of the site. This access would also facilitate emergency vehicles.
- 10.4.4. The residential units comprise 32 no. studios, 198 no. 1-beds, 233 no. 2-beds, and 9 no. 3-beds. Third parties have raised concerns regarding the high number of 1-bed and studio apartments and it is considered that the housing mix is not appropriate for this suburban area of Dublin. The planning authority also note that the applicant has not demonstrated that the prevailing accommodation type in the study area is larger units, or that there are insufficient small units to meet demand or that the proposal is in accordance with Policies QH6 or QH19 to positively contribute to the mix of dwelling typologies. While the applicant has not provided a detailed breakdown of housing mix in the environs of the site, it is my opinion, having regard to the information submitted with the application, the planning history of the area, and from carrying out a site visit on the 27th September 2022 that the surrounding area is characterised by low density traditional suburban housing with limited apartment developments. Therefore, it is my view that the provision of studio, 1, 2 and 3 bed apartment units would support the provisions of both Policy QH6 and Policy QH 19 to create attractive mixed-use sustainable neighbourhoods which contain a variety of housing types. Therefore, I have no objection to the proposed unit mix.
- 10.4.5. While I have no objection to the proposed unit mix it is noted that Section 16.10.1 of the development plan states that apartment developments shall contain a maximum of 25-30% one-bedroom units and minimum of 15% three- or more bedroom units. The proposed scheme comprises 32 no studio's (7%), 198 no. 1-bed's (42%), 233 no

2-bed's (49%) and 9 no. 3-bed's (2%). It is acknowledged that the proposed unit mix does not accord with the standard set out in Section 16.10.1. However, this is not a policy of the development plan and, therefore, it is my opinion that this is not a material contravention. Notwithstanding this, it is noted that the proposed unit mix of the previous application on the subject site (ABP-309608-21) which had a similar unit mix, was considered a material contravention of the development. Therefore, it is my opinion, that a cautionary approach should be taken and the issue of material contravention be addressed below in Section 10.11.

- 10.4.6. The layout of the scheme generally comprises of 5 no. perimeter blocks (A, B, C, F and G) with 2 no. blocks (D and E) located in the centre area of the scheme. All blocks have a similar contemporary design approach. The internal access road runs along the sites northern, eastern and southern boundaries and provides access to surface level car parking, which is generally provided at the sites boundaries and to the basement level car park, which is accessed at the sites northern boundary adjacent to Block A.
- 10.4.7. Block A sits at the sites north west corner. It has a stepped approach to height, ranging from 5 storeys at its eastern boundary with the Swords Road to 8 storeys at its western elevation. The block accommodates 56 no. apartments with a café, creche and internal residential amenity space at ground floor level. Block B is located c. 10m south of Block A and fronts directly onto the Swords Road. It is 5-6 storeys in height and accommodates 78 no. apartments. A public plaza is proposed between Blocks A and B with outdoor seating associated with the café use. Block C is located c. 10m south of Block B and sits at the sites south west corner. It accommodates 54 no. apartments. It also has a stepped approach to height, ranging from 6 storeys at its eastern boundary with the Swords Road to 4 storeys at its western elevation.
- 10.4.8. Blocks F and G sit at the sites eastern boundary with Beech Lawn Nursing Home and High Park. Block F accommodates 76 no. apartments and Block G accommodates 74 no. apartments. These blocks have a similar design approach. Both Block F and G are rectangular in shape and predominately 6 storeys. The southern portion of Block G is 4-storey's in height with a roof terrace above and the southern portion of Block F is part 5-storey with a roof terrace above. There is a separation distance of c. 5m between the blocks.

- 10.4.9. Blocks D and E have a north western orientation and run diagonally through the centre of the site. The siting of these blocks reflects the orientation of the Port Tunnel below the site. Block D accommodates 76 no. apartments and Block E accommodates 58 no. apartments. These blocks have a similar design approach. Both are rectangular in shape. Block E has a stepped approach to height, ranging from 4 storey's at its southern boundary to 8 storeys at the centre of the scheme. Block D is predominately 8 storeys in height with 7 storey set back on the northern and southern elevations.
- 10.4.10. The siting and orientation of Blocks D and E through the centre of the scheme allow for the provision of public open space on the eastern side of the Blocks over the Port Tunnel and the provision of communal open space on the western side of Blocks D and E.
- 10.4.11. It is my opinion that the proposed layout provides a sense of enclosure within the different areas of open space and that an appropriate variety in scale and height of the buildings has been provided, with the tallest buildings located at the centre of the site with a transition in height with the buildings of lower scale site's southern boundary, which allows for daylight and sunlight to access the areas of open space. It is my view that the layout and orientation of the buildings also provides an appropriate urban edge to the Swords Road.
- 10.4.12. Concerns are raised by a third parties that the scale of the development is out of character with the surrounding area. While it is acknowledged that this scheme would introduce a new feature in the skyline and change the character of the site from brownfield to residential it is my opinion that the proposed scheme would help to create a distinct character for the site, which would aid with placemaking and legibility. Overall, it is my view that the form, massing and height of the blocks, the relationship between the blocks and the proposed the hierarchy of streets and open spaces results in a high quality and coherent urban scheme that would have a positive impact on the consolidation of the urban environment and the visual amenities of this area and that the development will make a significant contribution to addressing housing shortage in the city.
- 10.4.13. The applicants Architectural Design Statement notes that the predominate external material is brick in various colours consisting mainly of a light oatmeal brick, grey brick,

and a charcoal brick (Livorno), offset against sections of off white coloured render. All street facades will be finished in brickwork with high quality render facing internally to the development. The Applicants Building Lifecycle Report notes that brick and render have been selected as the predominant material as a response to the surrounding urban context and for their longevity and durability which minimises ongoing maintenance. The use of high-quality materials such as brick is welcomed. However, I have concerns regarding the proposed use of significant portions of render which in my opinion is not a durable material, especially on the taller elements of the scheme. Third parties have also noted that given the high visibility of this site the external materials should be of a high standard. It is recommended that a condition be attached that the render elements be omitted. It is my view that a variety of brick would provide a suitable and high-quality contrast within the scheme with limited use of render at the ground floor level.

- 10.4.14. A Housing Quality Assessment (HQA) was submitted with the application. It is noted that the proposed units reach and exceed the minimum standards for room sizes as set out in the Apartment Guidelines. Overall, 55% of the apartments would be dual aspect, with a minimum of 50% of units in each block being dual aspect, which is in accordance with SPPR4(i) which allows for a minimum of 33% of units to be dual aspect in more central and accessible urban locations. I have no objection to the room sizes or percentage of dual aspect units and consider them appropriate at this site.
- 10.4.15. The planning authority raised concerns regarding a northern orientation of a number of the dual aspect apartments, some of which have predominantly north-facing balconies. The majority of the Blocks (B, D, E, F and G) have an east – west orientation. Blocks A and C have a predominately north-east / south-west orientation, with the majority of the living spaces and balconies provided on the south eastern elevation. It is noted that there are no north facing single aspect units proposed within the scheme. I have no objection to the aspect of the units and as outlined in Section 10.7 below I am satisfied that each unit would received adequate daylight / sunlight to ensure a high level of residential amenity for future occupants.
- 10.4.16. The scheme also incorporates internal residential amenity space at the ground floor of Block A. This includes a reception area (46sqm), a screening room (42.9sqm), 2 no. meeting rooms (16.1sqm and 22.9sqm), and a residents lounge (67.3sqm). It is noted

that this is a build to sell scheme, therefore, there is no requirement for dedicated internal residential amenity space. It is my opinion that the proposed internal residential amenity space, in combination with the high quality external open space, would provide a high level of residential amenity for future occupants.

10.4.17. The concerns of the third party that the proposed scheme is out of character with the area is noted. However, it is my view that the design approach is well considered and has regard to the site's urban context. The proposed development would result in the creation of a new high quality distinct urban quarter with wider benefits, such as the delivery of a significant quantum of housing and public open space. The redevelopment of this underutilised site is welcomed and represents a high-quality, contemporary scheme, which includes variety in height and scale that would positively contribute to the streetscape and the consolidation of the urban environment. It is noted that the planning authority raised no concerns regarding the design or layout of the scheme.

10.5. ***Building Height***

10.5.1. The scheme ranges in height from 4 storeys (c. 13.8m) to 8 storeys (c.26.5m).The higher elements of the scheme, 7 / 8 storeys, are generally provided in the centre of the development in Blocks D and E. There is also an 8-storey element in Block A at the sites northern boundary with the vacant lands within the ownership of Dublin City Council. Third parties raised concerns that the proposed height is excess and would be a material contravention of the development plan.

10.5.2. The development plan acknowledges the intrinsic quality of Dublin as a low-rise city and states that it is policy that it should predominantly remain so. Section 16.7.2 of the development plan sets out maximum building heights which restricts the height of a residential development in the outer-city to 16m. The height of a significant portion of the proposed scheme does not accord with the height strategy as set out in the development plan, as it exceeds 16m in height. The applicant submitted a material contravention statement in this regard. The issue of material contravention is further addressed in Section 10.11.

10.5.3. A Landscape and Visual Assessment forms part of the EIAR (Chapter 10) which considers the impact of the proposed development the previously approved scheme

on the site. A booklet of verified views and CGI's of the scheme were also submitted. The verified views provide a comparison of the existing site and the proposed development. It is my view that the submitted photomontages provide a comprehensive and reasonable representation of how the proposed development would appear.

- 10.5.4. There are 5 no. categories used to classify sensitivity and magnitude of change, Very High, High, Medium, Low and Negligible. Details of these categories are provided in Tables 10.1 and 10.2 of the EIAR. To classify the significant effects the magnitude of change is assessed against the sensitivity. There are 6 no. classifications of significance outlined in Table 10.3 of the EIAR, these are imperceptible, slight, minor, moderate, substantial and profound. There are also 3 no. categories used to classify the 'effect types', in this regard positive, neutral and negative. Section 10.7 of the EIAR details the visual impact (significance) of the development from the 7 no. viewpoints. I agree with the findings of the EIAR that the sensitivity of the receiving townscape setting is considered to be Low.
- 10.5.5. It is my opinion that the submitted views can be considered medium or short distance views. The medium distance view comprises views 01, 02, 04, 05 and 07 and the short distance views comprise 2a, 03, 3a and 06. With regard to the potential impact on short distance views it is acknowledged that the blocks would be highly visible when viewed directly from the site boundaries, surrounding streets and that the proposed height is significantly taller than the existing adjacent buildings and would introduce new features in the skyline. However, it is noted that permission was previously granted on the site for a scheme with a similar layout and a maximum height of 6-storeys.
- 10.5.6. I agree with the findings of the applicant's assessment and consider that the proposed height would not significantly detract from the visual amenities of the area and would not be visually obtrusive. In my opinion the visual impact from short range views, would be generally positive due to the current vacant nature of the site, the high-quality contemporary design of the scheme and the transition in height with lower scale buildings located at the sites boundaries and taller elements located at the centre portion of the site. It is also my view the proposed site is capable of absorbing a high-

density urban scheme and that it would make a positive contribution to the streetscape, which would aid with placemaking and legibility.

10.5.7. I also agree with the applicants assessment that the impact on medium distances views would generally be slight – imperceptible and neutral. It is my view that due to the urban location and the relatively large size (2.73ha) of the site it has the capacity to absorb the proposed height and scale of the blocks. The proposed height should also be viewed in the changing context of the city area. In this regard it is noted that permission was granted in 2020 (ABP-306721-20) for the construction of 124 no. apartments in a single block ranging in height from 5-6 storeys (maximum 22m) at the Bonnington Hotel, c. 200 south of the subject site. Permission was also granted in 2019 (ABP- 304061-19) for 101 no. apartments in 3 no. blocks with a maximum height of 5 storeys (15.5m) at Highfield Park c. 80m south east of the subject site. Having regard to the existing and approved building heights in the city it is my view that the proposed scheme would not be out of context and would have a minimal impact on the visual amenity of the environs when viewed from the middle- or long-distance views. In addition, it is noted that the proposed buildings do not impact or impede any protected views within the city.

10.5.8. In addition to the above, the Building Height Guidelines are intended “to set out the national planning policy guidelines on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework”. It is further noted that statutory development plans have set generic maximum heights across their functional areas and if inflexibly or unreasonably applied “*can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area*”. Section 2 refers to Building Heights and the Development Plan. It states that implementation of the National Planning Framework requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before.

- 10.5.9. SPPR 1 of the Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.
- 10.5.10. I am of the opinion that this particular area can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting with the taller units located towards the central portion of the site at. The number (472) of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area with substantial amenities including locations with good public transport accessibility. Furthermore, having regard to the 2.73ha size and to the configuration of the site, it is considered to be able to accommodate increased heights and densities.
- 10.5.11. Section 3 of the Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights are 2/3-storeys. The Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. Taking each point in turn as detailed in this section 3.2 of the Guidelines with reference to the bullet points therein, I conclude:

Scale of Relevant city/town:

- Site is well served by public transport. There is a north and south bound Dublin Bus stop within c. 100m of the site on the Swords Road serving route 16. This is a high frequency route operating every 10 min in the peak period and each bus has a capacity of 125 no. passengers.
- A Landscape and Visual assessment was carried out as part of the EIAR and has been addressed throughout the report. I am satisfied that there will not be an unacceptable impact.

- Proposal makes a positive contribution to place-making by virtue of new streets and public spaces within the 2.73ha site, using massing, scale, and height to achieve required densities but with sufficient variety and height as has been done with the range of block heights and it responds to the scale of adjoining developments, with respect to the taller buildings being located towards the centre of the site.

Scale of district/neighbourhood/street:

- Design has responded to its overall natural and built environment and makes a positive contribution with the placement of basement level car parking and the provision of significant areas of public open space and high-quality public realm including upgrades to the existing public footpath and cycle network at the sites boundary with Swords Road
- It is not monolithic – it is 7 blocks of varying heights and scales.
- It enhances a sense of scale and enclosure having regard to the passive surveillance as a result of the design.
- Enhances legibility with additional potential future pedestrian / cycle routes through the site.
- It positively contributes to the mix of uses – the non-residential (café and creche) uses will be available to the wider community and there is a sufficient mix of typology studio, 1-, 2- and 3-bedroom units.

Scale of site/building:

- The Daylight and Sunlight Analysis submitted demonstrates that access to natural daylight, ventilation and views and minimise overshadowing and loss of light and has taken account of BRE documents.
- Given the flat, low-lying nature of the existing site, and the height and orientation of the proposed blocks the development is unlikely to create negative local wind microclimate impacts.

10.5.12. I am satisfied that the relevant specific assessments required to support the development have been carried out in the reports and EIAR submitted.

10.5.13. It is noted that third parties consider that the proposed scheme does not comply with SPPR 3. However, having regard to my assessment above which takes account of the

documents submitted by the applicant, I am satisfied that the applicant has set out how the development proposal complies with the criteria SPPR 3 of the Building Height Guidelines.

10.5.14. In conclusion, it is my opinion that having regard to the setting of this site with respect to public transport, its size, and in particular the local infrastructure that it is a suitable location for increased height without giving rise to any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact and represents a reasonable response to its context. The high-quality design would also support the redevelopment of this underutilised brownfield site and the consolidation of the urban area, which is welcomed.

10.6. ***Open Space***

Public Open Space

10.6.1. As noted above I am satisfied that the quantum of public open space is in accordance with Section 14.8.12 of the development plan, which states that on lands zoned Z12 a minimum of 20% of the site area should be retained as accessible public open space

10.6.2. A 5,679sqm area of public open space is proposed in the centre of the scheme, to the east of Blocks D and E and to the west of Blocks F and G. This area of open space includes a large lawn area for passive / active recreation with integrated seating, natural play elements and planting. A play area for older children with a MUGA and gym equipment provided in the northern portion of the open space and a toddler play area is provided in the southern portion of the open space. The Daylight and Sunlight Assessment also indicates that the area of public open space would be well lit. Having regard to the significant size of public open space provided with associated active and passive spaces it is my opinion that it would provide a high quality of amenity for future residents and it would enhance the open character of the site.

10.6.3. Concerns are raised by third parties that the location of the public open space, behind the urban blocks results in it being semi-private. The area of public open space runs from the sites northern boundary to its southern boundary and is connected to a 486sqm public plaza fronting onto Swords Road, located between Blocks A and B. The area of open space is also accessible from the 2 no. proposed accesses on

Swords Road. In addition, the scheme has been designed to allow for future connectivity to undeveloped lands to the north and to High Park and Beech Lawn Nursing Home site to the east. I am satisfied that the public open space is well connected to the Swords Road via the public plaza and would be highly accessible to the public. It is also my view that given the urban location of the site it would be inappropriate design solution to provide a public park along the sites frontage with the Swords Road.

- 10.6.4. In conclusion, I have no objection to the quantity or quality of the proposed public open space and consider that due to the lack of existing publicly available open space within the subject site it would have a significant positive benefit for the wider community.

Communal Open Space

- 10.6.5. The development plan sets out communal open space standards which are reflective of the standards set out in the Apartment Guidelines which recommend 4sqm per studio, 5sqm per 1-bed unit, 6sqm per 2-bed (3-person) and 7sqm per 2-bed (4 person) units. Therefore, there is a requirement for 2,830sqm of communal open space. The proposed scheme incorporates 3,280sqm of communal open space which is in excess of this standard. 2,939sqm of communal open space is provided at ground floor level between Blocks A / B /C and Block E / F, 77sqm at 5th floor level roof terrace of Block A, 103sqm at 5th floor level roof terrace at Block F and 161sqm at 5th floor level roof terrace at Block G. The ground floor level area of communal open space includes a children's play area, seating and planting and incorporates a space to facilitate social interaction. The roof terraces include areas of seating and planting. The Daylight and Sunlight Assessment also indicates that the areas of communal open space would be well lit. It is my view that a sufficient quantum and quality of communal open space is provided to ensure high standard of residential amenity to future occupants.

Private Open Space

In addition to the above, all of the residential units have individual private open space in accordance with the standards set out in the Apartment Guidelines, 2020.

10.7. **Residential Amenity**

Overlooking and Overbearing Impact

- 10.7.1. The subject site is not immediately adjacent to any residential properties. To the north the site is bound by vacant lands owned by Dublin City Council, to the north east by Whitehall GAA grounds. To the south the site is bound by Highfield Hospital Alzheimer's care centre and mental health centre. To the east the site is bound by Beech Lawn Nursing Home and High Park residential estate. To the west the site is bound by the Swords Road. On the opposite side of the Swords Road are a number of two-storey houses and a row of neighbourhood shops based around the junction with Iveragh Avenue. Concerns are raised by third parties that the proposed scheme would result in undue overlooking of existing properties.
- 10.7.2. Blocks A, B and C are located a minimum of 35m from the front elevation of existing dwellings on the opposite side of the Swords Road. Having regard to the stepped approach to height within the scheme, with a maximum of 6-storeys fronting onto the Swords Road and the proposed separation distances it is my opinion that the proposed scheme would not result in overlooking or have an overbearing impact on existing residential properties on Swords Road.
- 10.7.3. The site is bound to the south by the Highfield Hospital Alzheimer's care centre and mental health centre. The southern elevation of Block E is located c. 17.5m from an existing 2- storey building. Having regard to the nature of the use, the separation distance, the orientation of Block E and the limited, 4 storey height of the block at its southern elevation, it is my opinion that it would not result in any undue overlooking or have an overbearing impact on the existing building.
- 10.7.4. The southern elevation of Block G is located c. 17.9m from an existing 3-storey building within the facility. There are no windows on the existing building which directly opposes the proposed Block G. It is also noted that the only windows on the southern elevation of Block G serve bedrooms. Having regard to the nature of the use, the separation distances and the limited, 4 storey height of Block G at its southern elevation, it is my opinion that it would not result in any undue overlooking or have an overbearing impact on the existing building.

- 10.7.5. Block F is located c. 24m from the existing 3 storey Beech Lawn Nursing Home to the east of the site. Having regard to the proposed separation distance I am satisfied that the proposed development would not result in undue overlooking or have an overbearing impact on the existing Nursing Home.
- 10.7.6. The separation distances between the proposed blocks range from c.5m between Blocks F and G to 68m between Blocks D and F. The blocks have been designed to ensure there is no direct overlooking of windows or balconies. It is my opinion that the proposed separation distances between the blocks achieves a balance of protecting the residential amenities of future occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of public / communal spaces. In my view that proposed scheme would not result in undue overlooking or result in an overbearing impact between the blocks.

Daylight, Sunlight and Overshadowing

- 10.7.7. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing, and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in documents like the BRE's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards. Section 16.10.1 of the development plan states that apartment developments shall be guided by the

principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)

10.7.8. The applicant submitted an analysis of daylight, sunlight and overshadowing based on the standards in the following documents:

- Urban Development and Building Heights: Guidelines for Planning Authorities (2018);
- Sustainable Urban Housing: Design Standards for New Apartments (2020);
- Dublin City Development Plan 2016-2022;
- BRE Guidelines (2011) - BR 209;
- European Standard: EN17037 / IS EN 17037; and
- British Standard: BS EN17037:2018 – Daylight in buildings

10.7.9. I have considered the reports submitted by the applicant and have had regard to BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011), the BS 8206-2:2008 (British Standard Light for Buildings - Code of practice for daylighting). While I note the publication of updated British Standards (BS EN 17037:2018 'Daylight in Buildings) in 2019 and a new edition of the BRE practice guide in 2022, I am satisfied that this does not have a material bearing on the outcome of the assessment of the proposed development and that the analysis submitted with the application was properly based on the guidance documents that are cited in the Urban Development and Building Heights Guidelines and Apartment Design Guidelines issued by the minister under section 28, as well as in the city development plan . The results of the applicant's analysis regarding the achievement of the target values set out in the guidance documents are well founded and clearly set out, and are accepted as a reliable basis for my assessment of the proposed development with regard to daylight, sunlight and overshadowing.

Internal Daylight, Sunlight and Overshadowing

10.7.10. In general, Average Daylight Factor (ADF) is the ratio of the light level inside a structure to the light level outside of the structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out target values for Average Daylight Factor (ADF) that should be achieved, which are a minimum of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE

guide notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley-type kitchen is inevitable, it should be directly linked to a well daylight living room. This guidance does not give any advice on the targets to be achieved within a combined kitchen/living/dining layout. It does, however, state that where a room serves a dual purpose the higher ADF value should be applied.

10.7.11. The layout of the proposed units includes a combined kitchen/living/dining room. As these rooms serve more than one function, the applicant's analysis applied the 2% ADF target to the K/L/D rooms. The applicant has also analysed the development against the alternative 1.5% ADF target.

10.7.12. The applicant's analysis was carried out on all 1,162 no. rooms (471 no. K/L/D rooms and 691 no. bedrooms), which includes a mix of unit sizes, floor levels and orientations. The information provided in Section 9 of the submitted report indicates that the scheme has an 85% compliance with the recommended target of 2% for K/L/D rooms and 1% for bedrooms and a 93% compliance with the alternative target of 1.5% for K/L/D rooms and 1% for bedrooms. 66% of K/L/D rooms met the 2% target, 84% met the 1.5% target. Full details are provided in Appendix IV of the applicant's report.

10.7.13. A breakdown for each Block within the proposed scheme is as follows, based in the information in the submitted report: -

| Block | 2% ADF KLD | 1.5% ADF KLD | 1% ADF Bedroom | Total 2% KLD & 1% bedroom target | Total 1.5% KLD & 1% bedroom target |
|--------------|-----------------------|-------------------------|---------------------------|---|---|
| Block A | 56% (30 no.) | 70% (39 no.) | 100% (92 no.) | 82.4% | 88.5% |
| Block B | 49% (38 no.) | 81% (63 no.) | 100% (111 no.) | 78.8% | 92% |
| Block C | 85% (45 no.) | 98% (52 no.) | 99% (86 no.) | 93.5% | 98.5% |
| Block D | 36% (27 no.) | 59% (45 no.) | 98% (115 no.) | 59.7% | 82.9% |
| Block E | 90% | 95% | 100% | 96.2% | 98.1% |

| | | | | | |
|--------------|-----------------|-----------------|------------------|--------------|--------------|
| | (52 no.) | (55 no.) | (100 no.) | | |
| Block F | 93% (71 no.) | 95% (72 no.) | 100% (94 no.) | 97% | 97.6% |
| Block G | 65% (48 no.) | 92% (68 no.) | 94% (85 no.) | 81% | 93.2% |
| Total | 66% | 83.8%% | 98.8% | 85.5% | 92.6% |

10.7.14. A Daylight and Sunlight Assessment was not carried out for the previously approved scheme on the site (Reg. Ref 3405/19). The applicant has stated that in an attempt to compare the performance of the proposed development with the consented scheme a 1.5% ADF target was used for all K/L/D's, including the 281 L/D units with the rear galley kitchens removed from the assessment, and 1% for the bedrooms. In this supplementary assessment the previously approved scheme had a compliance rate of 98%.

10.7.15. The planning authority recommended that permission be refused due to the quantum (32%) of K/L/D rooms failing to achieve the 2% ADF. As it was considered that this would result in rooms that look dull and are likely to require artificial lighting, without the provision of adequate compensatory measures as outlined in Sustainable Urban Housing: Design Standards for New Apartments (December 2020).

10.7.16. I advise the board that it that the achievement of a 2% ADF for large open plan living / kitchen / dining rooms is very challenging in a scheme of this scale and nature. Excessive reliance on that target can unduly compromise the achievement of a sufficient quality of urban design and proper 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.

10.7.17. Section 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does

not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set out. The Board can apply discretion in these instances, 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.

10.7.18. The performance of the proposed development in relation to the applicable technical standards was clearly described in the documents submitted with the application, as summarised above. The full extent of the departure from the 2% ADF target can be ascertained from Appendix IV of the applicant's report. Section 9 of the report also sets compensatory design solutions, which includes significant (20% of the total site area) public open space, increased window heights and widths, positioning and design of balconies, orientation of units, dual aspect units and reduction in depth of rooms..

10.7.19. Overall, it is my view that the shortfalls in ADF are not significant in number or magnitude. Having regard to the need to develop sites at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions and alternative target is appropriate. It is also noted that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight. Therefore I do not agree with the conclusion of the planning authority that the proposed development would not in keeping with the BRE guide or that would be contrary to the 2018 Building Height Guidelines, the 2020 Apartment Design Guidelines or the Dublin City Development Plan 2016-2022 in this regard.

10.7.20. The BRE guide also recommend that the centre of at least one window to a main living room can achieve 25% of An Annual Probable Sunlight Hours (APSH), including at least 5% in the winter months for relevant windows, in this regard relevant windows are windows orientated 90 degrees of due south. Section 9 of the assessment notes that 47% of rooms reach or exceed the annual APSH target and 67% reach or exceed the winter APSH target. The report notes that 101 no. rooms that fall below the winter APSH target and 139 no. rooms that fall below the annual APSH target are bedrooms.

I agree with the applicant's assessment that bedrooms are less sensitive than K/L/D. The applicants report states that the remaining 103 no. windows that fall below the winter APSH target and 225 no. rooms that fall below the annual APSH target are generally located beneath overhanging balconies, which limits the availability of sunlight. It is noted that without balconies APSH would significantly increase for these units. However, a balance is required to achieve high quality residential amenity and good urban design. Therefore, while it is acknowledged that balconies impact on the APSH achieved, I am satisfied that they are required to ensure overall residential amenity and that the applicant has endeavoured to maximise sunlight to the apartments and has clearly identified and provided a rationale for alternative, compensatory design solutions.

10.7.21. Section 3.3 of the BRE guide states that good site layout planning for daylight and sunlight should not limit itself to providing good natural lighting inside buildings. Sunlight in the spaces between buildings has an important impact on the overall appearance and ambience of a development. It is recommended that at least half of the amenity areas should receive at least 2 hours of sunlight on 21st March. Section 9 of the applicant's assessment demonstrates that all areas of open space achieve the BRE target.

10.7.22. In conclusion, I advise the board that the submitted documentation properly describes the performance of the proposed development in relation to the standards on daylight and sunlight set out in the guidance documents cited in the 2018 Building Height Guidelines, the 2020 Apartment Design Guidelines and the 2016 city development plan. It sets out a sufficient justification and adequate compensatory measures for the extent to which a proportion of the rooms in the proposed development would depart from those standards. As such the proposed development would be in keeping with the provisions of those Guidelines on daylight and sunlight. The proposed apartments and open spaces would have sufficient daylight and sunlight to provide an acceptable standard of residential amenity for their occupants.

External Daylight, Sunlight and Overshadowing

10.7.23. Concerns are raised by third parties that the proposed scheme would unduly overshadow existing properties. The Daylight and Sunlight report submitted with the

application also assessed the potential impact of the development on the existing neighbouring properties. No Daylight / Sunlight Assessment was carried out as part of the previously approved scheme on the site. Therefore, as part of this application the applicant provided a comparison between the impact of the previously approved scheme and the proposed scheme on surrounding properties.

- 10.7.24. In general, Vertical Sky Component (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.
- 10.7.25. The assessment analysed the impact of the development on VSC for Beech Lawn Nursing Home to the east of the subject site, Highfield Hospital to the south of the site and residential properties on the opposite side of the Swords Road (no. 61-91).
- 10.7.26. *Beech Lawn Nursing Home*: Beech Lawn Nursing Home is located to the east of the subject site. The internal layout of this building is known. There are 40 no. windows, which serve 18 no. rooms which face onto the subject site. The information in Appendix III indicates that the most significant impact would be at ground and first floor level. There are 7 no. ground floor level rooms with 16 no. windows. It is noted that in some instances these windows currently do not achieve a VSC of 27%, with VSC as low as 3% for some window. Of the remaining 8 no. window's, which have a maximum VSC of 35%, the proposed development would significantly impact on these windows, reducing VSC in some instances to 21%. Overall, all windows at the ground floor level would be less than 0.8 times its former value, therefore, it is considered that the occupants of the existing building would notice the reduction in the amount of skylight.
- 10.7.27. There are also 16 no. windows at first floor level. It is noted that in some instances these windows currently do not achieve a VSC of 27%, with VSC as low as 4% for some windows. Of the remaining 8 no. window which have a maximum VSC of 38% the proposed development would moderately impact on these windows, reducing VSC in some instances to 24%. Overall, all windows at the first floor level would be less than 0.8 times its former value, therefore, it is considered that the occupants of the

existing building would notice the reduction in the amount of skylight. In my opinion the impact at third floor level would be negligible.

- 10.7.28. The impact on VSC in windows on the western elevation of Beech Lawn Nursing Home is noted. However when balanced against the existing VSC for these windows and the need for housing on zoned and serviced lands in the urban area I consider this level acceptable. It is noted that the planning authority raised no concerns regarding the impact on Beech Lawn Nursing Home.
- 10.7.29. *Highfield Healthcare*: Highfield Hospital is located to the south of the subject site. The internal layout of this building is unknown. There are 22 no. windows at ground floor level, first floor level and second floor level. The analysis indicates that the proposed scheme would have a minor impact on the VSC for 1 no. window at first floor level, reducing the VSC from 30% to 20% and 1 no. window at second floor level, reducing the VSC from 23% to 18%. The proposed development would have no material impact on all other windows within the existing building.
- 10.7.30. *Highfield Hospital Outpatient Building* is also located to the south of the subject site. The internal layout of this building is unknown. There are 26 no. windows at ground floor level, 13 no windows at first floor level and 5 no. windows at second floor level. The analysis indicates that the proposed scheme would have a minor impact on the VSC for 9 no. window at first floor level, in one instance reducing VSC from 32% to 22%. The proposed development would have no material impact on all other windows within the existing building. The impact on VSC for existing buildings to the south of the subject is noted. However, when balanced against the need for housing on zoned and serviced lands in the urban area I consider this level acceptable. It is noted that the planning authority raised no concerns regarding the impact on Highfield Hospital.
- 10.7.31. *Swords Road*: There are 13 no. 2-storey dwellings located on the opposite side of the Swords Road, to the west of the subject site. The analysis indicates that the proposed scheme would have no material impact on 9 no. residential properties, in this regard no. 61, 63, 65, 67, 69, 71, 85, 87, 91 Swords Road. The analysis indicates that the proposed scheme would have a minor impact on some windows at no. 73, 75, 79, 81 and 93, marginally reducing the VSC below the BRE target. It is noted that in some instances these windows currently do not receive a VSC of 27%. Full details are

available in Appendix III of the applicant's report. The impact on VSC for existing properties on the Sword Road is noted. However, when balanced against the need for housing on zoned and serviced lands in the urban area I consider this level acceptable. It is noted that the planning authority raised no concerns regarding the impact on existing properties on Swords Road.

10.7.32. In conclusion, while it is noted that the scheme does not achieve all recommended standards, consideration should be given to the fact that the comparison being made is between an existing, under-utilised brownfield site and the proposed development, which will inevitably have some form of an impact. It is considered that this development results in wider planning benefits, such as the delivery of a significant quantum of housing, high quality public open space and the comprehensive development of an underutilised serviced site in the urban area, which would support the consolidation of the urban environment. It is also noted that there is no significant impact on the VSC for existing properties between the proposed scheme and the previously approved scheme. Therefore, the shortfalls outlined above are considered acceptable in this instance.

10.8. ***Port Tunnel***

10.8.1. The applicant has submitted a Tunnel Impact Assessment in accordance with Policy MT22 and Appendix 6 'Dublin Port Tunnel Structural Safety' of the development plan. The Port Tunnel generally runs in a north-south direction under the eastern side of the site. Apartment blocks B and C are located beyond Zone 2, Blocks A, D and E are partially within Zone 2, Block G is directly above the north and southbound tunnels and Block F partially overlies the southbound tunnel. Both Block F and G are within Zone 1. The position of the development in relation to the Dublin Port Tunnels is shown on Figure 2-1 of the applicants report. The report concludes that the construction of the proposed residential development at Hartfield Place does not exceed the TII surcharge limit (in excess of 22.5kPa) on the tunnels and is found to have no detrimental effect on tunnel lining.

10.8.2. The submission from TII acknowledges the Tunnel Impact Assessment and notes Section 2.4 of the report which refers to a void located below the foundation of Block G required to reduce the surcharge. Technical specifications in the form of drawings

and calculations are required of this void for review to ensure compatibility with Tunnel integrity. In addition, technical specifications of the proposed basement construction are required. As it is not clear from the information submitted whether temporary or permanent piles are proposed, their interface with the tunnel, and proposed mitigation if necessary. TII also state that the interests of tunnel protection during the construction and operation of development it is recommended that formal written commitment to the submission of a construction management plan is required. The construction management plan should expressly include a method statement for works above the tunnel for the written agreement of the planning authority with written approval by TII. It is my opinion that these concerns could be addressed by way of condition.

10.8.3. TII also raise concerns that development has commenced on the site under PL29N.2386685, Reg. Ref. 3296/10 and notes that there is a requirement to comply with enabling conditions related to the Tunnel prior to the commencement of this development. These conditions as yet have not reached the necessary compliance. The Authority is further aware that this non-compliance was the subject of enforcement action by the planning authority. No details of planning enforcement are submitted with the application or available on the Dublin City Council Website. However, it is noted that the inspectors report for the previous application on the site (ABP-309608-21) states that the application included a copy of correspondence from the applicant to Dublin City Council, dated 17th February 2021, stating that no on-site construction works to any of the apartment blocks, foundation or basement structures had taken place to date. It was noted that there were no active construction works on the site during my site visit on the 27th October 2022.

10.8.4. In conclusion, I am satisfied on this basis of the information submitted which is robust and evidence based that the proposed development would not have any significant adverse impacts on the Dublin Port Tunnel (including cumulative impacts), subject to detailed construction management measures. If permission is being contemplated it is recommended that a condition be attached in this regard.

10.9. ***Transportation***

10.9.1. The subject site is located in Whitehall on the eastern side of the Swords Road, c 4km north of Dublin city centre. There is an existing vehicular access at the north-western

and south-western corners of the subject site. Access to the site is proposed from a new four arm signalised junction from the Swords Road with an additional emergency access from the south western corner of the site via the Swords Road. It is noted that the access and internal layout have been designed to accommodate service and delivery vehicles.

- 10.9.2. Swords Road is a regional road with north and south bound dedicated bus lanes. The speed limit along the subject site is 50km/hr. There is a high-quality footpath and cycle network in the immediate vicinity of the site. There are footpaths on both sides of the road and there is a dedicated cycle lane on the western side of the road, which transitions into an on road cycle lane. The site is served by high frequency public transport in the form of bus, with bus stops on both sides of Swords Road within 100m of the site. It is my view that this is a highly accessible urban site within close proximity to a variety of services and amenities.
- 10.9.3. Bus Connect proposals are outlined in Figure 2.14 of the applicants TTA, which indicate that the Swords Road would be served by a Spine route providing cross city connectivity via the city centre and local route 82 providing connectivity to Merrion Square. The area is also served by orbital routes, Route N2 provides connectivity from Clontarf to Heuston Station via Collins Avenue and Route N4 provides connectivity from Blanchardstown to Spenser Dock via Griffith Avenue. As part of the Bus Connects it is also proposed to improve cycle facilities along the Swords Road. Having regard to the above, it is my view that the location of the subject site will most likely benefit from improved levels of public transport accessibility / public transport service provision and proximity to the emerging cycle network. The submission from the NTA also notes that in the medium term, the site will benefit from major transport infrastructural investment.
- 10.9.4. In order to estimate the likely volumes of traffic generated by the residential units within the proposed development the TRICS database was utilised. It is estimated that the development would generate 142 no trips in the AM peak (41 no. arriving and 101 no. departing) and 109 no. trips in the PM peak (64 no. arriving and 45 no. departing). It is my opinion that the trips represent a reasonable estimate.

- 10.9.5. The Traffic and Transport Assessment (TTA) assessed the proposed 4 arm junction of the proposed development access / Swords Road / Iveragh Road. It is noted that both the Swords Road and Iveragh Road experience high levels of demand at peak times. The analysis found that the proposed signalised junction would not operate within capacity. For the Opening Year (2023) both the Swords Road (southbound) and Iveragh Road arms of the junction reach capacity in the AM Peak and the Swords Road (northbound) arm reaches capacity in the PM peak, with a Degree of Saturation (DOS) of over 90%. The analysis indicates that by 2038, 3 arms of the junction, in this regard Swords Road (southbound), Swords Road (northbound) and Iveragh Road, reach capacity in the AM and PM peaks.
- 10.9.6. The concerns raised by the third-party regarding traffic congestion and the capacity of the surrounding road network are noted. However, it is my view that within any urban area a certain level of congestion is to be expected during peak times and the proposed traffic volumes on the road network are within the norms of a busy urban environment. While it is acknowledged that improvements to the surrounding road network could alleviate traffic congestion in the city, including the implementation of Bus Connect, this is outside of the remit of this application and the proposed development is not reliant on them. Having regard to the sites zoning objective, its proximity to the city centre and public transport and overall national, regional, and local policy to consolidate the urban area, it is my view that the potential traffic generated by the proposed development is acceptable in this instance. The submissions from TII, NTA and the planning authority raised no objections to the impact of the proposed development on the capacity of the road network.

Car Parking

- 10.9.7. Table 16.1 of the development plan sets out maximum car parking standards for a various land uses throughout the city area. The subject site is located in Zone 3 Outer City. There is a maximum car parking standard of 1.5 no. spaces per residential unit and 1 no. space per 150sqm of café use. There is no requirement for creche car parking. Therefore, the development plan allows for a maximum of 708 no. residential car parking spaces and 1 no. café space. It is proposed to provide 337 no. spaces, 277 no at basement level and 60 no. at surface level. 313 no. spaces would be assigned to the residential units, which equates to 0.66 no. space per unit. 5 no.

creche car parking spaces are provided at basement level on the basis of 1 no. space per classroom and 19 no. visitor spaces are provided at surface level, which would facilitate drop off / collection of children.

- 10.9.8. The applicant has stated that the proposed car parking provision could be considered a material contravention of the development plan and submitted a material contravention statement in this regard. Section 16.38 of the development plan states that car parking standards are maximum standards and a relaxation of standards will be considered for any site in close proximity to public transport. As outlined about the site is located within 4km of the city centre and is well served by the no. 16 route along the Swords Road, which provides a high frequency service (every 10 minutes in the peak) to the city centre. It is my opinion that the proposed level of car parking is appropriate at this location and is not a material contravention of the development plan.
- 10.9.9. In addition, Section 4.21 of the Apartment Guidelines states in suburban / urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare, planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard. Having regard to the site's location within the urban area, its proximity to a variety of public transport modes and proximity to centres of employment and a wide range of services and facilities it is my view, that the proposed level of car parking is in accordance with the standards set out in the Apartment Guidelines.
- 10.9.10. A Mobility Management Plan was submitted which outlines measures and incentives that would be put in place during the operational phase of the development. It noted that this includes the management support and commitment and a Mobility Management Coordinator to oversee the Plan to ensure sustainable travel to and from the proposed development is encouraged.
- 10.9.11. No concerns were raised regarding the proposed level of car parking by the planning authority. The submission from the NTA considered the overall level of car parking to be appropriate, however, concerns were raised over the allocation of spaces on unit size rather than any clear transport planning rationale and considered that the

quantum of car sharing spaces could benefit from being more ambitious as a means of encouraging sustainable transport modes for all future occupants. It is my opinion that this could be managed and facilitated by way of the Mobility Management Plan and a specific condition is not required in this regard.

Cycle Parking

10.9.12. Table 16.2 of the development plan sets out a cycle parking standard of 1 no. space per unit with an additional requirement for visitor spaces to be decided on a case by case basis. Therefore, there is a requirement for 472 no. spaces. It is proposed to provide 982 no. spaces, comprising 732 no. residential spaces at basement level, 236 no. surface level visitor spaces and 14 no. cargo bike spaces at basement level. This is significantly in excess of the development plan standards. I have no objection to the proposed quantum of cycle parking proposed.

Connectivity

10.9.13. The proposed scheme includes 3 no. future pedestrian / cycle access. An access is proposed at the sites northern boundary with an undeveloped brownfield site in the ownership of Dublin City Council. This route has the potential to link the site to Collins Avenue, which is welcomed.

10.9.14. A potential link is also proposed in the south east corner of the site adjacent to the Beech Lawn Nursing Home site. It is noted that an application (304061-19) at Respond Housing site on Grace Park Road includes a future potential link via Beech Lawn Nursing Home and towards the subject site. An access between the 2 no. site would require the agreement of a third party. However, the provision of a potential future access is welcomed and noted to be in accordance with the Whitehall Framework Plan.

10.9.15. It is also proposed to provide an additional potential future link from the north east of the subject site to High Park via an existing right of way. The majority of third party submissions raised concerns regarding the negative impact that a pedestrian access would have on existing residential amenities for residents within High Park and the potential to create a vehicular access. It should be noted that this is a potential future pedestrian link, with no proposals to provide vehicular access through High Park.

Having regard to the layout of High Park, which includes a carriageway and footpath up to the boundary with the subject site, it would appear that it was envisioned that a link would be provided between the 2 sites. While the concerns of the third parties are noted, it is my opinion that the provision of additional connectivity is welcomed and would have wider benefits to the area including decreased travel times to services, amenities and public transport between Swords Road and Grace Park Road.

10.9.16. While it is acknowledged that the improved connectivity would require the agreement of third parties I am satisfied that the applicant has made significant attempts to improve connectivity within and through the site, which would open up this large (2.73ha) urban site and provide a planning gain for the wider area.

10.10. ***Water Services and Flood Risk***

10.10.1. The subject site is located within the existing urban area. It is noted that concerns are raised by third parties that there is insufficient capacity within the existing network to accommodate the proposed scheme.

10.10.2. A new surface water sewer network would be provided within the proposed development which will be entirely separated from the foul water sewer network. Attenuated surface water runoff would be discharged to the existing public surface water network via separate connections to the west at Swords Road and east at High Park. The currently approved surface water system is the same to the previously approved system (DCC Reg. Ref.3269/10) in that it will consist of two separate networks with two different outfalls, containing surface water drainage, slung drainage, basement drainage, SUDS features and an underground attenuation system. The main difference is that the attenuation tanks will be concrete tanks and not stormbloc cells. The SUDS measures proposed include greenroofs, bioretention areas, infiltration trenches, permeable paving, underground attenuation storage. It is also noted that any surface water from the basement carpark would drain through an underground system which would be pumped into the gravity foul drainage system for the site at ground floor level. It is noted that the planning authority's Drainage Division raised no objection to the proposed development.

10.10.3. The applicants Engineering Report notes that the scheme would be connected to the public foul network on High Park. The submission from Irish Water notes that in order

to accommodate the proposed development, there may be local network upgrades required. The upgrade size and / or remedial works will be determined as part of the connection application phase.

10.10.4. The applicants Engineering Report notes that it is proposed to connect the site to the public system at Collins Avenue. This will involve installing c.180m of 200mm internal diameter watermain from Collins Avenue to the proposed developments site boundary on Swords Road. The submission from Irish Water also notes that the scheme should be connected to the existing main on Collins Avenue. The submission further states that the installation of a bulk meter at the connection point of the Development is required. As there are no plans to extend or commence upgrade works to its network in this area the applicant would be required to fund these works as part of a connection agreement.

10.10.5. In conclusion, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts.

Flood Risk

10.10.6. The OPW maps indicate that the subject site is located within Flood Zone C. There is no record of historic flooding on the site. The applicants Engineering Report notes that if the proposed surface water system blocked or surcharged in the south eastern corner, south of Block G there is potential for a flood risk of a neighbouring property. Therefore, the proposed surface water network has been designed to eliminate this risk.

10.10.7. Having regard to the sites location in Flood Zone C and to the information submitted, which is robust, and evidence based, I am satisfied that the proposed development would not result in a potential flood risk within the site or to any adjoining sites and I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified. It is also noted that no concerns were raised by third parties of the planning authority regarding flood risk.

10.11. **Material Contravention**

10.11.1. The applicant's Material Contravention Statement considered that the proposed development would materially contravene the Dublin City Development Plan 2016 - 2022 with regard to the following:

- Building Height
- Unit Mix
- Site Coverage
- Density
- Car Parking
- Open Space
- Masterplan

The applicants Material Contravention Statement addresses and provided a justification for these material contraventions.

Building Height: Section 16.7.2 of the development plan sets out maximum building heights which restricts the height of a residential development in the outer-city to 16m. The scheme ranges in height from 4 storey (c. 13.8m) to 8 storeys (c.26.5m). The higher elements of the scheme (7 / 8 storeys are generally provided in the centre of the development in Blocks D and E. There is also an 8-storey element in Block A at the sites northern boundary. The height of a significant portion of the proposed scheme does not accord with the height strategy as set out in the development plan, as it exceeds 16m in height.

Unit Mix: Section 16.10.1 states that apartment developments shall contain a maximum of 25-30% one-bedroom units and minimum of 15% three- or more bedroom units. The proposed scheme comprises 32 no studio's (7%), 198 no. 1-bed's (42%), 233 no 2-bed's (49%) and 9 no. 3-bed's (2%). It is acknowledged that the proposed unit mix does not accord with the standard set out in Section 16.10.1. However, this is not a policy of the development plan and, therefore, it is my opinion that this is not a material contravention. Notwithstanding this, it is noted that the proposed unit mix is similar to the mix in the previous application (ABP-309608-21) which was considered a material contravention of the development. Therefore, it is my

opinion, that a cautionary approach should be taken and the issue of material contravention of the unit mix is assessed and justified.

Site Coverage: Section 16.4 of the development plan states that an urban design and quality-led approach to creating urban densities will be promoted. To control the scale and mass of a development and to prevent overdevelopment of a site the development plan sets out an indicative site coverage standard of 50% for Z12 lands. The proposed scheme has a site coverage of 29%. While it is noted that the site coverage falls below the indicative standard the site coverage is considered appropriate in this instance., having regard to the requirement for 20% of the site to be provided as public open space and the sites location over the Port Tunnel. Having regard to the flexibility of the wording within section 16.4, which states that these are indicative standards and as the 'indicative' site coverage standard does not related to a policy of the plan it is my view that this is not a material contravention. The planning authority and third parties raised no concerns regarding a material contravention of the development plan with regard to site coverage and the planning authority notes that a site coverage below the quantitative standard is not unusual.

Density: The development plan does not set out density targets. Policy QH7 aims to *promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.* Section 16.4 of the development plan states that an urban design and quality-led approach to creating urban densities will be promoted. It is my view that the design approach is well considered and has regard to the site's urban context. The proposed development would result in the creation of a new high quality distinct urban quarter with wider benefits, such as the delivery of a significant quantum of housing and public open space. The redevelopment of this underutilised site is welcomed and represents a high-quality, contemporary scheme, which includes variety in height and scale that would positively contribute to the streetscape and the consolidation of the urban environment. Having regard to the population targets set out in Chapter 2 Core Strategy it is my view that the proposed density would also support the promotion of suitable densities. Therefore, it is my opinion that the proposed density does not materially contravene the development plan. It is also noted

that the planning authority and third parties raised no concerns regarding a material contravention with regard to density.

Car Parking: Table 16.1 of the development plan sets out maximum car parking standards for a various land uses throughout the city area. The subject stie is located in Zone 3 Outer City. The development plan allows for a maximum of 709 no. spaces. It is proposed to provide 337 no. spaces, 277 no at basement level and 60 no. at surface level. The car parking standard is a maximum standard. Having regard to the site's location within the urban area, its proximity to public transport and proximity to a wide range of services and facilities, I am satisfied that an appropriate level of car parking has been provided within the scheme. The car parking standards in Table 16.1 do not relate to a policy of the plan, therefore, it is my opinion that the car parking provision is not a material contravention.

Open Space: Section 14.8.12 states that where lands zoned Z12 are to be developed, a minimum of 20% of the site, incorporating landscape features and the essential open character of the site, will be required to be retained as accessible public open space. The minimum 20% public open space shall not be split up into sections and shall be comprised of soft landscape suitable for relaxation and children's play, unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 20% minimum public open space shall be apportioned otherwise. An area of public open space (5,679sqm) is proposed in the centre of the scheme, between blocks D/E and F/G. This equates to 20.8% of the net site area (2.73ha). It is also proposed to provide an additional 486sqm public plaza between Blocks A and B this equates to a total area of public open space of 6,165sqm which is 22.5 % of the net developable area. I am satisfied that the quantum of open space provided is in accordance with the provisions of Section 14.8.12 of the development plan and would not be a material contravention. It is also noted that the planning authority and third parties raised no concerns regarding a material contravention with regard to public open space.

Masterplan: Section 14.8.12 states that in considering any proposal for development on lands subject to zoning objective Z12, there is the requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. A site specific masterplan has not been

submitted with the application. However, the subject site forms part of a larger land parcel that is within the boundary of the non-statutory Whitehall Framework Plan (2008). Section 5.0 of the Framework Plan sets out a Vision and Structuring Concept for the overall lands and addresses indicative site layouts, movement strategy, public space strategy (including the 20% provision), land use and density, building heights and a capacity study. I am satisfied that the Framework Plan and the information submitted with the application, in particular the Architectural Design Statement meets the development plan requirement for the preparation and submission of a masterplan setting out a clear vision for the future for the development of the entire land holding. It is noted that the planning authority and third parties raised no concerns regarding a material contravention with regard to a masterplan.

10.11.2. **Section 37(2)(b)**

Having regard to the above it is my opinion that the proposed development materially contravenes Dublin City Development Plan with regard to Section 16.7.2 Building Height and Section 16.10.1 Unit Mix only.

Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that: -

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

10.11.3. Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i), (iii) and (iv) are considered relevant in this instance.

10.11.4. **Section 37 (2) (b)(i)**

The subject site has an area of c. 2.73ha and would deliver 472 no. residential units in the urban area. The site's urban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The site is also located in close proximity to public transport and a range of services and facilities within the urban area. It is, therefore, considered that this scheme is strategic by reason of its location and scale, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

10.11.5. **Section 37 (2) (b)(ii): - Building Height**

The proposed material contravention to the **Building Height** is justified by reference to: -

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations.
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. National Policy Objective 13 states that in urban areas, planning and related standards, including in particular building height, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject

to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected. National Policy Objective 35 states that 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.

The NPF further states that although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposal. In particular, general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc. A more dynamic performance-based approach appropriate to urban location type will also enable the level of public transport service to improve as more development occurs and vice-versa.

The Building Height Guidelines are intended “*to set out the national planning policy guidelines on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework*”. It is further noted that statutory development plans have set generic maximum heights across their functional areas and if inflexibly or unreasonably applied “*can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework and instead continue an unsustainable pattern of development whereby many of our cities and towns continue to grow outwards rather than consolidating and strengthening the existing built up area*” . Section 2 refers to Building Heights and the Development Plan. It states that implementation of the National Planning Framework requires increased density, scale and height and requires more focus on reusing brownfield sites and building up urban infill sites, and of relevance those which may not have been built on before.

SPPR 1 of the Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport

accessibility. Planning authorities shall explicitly identify through their statutory plans, areas where increased building height will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

As outlined above in my planning assessment I am of the opinion that this particular area can accommodate the increased height proposed and should not be subject to a 'blanket numerical limitation'. The design proposed has taken full account of its setting with the taller units located in the centre of the scheme. The number (472) of units proposed will assist in achieving national policy objectives for significantly increased housing delivery in an urban area with substantial amenities including locations with good public transport accessibility

Section 3 of the Height Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations. In this respect the continuation of low-rise development is not an option in this location, simply because the prevailing heights are 2 / 3 -storeys.

The Height Guidelines present three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights. I have provided a response below each principle.

- 1. Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?*

Response: Yes – the development and regeneration of this underutilised, infill brownfield site within the urban area would support national strategic objectives to deliver compact growth.

- 2. Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?*

Response: No - the blanket height limits applied in the Dublin City Development Plan 2016 -2022 predates the Guidelines (2018) and, therefore, has not taken clear account of the requirements set out in the Guidelines.

3. *Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?*

Response: No - it cannot be demonstrated that implementation of the policies, which predate the Guidelines support the objectives and policies of the NPF.

Section 3 of the Height Guidelines continues to describe information that the applicant should submit to the Planning Authority to demonstrate that it satisfies certain criteria at the scale of the relevant city/town, at the scale of district/neighbourhood/street, and at the scale of the site/building. As outlined in my assessment above (Section 10.5), I am satisfied that the applicant has set out how the development proposal complies with the criteria SPPR 3(A)(1) and having regard to SPPR 3(A)(2) with respect to wider strategic and national policy parameters as referenced throughout this report, I am satisfied that the criteria have been complied with.

Having regard to the provisions of the National Planning Framework and the Building Height Guidelines and to the setting of this site with respect to public transport, its size (2.73ha), and in particular the local infrastructure I am satisfied that it is a suitable site for increased height without giving rise to any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact. I am satisfied that, having regard to the fact that the Development Plan predates the Building Height Guidelines by c. 2 years and that this proposal is in accordance with the National Planning Framework objectives to deliver compact growth in urban areas and in accordance with the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 to encourage the provision of higher densities and the consolidation of Dublin and suburbs, that in accordance with Section 37(2)(b)(iii) it is open to the Board to grant permission for the development as a material contravention of the Development Plan.

10.11.6. Section 37 (2) (b)(ii): Unit Mix

The proposed material contravention to the **Unit Mix** is justified by reference to: -

- SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments

The Sustainable Urban Housing: Design Standards for New Apartments, 2020, set out standards for apartment development in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework. Accordingly, where Specific Planning Policy Requirements (SPPRs) are stated, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.

SPPR 1 states that housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

The proposed scheme comprises 32 no studio's (7%), 198 no. 1-bed's (42%), 233 no 2-bed's (49%) and 9 no. 3-bed's (2%), which is in accordance with the provisions of SPPR1. It is noted that an evidence-based Housing Need and Demand Assessment has not been completed to date.

The surrounding area is characterised by low density traditional suburban housing. It is my view that the provision of studio, 1, 2 and 3 bed apartment units would encourage the creation of an attractive neighbourhood with a variety housing types, in accordance with policy QH6 of the development plan and that this scheme should not be subject to a 'blanket numerical limitation'.

The proposed development comprises a high-quality and coherent urban scheme with wider benefits such as the delivery of a significant delivery of housing units and the comprehensive redevelopment of an underutilised urban site which would support the consolidation of the urban environment in accordance with national policy objectives.

In conclusion, I am satisfied that the proposed material contravention to Unit Mix can be granted with respect to section 37(b)(2)(iii), having regard to SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments, 2020,

10.11.7. Section 37(2)(b)(iv): Height

Since the making of the Dublin City Development Plan 2016-2022 the Board granted permission under ABP-306721-20 for the construction of 124 no. apartments in a single block ranging in height from 5-6 storeys, with a maximum height of 22m, at the Bonnington Hotel, c. 200 south of the subject site

Having regard to the recent grant of permission in the vicinity of the site for Building Heights over those prescribed in the Development Plan, I am satisfied that in accordance with Section 37(2)(b)(iii) it is open to the Board to grant permission for the development as a material contravention of the Development Plan.

10.11.8. Conclusion

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to materially contravene the Dublin City Development Plan 2016-2022, would be justified in this instance under sub sections (i), (iii) and (iv) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, Housing for All – A new Housing Plan for Ireland issued in May 2021, the National Planning Framework, 2018, the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, Urban Development and Building Heights Guidelines, 2018 and Sustainable Urban Housing: Design Standards for New Apartments, 2020.

10.12. **Chief Executives Recommendation**

10.12.1. The planning authority recommended that permission be refused for the following reason: -

10.12.2. The proposed development does not comply with the provisions of the 'Site Layout Planning for Daylight and Sunlight - A guide to good practice (Building Research Establishment Report) 2011' as 32% of the living room/kitchen/dining rooms will provide less than 2% average daylight factor and will consequently have rooms that look dull and are likely to require artificial lighting without the provision of adequate compensatory measures as outlined in Sustainable Urban Housing: Design Standards for New Apartments (December 2020). The proposed development would therefore, by itself and by the precedent it would set for other development, be contrary to Ministerial guidelines issued to planning authorities under section 28, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

10.12.3. The applicant's analysis was carried out on all 1,162 no. rooms (471 no. LKD rooms and 691 no. bedrooms), which includes a mix of unit sizes, floor levels and orientations. The information provided in Section 9 of the applicant's report indicates that the scheme has an 85% compliance with the recommended target of 2% for LKD rooms and 1% for bedrooms and a 93% compliance with the alternative target of 1.5% for LKD rooms and 1% for bedrooms. This is broken down into 66% compliance with the recommended target of 2% for LKD and 83.8% compliance with the alternative target of 1.5% for LKD. Full details are provided in Appendix IV of the applicant's report.

10.12.4. While it is noted that the scheme does not achieve all recommended standards, I note that Criteria 3.2 of the Building Height Guidelines states that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. It is acknowledged in these Guidelines that, where a proposal does not fully meet the requirements of the daylight provisions, this must be clearly identified and a rationale for alternative, compensatory design solutions must be set

out. The Board can apply discretion in these instances, 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.

10.12.5. Section 9 of the applicant's report provides compensatory design solutions, which includes significant (20% of the total site area) public open space, increased window heights and widths, positioning and design of balconies, orientation of units, dual aspect units and reduction in depth of rooms. Therefore, I disagree with the planning authority's assessment that the proposed scheme does not comply with the provisions of Site Layout Planning for Daylight and Sunlight - A guide to good practice (Building Research Establishment Report) 2011', or with the provisions of the 2018 Building Height Guidelines, the 2020 Apartment Design Guidelines or the 2016 city development plan which refer to that practice guide.

10.12.6. Having regard to the need to development sites such as these at an appropriate density, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I am satisfied that adequate justification for non-compliance exists, and that the design and associated design solutions and alternative target is appropriate. It is also noted that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight. Therefore, the shortfalls are considered acceptable in this instance.

10.12.7. In conclusion I am satisfied that the proposed development represents a reasonable response to its context and is acceptable in this instance. Therefore, I consider that it would be inappropriate to refuse permission on this ground.

11.0 **Environmental Impact Assessment (EIA)**

11.1. ***Environmental Impact Assessment Report***

11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The proposed development provides for 472 no. residential units, a creche and a cafe on a site area of 2.72 ha. The site is located within the administrative area of Dublin City Council.

- 11.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- Construction of more than 500 dwelling units
 - Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- 11.1.3. The proposed development comprises 472 no. residential units. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district and is, therefore, it is below the applicable threshold of 10ha. Having regard to the relatively limited size and the location of the development, it is not within a class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and the submission of an environmental impact assessment report is not mandatory as the proposed development is sub-threshold. Notwithstanding this, as an Environmental Impact Assessment Report has been submitted and an Environmental Impact Assessment of the proposed development is carried out below.
- 11.1.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Section 1.9 of the EIAR and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.
- 11.1.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered

11.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from Dublin City Council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. For the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment. The assessment below should be read in conjunction with my planning assessment above.

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. I note that 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. Therefore, this is not a source for potential for impacts. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. Chapter 7 Water (Hydrology and Water Services) of the EIAR address the issue of flood risk with reference to the submitted site specific Flood Risk Assessment submitted with the application. The site is located within Flood Zone C and, therefore, is not at risk of flooding. The likelihood of flooding is further minimised with adequate sizing of the on-site surface network and SuDS measures. Adequate attenuation and drainage have been provided for to account for increased rainfall in future years. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use is unlikely to be a risk of itself. Having regard to the sites zoning objective and its urban location, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

11.3. **Alternatives**

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

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

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

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

11.3.2. The alternatives considered are outlined in Chapter 2 of the EIAR. It notes that as this site is zoned for development within an existing residential area, it was not considered necessary to consider other sites. The proposed uses are considered most appropriate for the subject site to ensure it is in accordance with the provisions of the development plan. Alternative layouts / designs for the site were considered including a previously approved development on the subject site (Reg. Ref. 3269/10, ABP. PL29N.238658) and subsequent amendments to approved Block F (Reg. Ref. 3405/19). Permission was also refused for an alternative design and layout on the subject site (ABP.309608-21). The alternatives considered were largely restricted to variations in layout and building design and open space arrangements. I am satisfied that the alternatives have been adequately explored for the purposes of the EIAR. In the prevailing circumstances the overall approach of the applicant is considered reasonable, and the requirements of the directive in this regard have been met.

11.4. **Consultations**

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

11.5. ***Likely Significant Direct and Indirect Effects***

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

- Population and Human Health
- Biodiversity
- Land, Soil and Geology
- Hydrology and Water Services
- Noise and Vibration
- Climate and Air Quality
- Landscape and Visual
- Traffic and Transport
- Material Assets
- Waste
- Cultural Heritage and Archaeology
- Interactions
- Schedule of Mitigation Measures

11.6. ***Population and Human Health***

11.6.1. Population and Human Health is addressed in Chapter 4 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent demographic and socio-economic trends are examined. An assessment of retail uses, community facilities, childcare and schools within 1km of the site is also provided.

11.6.2. Any adverse likely and significant environmental impacts during the construction phase (maximum 5 years) relating to noise and vibration, air quality and traffic and transportation would be avoided by the implementation of the remedial and mitigation measures outlined in Section 4.7. The implementation of these measures would

ensure that there will be no significant negative impacts/effects on human health or population. Positive impacts are likely to arise due to an increase in employment and economic activity associated with the construction of the proposed development. The overall predicted likely and significant impact of the construction phase will be short-term, temporary and neutral.

- 11.6.3. The predicted impacts of the operational phase are considered to be long term and positive to population and human health. The proposed development equates to a population of c. 1,298 no. persons. The projected increase in population would create additional demand for local retail and service provision, providing increased local employment opportunities. The proposed development would result in providing a diverse range of housing and apartments which will serve all aspects of the current housing market.
- 11.6.4. Third parties have raised concerns the proposed development fails to provide sufficient community and social infrastructure to accommodate the proposed development. The EIAR details existing social infrastructure available within a 1km catchment of the site. I am satisfied that sufficient community and social infrastructure has been provided as part of the scheme, which includes non-residential uses including a creche and areas of public open space and that there is sufficient existing services and amenities within the catchment of the subject site to accommodate the proposed population.
- 11.6.5. I am satisfied that sufficient community and social infrastructure has been provided as part of the scheme, which includes non-residential uses including a creche, cafe and a significant area of public open space and that there is sufficient existing services and amenities within the catchment of the subject site to accommodate the proposed population.
- 11.6.1. Overall, the proposal would contribute positively to the community by improving the vibrancy and vitality of the area. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

11.7. **Biodiversity**

11.7.1. Chapter 5 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report was prepared as a standalone document. As assessed in section 12 below, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

11.7.2. A desk study was undertaken and included review of available ecological data within zone of influence. The following surveys were undertaken: -

- Field survey and baseline ecology (habitats, protected species, invasive species) on 28th February 2020 and 7th September 2021.
- Mammal Survey on 7th September 2021
- Bat Survey on 28th February 2020 and 7th September 2021
- Wintering bird surveys on 1st, 9th and 15th December 2021, 5th, 18th of January 2022 and 2nd, 10th and 23rd February 2022

11.7.3. *Habitats*: There are no habitats within the development site of greater than county value. The proposed development will require removal of vegetation within the site. This will result in the loss of dry grassland / scrub and recolonising bare ground habitats. The removal of vegetation could also affect wildlife, such as Pygmy Shrew, Hedgehog, Badger, bats, birds and insects by direct mortality, loss of potential roosting, nesting, commuting and foraging habitat. Mitigation measures outlined in Section 5.7 would be implemented during the construction phase and the removal of vegetation would take place outside of the bird nesting season. The loss of habitat will be temporary. The predicted impact during the construction phase is assessed to be of negligible impact.

11.7.4. *Invasive Non-native Species*: A number of Invasive Non-native Species were recorded within the site. These included species of medium to low impact: Butterfly-bush *Buddleja davidii*, Winter Heliotrope *Petasites pyrenaicus* and *Cotoneaster* spp. No species on the Third Schedule of non-native species were recorded. The construction of the proposed development will involve movement of machinery and soil. While neither Butterfly-bush, Winter Heliotrope or *Cotoneaster* are invasive

species listed on the Third Schedule of the EU Habitats Directive, they could be spread within the site when topsoil is stripped and moved around within the sites. This could result in the species competing with plants proposed within the planting scheme of the development. Maintaining site hygiene at all times in an area where Invasive Non Native Species are present is essential to prevent further spread. I am satisfied that any potential risks from invasive species would be managed during the construction phase and, therefore, there is no risk from the spread of invasive species during the operational phase.

11.7.5. *Mammals*: No protected species were recorded during the site visit. A single mammal hole was recorded in an earth bank, evidence of a small mammal, likely Rabbit. While no signs were recorded, the site is considered to be of local (higher value) ecological importance for Hedgehog, Pygmy Shrew and Badger. Subject to the mitigation measures outlined in Section 5.7 the construction phase would result in minor short to medium-term impact to these species, which are of local importance. During the operational phase the scheme incorporates a wildlife corridor along the southern boundary and across the site at the back of Block F and G which connects areas to the south with areas to the north of the site to allow for safe commuting and foraging opportunities for mammals, bats and birds. I am satisfied that the proposed development would not have any unacceptable direct or indirect impacts on the mammal population.

Bats: A total of three bat species, Common Pipistrelle, Soprano Pipistrelle and Leisler's Bat, were recorded during the surveys. The site itself does not offer any roost potential. Therefore, there will be no loss of roosting habitat due to the development. There are two mature trees outside of the site boundary, in the north west corner of the site. It is not anticipated that the construction phase would significantly impact on potential roosting habitat. The removal of vegetation on site would result in the loss of bat foraging and commuting habitat and may reduce the connectivity between nearby suitable habitat. With regard to the operational phase, bats in the area would be used to human presence and noise disturbance given the urban landscape and most human activity within the site would be during daytime hours. The submission from the DAU, Department of Housing, Local Government and Heritage notes the finds of the bat activity surveys and recommended that a condition be attached to any grant of

permission that a finalised external and internal lighting design scheme be signed off by a bat specialist. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts on the bat population.

- 11.7.6. *Birds:* No birds were recorded landed within the site on the day of the site visits. Noise, vibration and increased human presence associated with the construction phase has the potential to result in a disturbance impact to local breeding bird populations during the breeding season and has the potential to result in reduced breeding within the site. However, this impact is considered to be temporary. There is the potential for physical disturbance if removal of nesting habitat is carried out during the breeding season. Therefore, due to the removal of suitable bird habitat, the unmitigated effect of this development during construction would result in a negligible-minor, temporary to short-term impact to breeding birds of local importance. During the operational phase noise disturbance is unlikely to cause stress to this species group given the urban setting and the impact is anticipated to be negligible.

No Brent Goose or other wintering birds were recorded using the site. However, the site has been identified to be within the flight lines of Brent Goose. Therefore the proposed development could result in disturbance to their flight path. The majority of the observations recorded Brent Geese flying further south of the site and the number of birds flying over the site was low, less than 3% of the North Bull Island SPA population. The unmitigated effect of the proposed development during the operational phase would have a negligible impact on Brent Goose.

- 11.7.7. *Invertebrates:* Invertebrates were not surveyed. However, the semi-natural grassland/scrub habitat would provide supporting habitat for bees, butterflies and insects. The reduction of available habitat in the urban setting could impact on the wider insect population and it is important to consider that not all planted plants are suitable to pollinators. The unmitigated effect of this development would result in a moderate long-term impact to this species group of county importance. The scheme incorporates native wildflower meadows which would provide habitat for pollinating insects and several of the native trees and scrub to be planted also provide nectar to

pollinators. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts on the Invertebrate population.

11.7.8. *Reptiles and Amphibians:* There are no watercourses or wetland habitats within the proposed development site. Therefore, this site is of negligible value for reptiles and amphibian species.

11.7.9. Overall, the residual impacts of the proposed development on ecology are likely to be slight negative impact at a site level and of short-term duration. In the short to medium term, as vegetation on site mature, the residual impact would increase to slight positive impact at a local level.

11.7.10. I have considered all of the written submissions made in relation to biodiversity and the relevant contents of the file including the EIAR. Having regard to the present condition of the site, with no special concentrations of flora or fauna, I am satisfied that the development of the site and the proposed landscaping and planting provides greater benefits in terms of biodiversity. I draw the Boards attention to the AA section of my report (Section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

11.8. ***Land, Soil and Geology***

11.8.1. Chapter 6 of the EIAR deals with land, soil and geology of the site. Site investigations were carried out in 2000 as part of the Port Tunnel works, in 2010 as part of the previous planning application on site and again in 2020. The methodology for assessment is described as well as the receiving environment. Appendix 6 includes a Report on Site Investigations, A Ground Investigation Report, the Dublin Port Tunnel: Design and Construct Contract and the Tunnel Impact Assessment.

11.8.2. The predicted impact on land, soil and geology at construction phase is limited to the excavations required to construct the foundations and install the proposed works. No significant effects on land, soils, subsoils or bedrock are anticipated. However, any contamination / spills / leaks during construction would likely occur in localised areas

only, with effects likely to be minimal. If mitigation elements are implemented, then the risk of impact is negligible. During the operational phase the impact would be negligible on the surrounding soils, geology and groundwater environment.

11.8.3. There are no anticipated cumulative impacts.

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

11.9. ***Hydrology and Water Services***

11.9.1. Chapter 7 of the EIAR deals with Hydrology and Water Services. My assessment of Water Services and Flood Risk in Section 10.10 above also considers these matters and I refer the Board to same. The methodology for assessment is described as well as the receiving environment.

11.9.2. *Foul Water:* It is proposed to discharge foul flows to the existing 225mm dia. foul sewer at the northeast of the site in High Park.

11.9.3. *Surface Water:* A new surface water sewer network would be provided for the proposed development which will be entirely separated from the foul water sewer network. Attenuated surface water runoff would be discharged to the existing public surface water network via separate connections to the west at Swords Road and east at High Park. The currently approved surface water system is the same to the previously approved system (DCC Reg. Ref.3269/10) in that it will consist of two separate networks with two different outfalls, containing surface water drainage, slung drainage, basement drainage, SUDS features and an underground attenuation system. The main difference is that the attenuation tanks will be concrete tanks and not stormbloc cells. The scheme incorporates SUDS measures including greenroofs, bioreteion areas, infiltration trenches, permeable paving, underground attenuation storage.

- 11.9.4. *Water:* It is proposed to connect the site to the existing 300mm ductile iron watermain located in Collins Ave, at the junction with the Swords Road. This would involve installing c. 180m of 200mm internal diameter watermain from Collins Avenue to the proposed developments site boundary on Swords Road. The proposed watermain layout involves the installation of a 200mm internal watermain from the connection point at the site boundary to a plant room located in the proposed basement underneath Block A.
- 11.9.5. No significant effects on hydrology and water services are anticipated. However, any failure is likely to be due to the incorrect installation of SuDS causing a reduction in treatment of surface water or a pipe leakage resulting in contamination of ground water. The correct implementation of the mitigation measures outlined in Section 7.7 would minimise this risk.
- 11.9.6. I am satisfied that subject to the implementation of the measures described in the EIAR the proposed development would not be likely to have a significant effect on hydrology or water services.

11.10. **Noise and Vibration**

- 11.10.1. Noise and Vibration are outlined in chapter 8 of the EIAR. The methodology for assessment is described as well as the receiving environment. The baseline noise environment at the proposed development site is characterised by noise generated by vehicles on the surrounding roads and activity at the Whitehall GAA grounds to the north of the subject site.
- 11.10.2. A baseline noise survey was carried out at the sites western boundary, fronting onto the Swords Road on 11th November 2020. The results in Table 8.6 indicate that noise levels are generally relatively high, which is to be expected at an urban location, adjacent to a busy road.
- 11.10.3. Noise and vibration will be generated during the construction phase as a result of site preparation and enabling works, construction traffic, construction of site infrastructure, excavation of foundations and façade, fit-out and landscaping works. Noise levels of plant used to break hard surfaces, such as piling rigs and tower cranes, are in the range 80-85 dB LAeq, at a distance 10m. Noise levels can be above 70 dB LAeq within

approximately 25 m of these types of activities, depending on the chosen plant and the methods applied. It is predicted that sensitive noise receptors (as outlined in Section 8.3) may experience noise levels of Medium to High magnitude of impact and therefore result in a Temporary Moderate to Major Adverse effect. As the noise is considered to be noticeable and intrusive, mitigation measures and noise management plans as outlined in Section 8.8 and a Construction Environmental Management Plan (CEMP) will be put into place to ensure that construction noise is minimised at all times throughout the construction programme. With the incorporation of the mitigation measures and CEMP in place, construction noise are likely to be a Temporary Moderate Adverse effect, which is not considered to be significant.

- 11.10.4. Based on the estimated distances (>20m) from identified sensitive receptors to the nearest buildings in the Proposed Development, potential vibration levels affecting sensitive receptors during typical construction activities are not expected to exceed the NRA recommended levels. However, as construction vibration may be noticeable and intrusive, mitigation measures will be put into place to ensure that vibration is minimised at all times throughout the construction programme. Vibration effects associated with construction activities are likely to be negligible to slight.
- 11.10.5. During the operational phase, noise sources include additional traffic, plant, and the commercial uses. However, these uses would not exceed the typical background measured noise level by 5 dB LAeq.
- 11.10.6. Mitigation measures are described in Section 8.8 of the EIAR, with a focus on implementation on the control of construction activities to limit noise and vibration. Following the implementation of mitigation measures and compliance with limit values, no significant residual effects on the environment in terms of noise and vibration are envisaged.
- 11.10.7. I am satisfied with the level of information submitted and that construction impacts resulting from the proposed development are within acceptable limits and can be addressed by way of condition. I concur with the conclusions of the EIAR that following the implementation of the mitigation measures and compliance with limit values, there would be no significant effect on the environment in terms of noise and vibration.

11.11. *Climate and Air Quality*

- 11.11.1. Air Quality and Climate Change are outlined in chapter 9 of the EIAR. The methodology for assessment is described as well as the receiving environment. The proposed development and associated open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality. There is a potential for dust emissions, engine exhaust emissions associated with construction vehicles and plant to occur during construction phase, however, standard construction practices are proposed to mitigate against any potential negative impacts as set out in Section 9.7 of the EIAR and a Dust Management Plan is provided in Appendix 9.3. Subject to the implementation of mitigation measures it is concluded that the proposed development is unlikely to have significant effects on air quality. The operational impact of the proposed development on air quality would be negligible.
- 11.11.2. Any Asbestos Containing Materials (ACMs) identified on the site would be double bagged, stored, and removed from site by licenced contractors. In addition, contaminated soils will be excavated, managed, and disposed of in full accordance with all relevant legislation and guidance, to ensure no significant risk to the population.
- 11.11.3. During construction, there is the potential for a number of greenhouse gas emissions to atmosphere. However, residential units will be constructed to high energy saving standards, the likely overall magnitude of the changes on climate in the operational stage of the proposed development is imperceptible. I am satisfied that the EIAR complies with all the relevant national and international requirements on climate change
- 11.11.4. I am satisfied that the identified impacts would be avoided, managed, and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

11.12. *Landscape and Visual*

- 11.12.1. Chapter 10 outlines the landscape and the visual impacts that would arise from the development. A booklet of verified views and CGI's of the scheme were also submitted. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the urban environs of the site from an urban design and planning context in the planning assessment of my report.
- 11.12.2. The lands are not recorded as a high value landscape but are located within an established urban area. The character of the local suburban landscape. There are no designated view or prospects within 1km of the site. The site has no particular landscape merit and is not considered inherently sensitive to change.
- 11.12.3. During the construction phase the site and immediate environs would be disturbed by construction activities and haulage and the incremental growth of the buildings on site, with indirect effects on the setting of the existing area. The general perception is that construction stage effects will be negative, temporary or short-term duration without undue consequence for the prevailing landscape / townscape character. Overall, the magnitude of townscape impacts will be High-medium and negative in close proximity to the site decreasing rapidly with distance. Such temporary negative townscape and visual effects are unavoidable and not unusual in the urban context where change is continuous.
- 11.12.4. The proposed development will constitute a significant intervention in the local suburban landscape which will change the character of the site and influence the character of the locality. The site is currently underutilised and of low visual quality. The context is already urban, therefore, the broad changes that would arise from the proposed development would not have a negative effect on the landscape. The layout of the site and positioning of higher buildings towards the centre of the site together with landscaping proposals and the provision of a new street network aim to minimise the visual impact of the development. While, the development would result in significant townscape impacts, its effects on townscape character can be considered medium - positive.

11.12.5. Third parties have raised concerns about the scale of the development is out of character with the area. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed, and mitigated by the measures which form part of the layout and design of the proposed scheme, in particular the variation in height and scale of the buildings and the location of the taller building in the centre of the site. It is also noted that the Planning Authority raised no objection to the visual impact of the scheme. I am, therefore, satisfied that the proposed development would have an acceptable direct, indirect, and cumulative effects on the landscape and on visual impact.

11.13. ***Traffic and Transport***

11.13.1. Chapter 11 of the submitted EIAR deals with Traffic and Transportation. The methodology for assessment is described as well as the receiving environment. Third parties have raised concerns in relation the capacity of the surrounding road network. From an environmental perspective, the EIAR addresses this matter in detail alongside potential construction and cumulative impacts. My assessment of Transportation in Section 10.9 above also considers these matters and I refer the Board to same.

11.13.2. Construction traffic on the surrounding road network would be less significant than the impact of the operational traffic. This impact would be confined to the duration of construction activity. Mitigation measures proposed for the construction stages of the development include a detailed Construction and Environmental Management Plan (CEMP). In the operational phase, the development will incorporate several design elements intended to mitigate the impact of the development on the operation of the surrounding road network. No significant impacts are anticipated.

11.13.3. The subject site is accessed from the public road network. The modelling submitted indicates that both the Swords Road and Iveragh Road experience high levels of demand at peak times. This junction at present is not fully signalised. The analysis found that the proposed 4-arm signalised junction with the subject site would not operate within capacity. For the Opening Year (2023) both the Swords Road

(southbound) and Iveragh Road arms of the junction reach capacity in the AM Peak and the Swords Road (northbound) arm reaches capacity in the PM peak, with a Degree of Saturation (DOS) of over 90%. The analysis indicates that by 2038, 3 arms of the junction, in this regard Swords Road (southbound), Swords Road (northbound) and Iveragh Road, reach capacity in the AM and PM peaks. A Mobility Management Plan and a Parking Strategy have been prepared to manage and mitigate the impacts of private vehicle usage and promote sustainable travel trends to and from the proposed development.

- 11.13.4. The potential cumulative effects in the context of traffic have been included in the overall assessment as traffic associated with development proposals and background growth have been included in the traffic forecasts and subsequent analysis.
- 11.13.5. As the proposed development is not anticipated to impact the operational performance of the local road network no mitigating measures are considered necessary. However, in accordance with good practice a Construction Traffic Management Plan and an The Outline Construction and Environmental Management Plan for the proposed development would be prepared by the appointed contractor and agreed with Dublin City Council which would provide for the implementation of traffic management measures
- 11.13.6. I have considered all of the written submissions made in relation to Traffic and Transportation. It is my view that within any urban area a certain level of congestion is to be expected during peak times and the proposed traffic volumes on the road network are within the norms of a busy urban environment and that the potential traffic generated by the proposed development is acceptable in this instance. The submissions from TII, NTA and the planning authority raised no objections to the impact of the proposed development on the capacity of the road network. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of Traffic and Transportation.

11.14. **Material Assets**

- 11.14.1. Chapter 12 of the EIAR deals with Material Assets. The methodology and receiving environment, including existing infrastructure and utilities services are described. An Engineering Report was submitted with the application which addresses the impact of the development on the public water, foul water and drainage systems. This is addressed in Section 10.9 of my planning assessment, and I refer the Board to same.
- 11.14.2. There is no public surface water drainage within the site. There is an existing network under both Swords Road and High Park. It is proposed to discharge to both of these networks, which ultimately drain to the Tolka River, c. 1.5km south of the subject site. The existing foul water sewer under Swords Road has no capacity to accommodate the proposed development. It is proposed to connect to the existing network under High Park. There is a public watermain under the Swords Road. Irish Water have confirmed that due to the condition of the asbestos watermain it is not possible to provide a connection. Therefore, it is proposed to connect to the public network under Collins Avenue. The proposed development will require connection to the public water services network. This will result in a temporary suspension of the network to facilitate the connection, which will be controlled and managed by Irish Water and Dublin County Council. The associated road works to facilitate the connections will also be controlled by these agencies in accordance with standard protocols.
- 11.14.3. The proposed development would be served from the existing ESB network, gas supply network and telecommunication network. The final connection details are subject to agreement with the relevant provider. The connections would be conducted in parallel with other services. Potential loss of connection to infrastructure may occur while carrying out works to provide service connections but this likely adverse impact may be characterised as a temporary.
- 11.14.4. Any predicted effects on the surface water, wastewater, water supply, telecommunications, natural gas and electricity supply services during the construction phase are considered to be brief-temporary in nature and imperceptible, where supply is unavoidably disrupted to facilitate the construction phase. The impact during the operational phase is considered to be neutral, imperceptible and long term.

11.14.5. The site was previously used as a depot for the construction of the Port Tunnel, which generally runs in a north-south direction under the eastern side of the site. I am satisfied on this basis of the information submitted which is robust and evidence based that the proposed development would not have any significant adverse impacts on the Dublin Port Tunnel, including cumulative impacts, subject to detailed construction management measures.

11.14.6. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of Material Assets.

11.15. **Waste Management**

11.15.1. Chapter 13 considers waste management impacts associated with the construction and operational phases of the proposed development and the potential impact that it may have on the receiving environment and on local and regional waste management infrastructure. This chapter is informed by the site-specific Resource & Waste Management Plan (RWMP) and Operational Waste Management Plan (OWMP). The methodology, legislation and Guidance and receiving environment.

11.15.2. The proposed development will generate a range of non-hazardous and hazardous waste material during the construction phase. Where possible, waste materials arising from excavation and site clearance works will be reused within the proposed development. Where this is not practicable, the material will be transferred by licenced contractors for recovery or disposal to appropriately authorised waste facilities. An estimated maximum of approximately 58,100m³ of material will be excavated during the construction works for the proposed development. The vast majority of this material will be comprised of made ground and will be non-hazardous or inert. Any hazardous material will be dealt with in appropriate manner and removed to a suitably licenced off-site facility. The potential effect of construction waste generated from the proposed development is considered to be short-term, and not significant.

11.15.3. During the operational phase, waste will be generated from the residents, crèche and cafe. Both hazardous and non-hazardous wastes will be generated. All waste will be

collected by licensed contractors and transported to permitted facilities. The implementation of the Operational Waste Management Plan will work to ensure that waste is managed in accordance with the waste hierarchy. The potential effect of construction waste generated from the proposed development is considered to be long-term, and not significant.

11.15.4. implementation of the mitigation measures outlined in Section 13.7 will ensure that a high rate of reuse, recovery and recycling is achieved at the development during the construction phases as well as during the operational phase. It will also ensure that European, National and Regional legislative waste requirements with regard to waste are met and that associated targets for the management of waste are achieved.

11.15.5. I am satisfied that the EIAR has adequately assessed impacts and that the environmental impacts have been adequately detailed and appropriately mitigated against and that there are no significant permanent adverse impacts from waste management.

11.16. ***Cultural Heritage and Archaeology***

11.16.1. Chapter 14 of the EIAR considers cultural heritage and archaeology. The chapter details the methodology of the ecological assessment. A desk-based assessment was carried out and site visits were undertaken in May 2019 and June 2020.

11.16.2. The site is not indicated as a Zone of Archaeological Interest, or as a Site of Archaeological Interest and there are no recorded monuments within the site. Table 14.1 of the EIAR lists Recorded Archaeological Monuments within 2km of the subject site. The closest to the site is a Ecclesiastical Site (DU 18005/01) c. 1.5km from the site. The site has been extensively excavated during construction works for the Port Tunnel and under the previously approved application on the site. No original ground remains at the site. The potential for archaeological remains within the site is negligible. No mitigation is required.

11.16.3. The site does not include any protected structures or buildings listed on the NIAH. Highfield Hospital (NIAH reg. 50130254) is located to the south of the site and the associated High Park Cemetery (NIAH 50130254) is located to the east of the site. the

proposed development is located within the urban area and would have no impact on the setting of these structures.

11.16.4. The submission from the DAU, Department of Housing, Local Government and Heritage notes that there are no further archaeological requirements in this case.

11.16.5. The proposed development site has already been subjected to extensive excavation. I am satisfied that no significant adverse direct, indirect, or cumulative effects on archaeological, architectural heritage and cultural are likely to arise.

11.17. ***Interactions***

11.17.1. Chapter 15 addresses interactions and highlights those interactions which are considered to potentially be of a significant nature and Table 15.1 provides a matrix of interactions. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis.

11.17.2. The development is concluded in the EIAR to have no significant negative impact when mitigation measures are incorporated. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

11.18. ***Cumulative Impacts***

11.18.1. Each individual chapter provides an assessment of the cumulative impact of the development. I am satisfied that the EIAR has adequately addressed the cumulative impact.

11.18.2. The proposed development could occur in tandem with the development of other sites that are zoned in the area. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. Its scale may be limited by the provisions of those plans and its form and character would be similar to the

development proposed in this application. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans and national policy. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is, therefore, concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

11.19. ***Schedule of Mitigation Measures***

11.19.1. Chapter 16 provides a summary of the recommended mitigation measures.

11.20. ***Reasoned Conclusion on the Significant Effects***

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

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of underutilised brownfield site to residential use. Given the location of the site within the built up area of Dublin city and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of material on the site and the removal of potentially hazardous material from the site, and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.

- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape as the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

11.20.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in the individual EIAR chapters are satisfactory to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

12.0 **Appropriate Assessment**

12.1. ***Introduction***

12.1.1. The applicant has prepared an AA Screening Report as part of the application. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

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

12.2.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management

of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

The applicant has submitted a Screening Report for Appropriate Assessment prepared by JBA Consulting Engineers and Scientists Limited. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development and an assessment of the potential impacts arising from the development. The AA screening report concludes that on the basis of objective scientific information, the possibility may be excluded that the proposed development will have any significant effect any European Site.

12.2.2. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

12.3. ***Stage 1 AA Screening***

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

12.4. ***Brief Description of the Development***

12.4.1. A description of the project is provided in Section 2 of the Screening Report. The proposed development is also summarised in Section 3 of my report. In summary, the

proposed development comprises the construction of 472 no. apartments with a creche and café use in 7 no. blocks ranging in height from 4 storeys to 8 storeys over basement on a c. 2.73 ha site to the east of Swords Road, Whitehall c. 4km north of Dublin city centre. The surrounding area is urban in nature with a mix of residential, commercial and retail uses in the immediate vicinity of the site. The site is serviced by public water supply and foul drainage networks. Foul effluent and surface water will drain to the existing public network on both Swords Road to the west and High Park to the east of the site. The development site is located in a heavily urbanised environment close to noise and artificial lighting. The site is currently vacant. It was previously used as a construction depot for the Port Tunnel. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

12.5. ***Submissions and Observations***

12.5.1. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 above.

12.6. ***Zone of Influence***

12.6.1. The proposed development is not located within or immediately adjacent to any European Site. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and

- Sensitivity and location of ecological features.

12.6.2. Table 4-1 of the applicant's report considers that the following 16 no. European Sites are within the Zone of Interest.

| North Dublin Bay (000206) 4.6km from the subject site | |
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| <i>Conservation Objective</i> | - To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimi</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]. |
| South Dublin Bay (000210) 5.2km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] |
| Malahide Estuary SAC (000205) 9.3km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species</i> | Mudflats and sandflats not covered by sea-water at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] |

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| <i>of Conservation Interest</i> | Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| Baldoye Bay SAC (000199) 7.3km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] <i>Salicornia</i> and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] |
| Rogerstown Estuary SAC (000208) 13.5km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] <i>Salicornia</i> and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |
| Howth Head SAC (000202) 9.7km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species</i> | Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030] |

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| <i>of Conservation Interest</i> | |
| Rockabill to Dalkey Island SAC (003000) 10.4km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Reefs [1170] Phocoena phocoena (Harbour Porpoise) [1351] |
| Ireland's Eye SAC (002193) 12km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] |
| South Dublin Bay and River Tolka Estuary SPA (004024) 2.4km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] |

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| | Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999] |
| North Bull Island SPA (004006) 4.6km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999] |
| Malahide Estuary SPA (004025) 9.3km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] |

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| | <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p> |
| Badoyle Bay SPA (004016) 7.9km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] 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]</p> |
| Rogerstown Estuary SPA (004015) 13.8km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | <p>Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]</p> |

| Irelands Eye SPA (004114) 11.7km from the subject site | |
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| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | Cormorant (Phalacrocorax carbo) [A017] Herring Gull (Larus argentatus) [A184] Kittiwake (Rissa tridactyla) [A188] Guillemot (Uria aalge) [A199] Razorbill (Alca torda) [A200] |
| Howth Head Coast SPA (004113) 12.4km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | Kittiwake (Rissa tridactyla) [A188] |
| Dalkey Island SPA (004172) 14.9 km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] |

12.6.3. The proposed development has no potential source pathway receptor connections to any other European Sites.

12.6.4. Table 4-2 of the applicants Assessment provides an assessment of potential impact pathways using the Source-pathway-Receptor method. The applicant considers that there is a potential pathway from the subject site to 11 no. designated sites, in this regard South Dublin Bay and River Tolka Estuary SPA (004024); South Dublin Bay SAC (000210); North Bull Island SPA (004006); North Dublin Bay SAC (000206); Malahide Estuary SAC; Malahide Estuary SPA; Baldoyle Bay SAC; Baldoyle Bay

SPA; Howth Head SAC; Rockabill to Dalkey Island SAC (003000); and Howth Head Coast SPA (004113)

- 12.6.5. I consider that only the designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA could reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.
- 12.6.6. I am also satisfied that the potential for impacts on the other designated sites can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link, the subject site provides no ex-situ habitat for any of the waterbird/seabird species and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

12.7. **Screening Assessment**

- 12.7.1. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are outlined in the table above.

12.8. **Consideration of Impacts**

- 12.8.1. It is considered that there is nothing unique or particularly challenging about the proposed urban development, either at construction or operational phase.
- 12.8.2. Surface water from the proposed development would discharge to the public network. The habitats and species of Natura 2000 sites in Dublin Bay are between 2.4km and 5.2km downstream of the site and water quality is not a target for the maintenance of any of the QI's within either SAC in Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay via the public storm network. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban

sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

- 12.8.3. The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note the development is located on serviced lands in an urban area, which was previously used as a construction depot for the Port Tunnel. The proposal includes SuDS / attenuation measures which will restrict surface water run-off into the public sewer on High Park and Swords Road. As such the proposal will not generate significant demands on the existing municipal sewers for surface water.
- 12.8.4. The foul discharge from the proposed development would drain, via the public sewer on High Park, to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway.
- 12.8.5. The subject site is identified for development through the land use policies of the Dublin City Development Plan 2016-2022. This statutory plan was adopted in 2016 and was 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 also note the development is for a relatively small residential development providing for 472 no. units, on serviced lands in an urban area. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP –

PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Irish Water raised no concerns in relation to the proposed development.

- 12.8.6. The Construction and Environmental Management Plan, Operational Waste Management Plan and Resource and Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.
- 12.8.7. The site is located in an urban area and has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.
- 12.8.8. No significant flight paths related to protected birds have been identified in this area. There is no reason to believe a bird would not fly over or around the proposed structures.
- 12.8.9. It is evident from the information before the Board that on the basis of 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, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

12.9. ***AA Screening Conclusion***

- 12.9.1. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.
- 12.9.2. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.0 Recommendation

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dublin City Development Plan 2016 - 2022
- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021

- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- i. 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;
- j. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- n. Chief Executive’s Report; and
- o. Submissions and observations received.

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

15.0 **Recommended Order**

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 12th day of April 2022 by McGill Planning Limited, on behalf of Eastwise Construction Swords Limited.

Proposed Development: The proposed development comprises the construction of 472 no. residential units, a creche (c.445.76sqm) and a café unit (c.99sqm) in 7 no. urban blocks ranging in height from 4 to 8 storeys over basement. The apartments comprise 32 no. studios, 198 no. 1 beds, 233 no. 2 beds, and 9 no. 3 beds. The scheme also incorporates internal residential amenity space (c.511sqm).

The scheme includes 337 no. car parking spaces, 982 no. cycle parking spaces, and 14 no. motorcycle spaces at basement and surface level, public open space and communal open spaces at ground and roof levels.

Vehicular access is proposed from the Swords Road with associated works / upgrades to the existing public road layout, junctions, bus lane and footpath network to facilitate same. 2 no. additional pedestrian / cyclist only accesses are provided from the Swords Road as well as a separate pedestrian and cyclist access to the southwest which also facilitates emergency vehicular access.

The proposed development also includes the introduction of a signalised fourth arm to the existing Swords Road / Iveragh Road junction, provision of pedestrian crossings to all arms of the new junction, the removal of one existing street car parking space from the western side of Swords Road to facilitate the new junction and pedestrian crossings, the provision of a right turn pocket on the northbound approach of Swords Road and a left turn filter lane on the southbound approach into the development site and the replacement of the existing public footpath along Swords Road along with a new grass verge and a cycle path.

The application includes all development works, landscaping, ESB substations, plant areas, bin storage, surface water attenuation, and site services required to facilitate the proposed development. Upgrades to the Irish Water network to facilitate the development are also proposed.

Decision:

Grant 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.

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

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Dublin City Development Plan 2016 - 2022
- c. Nature, scale and design of the proposed development;
- d. Pattern of existing development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. Housing for All – A New Housing Plan for Ireland, 2021
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region;
- i. 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;
- j. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- k. Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 ;
- l. The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- m. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- n. Chief Executive's Report;
- o. Inspector's Report; and

p. Submissions and observations received.

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

Appropriate Assessment:

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

Environmental Impact Assessment

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account: (a) The nature, scale and extent of the proposed development; (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application, (c) The submissions from the applicant, planning authority, third parties and the prescribed bodies in the course of the application; and (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the

direct, indirect, secondary and cumulative effects of the proposed development on the environment.

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

- Population and human health impacts mitigated by appropriate construction and operational management plans. Direct positive effects with regard to population and material assets due to the increase in population to help sustain and generate improvements to physical infrastructure in the area.
- Biodiversity impacts mitigated by additional planting/landscaping and appropriate work practices.
- Soils and geology impacts mitigated by construction management measures including removal of contaminated soil, minimal removal of topsoil and subsoil; management and maintenance of plant and machinery; dust suppression measures.
- Hydrology and Water Services impacts to be mitigated by management of surface water run-off during construction to prevent run off discharging directly into watercourses.
- Landscape and Visual impacts would be significant with a direct effect on land by the change in the use and appearance of a relatively large area of brownfield site to residential. Given the location of the site within the urban area and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Cultural Heritage - Architectural Heritage would be mitigated by landscaping. Given the location of the site within the urban area no significant adverse direct, indirect or cumulative effects on Cultural Heritage-Archaeology are likely to arise.
- Climate and Air Quality impacts mitigated by dust minimisation plan.

- Traffic and Transportation impacts mitigated by the management of construction traffic by way of Construction and Environmental Management Plans
- Noise and Vibration impacts mitigated by adherence to requirements of relevant code of practice.

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

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, unit mix and quantum of development, and in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the provisions of Section 16.7.2 Building Height and Section 16.10.1 Unit Mix of the Dublin City Development Plan 2016-2022 .

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dublin City Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The subject site has an area of c. 2.73ha and would deliver 472 no. residential units in the urban area. The site's urban location supports the consolidation of the urban environment as outlined in within the Metropolitan Area Strategic Plan (MASP), which is part of the Regional Spatial and Economic Strategy. The provision of a significant quantum of residential units is also in accordance with the government policy as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The site is also located in close proximity to public transport and a range of services and facilities within the urban area. It is, therefore, considered that this scheme is strategic by reason of its location and scale, and is critical and integral to the success of national policy, in addressing both housing and homelessness in the City and consolidating the urban environment. The proposed material contraventions are, therefore, justified by reference to section 37(2)(b)(i) of the act.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 16.7.2 of the Development Plan as it relates to Building Height would be justified for the following reasons and considerations:

- Objectives 13 and 35 of the National Planning Framework which support increased building heights at appropriate locations.
- SPPR3 of the 2018 Urban Development and Building Heights Guidelines, 2018 which support increased building heights.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Section 16.10.1 of the Development Plan 2016-2022 as it relates to unit mix would be justified for the following reasons and considerations:

- SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments

The Board considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material

contravention of Section 16.7.2 of the Development Plan 2016-2022 as it relates to Building Height would be justified having regard to recent grant of permission in the vicinity of the site, as outlined below: -

- ABP-306721-20: for the construction of 124 no. apartments in a single block ranging in height from 5-6 storeys, with a maximum height of 22m, at the Bonnington Hotel, c. 200 south of the subject site.

16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 16 – Schedule of Mitigation Measures, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. Prior to commencement of development, a Construction Method Statement in relation to the Dublin Tunnel shall be submitted for the written agreement of the planning authority. The method statement shall contain a risk assessment of the works associated with the development for the Dublin Tunnel and contain monitoring and mitigation measures for those risks.

Reason: To protect existing public transport infrastructure in the area.

4. The proposed render finish shall be omitted from the external materials. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5. Details of signage relating to the creche unit and cafe unit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

7. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

8. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted

requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles

11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

12. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

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

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

14. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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

for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

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

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains,

drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Elaine Power

Senior Planning Inspector

7th October 2022