



An
Bord
Pleanála

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

Inspector's Report ABP-313320-22

Strategic Housing Development

Demolish buildings, construct 927 apartments, commercial and retail / café unit in 8 blocks of 2-13 storeys, change use of school (Protected Structure) to crèche / community use, and associated development

Location

De La Salle National School and Mount La Salle, Ballyfermot Road, Ballyfermot, Dublin 10

Planning Authority

Dublin City Council

Applicant

Dwyer Nolan Developments Limited

Prescribed Bodies

1. Irish Water
2. National Transport Authority
3. Department of Housing, Local Government and Heritage
4. Irish Aviation Authority

Observers

5. Inland Fisheries Ireland

Department of Education

Aengus Ó Snodaigh and others

Alva O'Dea

Ballyfermot De La Salle GAA Club

Ballyfermot Family Resource Centre
and others

Brendan McNamara

Candle Community Trust

Caroline Groome

Catherine Bernard

David Barron

Frances Gallagher

George and Leigh-Anne Bertram

Hazel Norton and others

John Conway and the Lough
Environmental Group

John McNab

Jonathan Thompson

Khara Erickson

Lonan and Michelle Keane

Patrick and Catherine Keane

Rebecca Moynihan

Residents around the Markievicz Park

Robert and Maria Cassidy

Rose Clinton

The Steeples Residents Management
Company CLG

Thomas Jay Kennedy-Lyons and
others

Tibor Virag

Date of Site Inspection

22nd September 2022

Inspector

Colm McLoughlin

Contents

1.0 Introduction	5
2.0 Site Location and Description	5
3.0 Proposed Strategic Housing Development	6
4.0 Planning History.....	9
5.0 Section 5 Pre-application Consultation	11
6.0 Planning Policy	13
7.0 Statement of Consistency	18
8.0 Material Contravention Statement	19
9.0 Observers' Submissions	20
10.0 Planning Authority Submission.....	27
11.0 Prescribed Bodies	34
12.0 Oral Hearing.....	37
13.0 Assessment.....	38
14.0 Environmental Impact Assessment	112
15.0 Appropriate Assessment	143
16.0 Conclusion and Recommendation	156
17.0 Recommended Order.....	156
18.0 Conditions	164

1.0 Introduction

- 1.1. This report provides an assessment of an application for a proposed strategic housing development submitted to An Bord Pleanála under the provisions of section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereinafter referred to as 'the Act of 2016').

2.0 Site Location and Description

- 2.1. Situated 5km to the west of Dublin city centre in the Ballyfermot area on a rising crest of the Ballyfermot Road (R833 regional road) and backing onto the Chapelizod bypass (R148 regional road), the application site is stated to primarily comprise the former De La Salle primary school on the western side and the Mount La Salle former monastery on the eastern side and their associated grounds measuring a total site area of 8.3 hectares. Ballyfermot key district centre, as defined in the Dublin City Development Plan 2016-2022, is situated approximately 400m to the west of the application site. The site also comprises sections of the road infrastructure along Ballyfermot Road and Lynch's Lane, which is a short cul de sac situated on the western side of the site serving local community facilities, including the Candle Community Trust and Ballyfermot Family Resource Centre. Gated access to the subject properties was previously available from locations along Ballyfermot Road and from Lynch's Lane.
- 2.2. The site boundaries generally consist of a mix of walls and railings. A deep line of mature hedgerows and trees flanks the Chapelizod bypass along the northern side of the site. Based on the applicant's topographical survey, land levels on site drop by approximately 9m from the southwest boundary to the northeast boundary.
- 2.3. The immediate area to the east of the site is characterised by two-storey houses and three-storey residential blocks situated in The Steeples and Phoenix View, which are accessed from a steep entrance drive off St. Laurence's Road. Other facilities off Ballyfermot Road to the west of the site situated amongst extensive green space, includes a primary schools campus. The south of the site on the opposite side of the Ballyfermot Road features two-storey rows of terraced housing fronting onto a network of streets and Markievicz Park public open space, which includes play areas, pitches and pedestrian paths in a mature parkland setting.

3.0 Proposed Strategic Housing Development

3.1. The proposed strategic housing development would consist of the following elements:

Demolition Works

- demolition and removal of the east and west wings to a former national school measuring stated gross floor areas of 1,250sq.m and 1,244sq.m, school buildings and shelter structures (1,818sq.m), rear return to Protected Structure (121sq.m), two single-storey loggia structures (100sq.m) and the Mount La Salle monastery building (1,700sq.m);

Change of Use

- renovation works and change of use of the two-storey Protected Structure from former education use to childcare use on ground and first-floor levels (1,005sq.m) and community use (92sq.m) on ground floor;

Construction Works

- construction of 927 apartments in eight blocks of two to 13 storeys with residential amenity and support services (921sq.m), commercial uses comprising a commercial unit (107sq.m) and a retail / café unit (71sq.m);

Ancillary and Supporting Works

- reserving of 0.5ha in the southwest corner of the site for a potential future school;
- vehicular access off Ballyfermot Road and Lynch's Lane, pedestrian access of Ballyfermot Road, upgrade works along Ballyfermot Road, including relocated bus stop, a new toucan crossing and the replacement of a pedestrian crossing with a toucan crossing;
- provision of 687 car parking spaces, 26 motorcycle parking spaces and 2,249 bicycle parking spaces;
- provision of 1.16ha of multi-use playing pitches in the northwest corner and 1.11ha public open space, including linked central spaces and plazas;

- provision of 8,339sq.m of surface and podium-level courtyards, as well as roof gardens serving as landscaped communal open space;
- relocation of access gate piers on Ballyfermot Road fronting the central classroom block;
- provision of ancillary areas, including bin stores, bicycle stores and plant rooms;
- all associated site and infrastructural works, including sustainable urban drainage systems (SUDS), lighting, landscaping, green roofs, boundary treatments, signage and all associated site development works.

3.2. The following tables set out the key features of the proposed strategic housing development:

Table 1. Development Standards

Site Area (gross)	8.3ha
No. of apartments	927
Part V units (%)	93 (10%)
Residential Gross Floor Area (GFA)* * includes 921sq.m Ancillary Residential GFA	68,202sq.m
Non-residential GFA (% total GFA)	1,275sq.m (1.8%)
Total GFA	69,477sq.m
Undercroft Car Park	6,770sq.m
Basement Car Park	9,640sq.m
Residential Density (net)	149 units per ha
Communal Open Space	8,339sq.m
Public Open Space (% of gross site area)	2.07ha (25%)
Plot Ratio (net)	1.11
Site Coverage (gross)	32%

Table 2. Unit Mix

	One-bedroom	2-bedroom (3-person)	2-bedroom (4-person)	3-bedroom (5-person)	3-bedroom (6-person)	Total
Apartments	325	36	502	40	24	927
% of units	35%	4%	54%	4.5%	2.5%	100%
Bed spaces	325	72	1,004	120	72	1,593

Table 3. Stated Maximum Building Heights

Storeys	Height
13	42.5m

Table 4. Parking Spaces

Car parking - standard	639
Car parking – school	16
Car parking – playing pitches	19
Car parking – visitor	13
Total car parking	687
Motorcycle parking	26
Cycle parking	2,429

In addition to the standard contents, the application was accompanied by various technical reports with appendices and drawings, including the following:

- Statement of Consistency;
- Planning Statement;
- Material Contravention Statement;
- Statement of Response to An Bord Pleanála's Notice of Pre-Application Consultation Opinion;
- Environmental Impact Assessment Report (EIAR) Volumes I and II;
- Appropriate Assessment Screening Report;
- Natura Impact Statement (NIS);
- Architectural Design Statement;
- Traffic and Transport Assessment Report;
- CGI and Photomontages;
- Daylight and Sunlight Assessment Results;
- Part V Proposals;
- Masterplan;
- Residential Amenity Report;
- Social Infrastructure Assessment;
- Childcare & School Demand Assessment;
- Building Life Cycle Report;
- Property Management Strategy Report;
- Outline Construction Management Plan;
- Universal Design Statement;

- Housing Quality Assessment;
- Mobility Management Plan;
- DMURS Compliance Statement;
- Stage 1/2 Road Safety Audit;
- Engineering Services Report;
- Site Specific Flood Risk Assessment;
- Preliminary Construction and Environmental Management Plan (CEMP);
- Landscape Design Statement;
- Arboricultural Report;
- Heritage Impact Assessment;
- Outdoor Lighting Report;
- Development Sustainability Statement;
- Development Ventilation Strategy.

4.0 Planning History

4.1. Application Site

- 4.1.1. The Planning Statement from the applicant and the report of the Chief Executive Officer in the Planning authority refer to four planning applications dating from the 2000s relating to the former institutional / educational use on the application site. These applications related to new fencing under Dublin City Council (DCC) reference (ref.) 0194/01, security fencing (DCC ref. 5819/06), a steel structure and electricity substation (DCC ref. 3345/07) and replacement changing / multi-purpose rooms building (3419/08).

4.2. Surrounding Area

- 4.2.1. Within their application documentation, in particular the EIAR, the applicant refers to a host of recent planning applications within the immediate and wider area. Observers also make reference to neighbouring planning applications in their submission. The following applications refer to the most recent strategic housing development applications closest to the application site:

- An Bord Pleanála (ABP) ref. 312430-22 permission was refused in July 2022 for 144 apartments in four blocks of three to nine-storeys at Cherry Orchard Industrial Estate located approximately 2.2km to the west of the application site, due to the failure to address an urban centre policy of the South Dublin County Development Plan, which the proposals were considered to material contravene;
- ABP ref. 312290-21 permission granted in June 2022 for 750 apartments in blocks of two to 15-storeys at Park West Business Park, located approximately 2km to the southwest of the application site;
- ABP ref. 312218-21 permission granted in April 2022 for 545 build-to-rent apartments, retail and office units, childcare facility, ancillary residents' facilities and associated development at Concorde Industrial Estate, located approximately 1.5km to the south of the application site;
- ABP ref. 311606-21 – permission was granted by the Board in January 2022 for 249 apartments, a community facility, a café, a digital hub and residents' amenity space, forming phase 2 development of the Carriglea industrial estate approximately 1.7km to the south of the application site;
- ABP ref. 309627-21 – permission was granted by the Board in June 2021 for demolition of buildings and construction of 188 build-to-rent apartments in three to nine-storey blocks and two commercial units on the site of the former Heidelberg/Miller building and South Circular Road Garage located approximately 2km to the southeast of the application site also on Davitt Road, Dublin 12;
- ABP ref. 307092-20 permission granted in September 2020 for 250 build-to-rent apartments in 5 no. four to eight-storey blocks at the junction of Kennelsfort Road Lower and the R148 regional road located approximately 2.2km to the northwest of the application site. In May 2021, the Board subsequently accepted amendments to the unit mix, the elevations and the basement layout as not comprising material alterations to the terms of the development (ABP ref. 309899-21);
- ABP ref. 303435-19 – permission was granted by the Board in April 2019 for 265 build-to-rent apartments, a retail / café unit and associate development on

the former Dulux Factory site located approximately 1.8km to the southeast of the application site on Davitt Road, Dublin 12.

- 4.2.2. In July 2022 a Local Authority road development application for the Liffey Valley to City Centre Core Bus Corridor Scheme was lodged with An Bord Pleanála and this includes proposed works to the Ballyfermot Road (R877 regional road) fronting the application site (ABP ref. 314056-22). A decision on this is due by January 2023. This bus corridor application is stated to comprise infrastructure improvements for active travel (walking and cycling), as well as the provision of enhanced bus-priority measures for existing and future public and private service users.

5.0 Section 5 Pre-application Consultation

5.1. Pre-application Consultation

- 5.1.1. A pre-application consultation meeting between representatives of An Bord Pleanála, the applicant and the Planning Authority took place on the 5th day of October, 2020, in respect of a proposed development comprising 933 apartments, a childcare facility and associated site works on the application site. Copies of the record of this consultation meeting and the Inspector's report are appended to this file. The main topics raised for discussion at the tripartite meeting were as follows:

- the principle of the development relative to the 'Z15' institutional and community land-use zoning objective, including the necessity for the community uses and the reservation of school lands;
- the development strategy, including justification for the building heights, scale, design and works to protected structure;
- the visual impacts of the proposed development, including computer-generated images (CGIs) from wider areas;
- the proposed apartment residential amenity standards, including access to light, open space provision and aspect to apartments;
- site services, access, traffic and transport.

5.2. Board Opinion

5.2.1. In the Notice of Pre-Application Consultation Opinion (ABP ref. 307087-20) dated the 7th day of October, 2021, An Bord Pleanála stated that it was of the opinion that the documents submitted require further consideration and amendment to constitute a reasonable basis for an application under section 4 of the Act of 2016. In the opinion of An Bord Pleanála, further justification and consideration was requested with respect to:

- the development strategy, including further details to assist and secure the aims of the 'Z15' land-use zoning objectives for the site;
- the scale and massing, including form, visual impact, materials and finishes, particularly with respect to the receiving environment;
- the residential amenity standards of the proposed apartments, including aspect, as well as access to sunlight and daylight.

5.2.2. In the subject opinion of An Bord Pleanála, the following specific information, in addition to the standard strategic housing development application requirements, should be submitted with any application for permission arising:

- a statement of consistency with planning policy;
- details of any material contraventions of the Development Plan;
- an updated Architectural Design Statement;
- a report addressing heritage and conservation impacts;
- a housing quality assessment;
- a daylight and shadow assessment;
- a visual impact assessment;
- details of connections to services;
- a response to matters raised by Dublin City Council regarding planning and transportation;
- landscape plans;
- an EIAR.

5.2.3. The prospective applicant was requested to notify the following prescribed bodies in relation to the application:

- the Department of Culture, Heritage and the Gaeltacht (Development Applications Unit);
- Irish Water;
- An Taisce;
- The Heritage Council;
- Fáilte Ireland;
- An Comhairle Ealaíon;
- The Irish Aviation Authority;
- Dublin City Childcare Committee.

5.3. Applicant's Response to Opinion

5.3.1. The application includes a response to An Bord Pleanála pre-application consultation opinion in a report titled 'Statement of Response to An Bord Pleanála Notice of Pre-Application Consultation Opinion Ref. ABP-307087-20'. Section 2 of the applicant's Statement outlines how the application is considered to comply with the respective requirements listed in the Board's opinion, including development strategy, scale and massing, and residential amenity standards. The specific application information that has been submitted with the application in response to the Board's request is also listed in section 2 of the applicant's Statement. Section 3 of the Statement refers to the eight respective prescribed bodies contacted in relation to the application.

6.0 Planning Policy

6.1. National Planning Policy

Project Ireland 2040 - National Planning Framework

6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The

NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations.

- 6.1.2. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Other NPOs of relevance to this application include NPOs 3(a) (40% of homes in existing settlement footprints), 3(b) (50% of new homes in the five largest cities, including Dublin), 4 (attractive, liveable, well-designed urban places), 13 (development standards), 27 (transport alternatives) and 35 (increased densities) all relating to densification and compact urban growth.

Ministerial Guidelines

- 6.1.3. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, including revisions to same, comprise:

- Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (2021);
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020);
- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001).

6.1.4. The following planning guidance and strategy documents are also considered relevant:

- Places for People – National Policy on Architecture (2022);
- Housing for All – A New Housing Plan for Ireland (2021);
- Climate Action Plan (2021);
- Archaeology in the Planning Process (2021);
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018);
- Water Services Guidelines for Planning Authorities – Draft (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- National Biodiversity Action Plan 2017-2021;
- Road Safety Audits (Transport Infrastructure Ireland, 2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (Paul J. Littlefair, 2nd Edition 2011);
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- Smarter Travel – A Sustainable Transport Future. A New Transport Policy for Ireland 2009 – 2020 (Department of Transport, 2009);
- British Standard (BS) 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting (2008);

- Best Practice Guidelines for Delivering Homes, Sustaining Communities – Quality Housing for Sustainable Communities (2007);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

6.2. Regional Planning Policy

- 6.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant to this application:
- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.
- 6.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

6.3. Local Planning Policy

Dublin City Development Plan 2016-2022

- 6.3.1. The application site and the adjoining lands to the west have a zoning objective referred to as ‘Z15 – Institutional & Community’ within the Dublin City Development Plan 2016-2022, with a stated objective ‘to protect and provide for institutional and community uses’. The adjoining lands to the east have a land-use zoning objective ‘Z1 - Sustainable Residential Neighbourhoods’. Within Z15 zoned lands, residential use is ‘open for consideration’, while ‘childcare’ and ‘community’ are permissible uses. Retail, café and commercial uses are not referred to in the Development Plan as being permitted in principle or open for consideration on Z15 lands. Additional

matters to be considered when assessing proposals for development on Z15 lands include the following:

- potential to contribute to the development of a strategic green network and to the delivery of housing in the city;
- integration with surrounding uses, including prevailing heights at any perimeter with existing residential development and the standards in Section 14.7 of the Plan (relating to the avoidance of abrupt transitions of scale);
- proposals need to demonstrate how the proposals assist in securing the aims of the zoning objective, the retention of institutional and community use and open space, possibly via a masterplan.

6.3.2. The De La Salle National School Central Classroom Block on the application site, including two staircase towers, two flanking single-storey loggia and the principal paired entrance gate piers, were added to Dublin City Council's Record of Protected Structures (RPS) in February 2020 under RPS ref. 8784. Chapter 11 of the Development Plan provides guidance on development comprising or in the curtilage of protected structures, including policies CHC1 and CHC2, which seek the preservation of the built heritage of the city and the safeguarding of the special interest of protected structures.

6.3.3. For 'Z15' lands that are proposed to be redeveloped, there is a requirement in the Development Plan for 25% of such lands to be provided as public open space. The indicative plot ratio in the Development Plan for proposals to redevelop 'Z15' lands is stated as being between 0.5 and 2.0, alongside a 50% indicative site coverage.

6.3.4. Under housing policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above. Policy SC13 of the Development Plan promotes sustainable densities with due consideration for surrounding residential amenities. The Development Plan includes a host of policies addressing and promoting apartment developments.

6.3.5. Section 16.7.2 of the Development Plan sets out building height limits referenced in policy SC17, including a 16m restriction for commercial and residential buildings in the subject outer-city area. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form & Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 11.1.5 – Built Heritage;
- Section 16.2 – Design, Principles & Standards;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.38 – Car Parking Standards (Zone 3 – maximum of 1.5 spaces per residential unit) & Cycle Parking Standards (minimum of one space per residential unit).

6.3.6. Dublin City Council has recently prepared a Draft Dublin City Development Plan for the period 2022 to 2028. Asides from the addition of a reference to the Protected Structure on the application site, I note that at present the zoning and specific local objectives for the application site remain similar in the zoning maps accompanying this Draft Development Plan.

7.0 Statement of Consistency

7.1. The applicant has submitted a Statement of Consistency, as per the provisions of Section 8(1)(iv)(I) of the Act of 2016. Section 5.1 of this Statement refers to the provisions of ‘Project Ireland 2040’, ‘Rebuilding Ireland – Action Plan for Housing and Homelessness’ (2016) and ‘Housing for All’ (2021). Section 5.2 of the Statement subsequently addresses Ministerial guidelines, including those referenced in section 6.1 above and other guidance documents. Section 5.3 addresses regional policy, including ‘The Transport Strategy for the Greater Dublin Area 2016-2035’ and section 5.4 of the Statement addresses local planning policy within the current Development Plan. Appendix A to the applicant’s Statement comprises correspondence between the applicant and the Department of Education with respect to the application site and the requirements in reserving an area for a school on site and providing covenants or agreements with respect to pitch use and car parking. The applicant concludes by asserting that the proposed development would generally be consistent with national, regional and local planning policy.

8.0 Material Contravention Statement

8.1. The applicant has submitted a Material Contravention Statement, as provided for under Section 8(1)(iv)(II) of the Act of 2016. The applicant states that this Statement is submitted with the application in the event that An Bord Pleanála deem the application for permission to materially contravene the provisions of the Development Plan with respect to the proposed building height, unit mix, block configuration, internal apartment space standards, public open space provision and the retail / café and commercial uses. Within this Statement the applicant sets out their rationale to justify granting planning permission in this case, including the following:

- with building heights greater than 16m, the proposed development would not strictly comply with the requirements of the Development Plan, however, the provisions of the NPF, including the site context relative to available public transport facilities, national and regional planning policy, including the need for housing, the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (hereinafter the 'New Apartment Guidelines') provisions including site categorisation, and the provisions set out in the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the 'Building Heights Guidelines') are applicable to this development;
- the proposed unit mix would not comply with standards in section 16.10.1 of the Development Plan, but would comply with national policy, including specific planning policy requirement (SPPR) 1 of the New Apartment Guidelines;
- the proposed provision of a maximum of ten residential units per core would comply with SPPR 6 of the 'New Apartment Guidelines', which the Development Plan standards predated;
- shortfalls in aggregate floor areas for living/dining/kitchen areas or aggregate bedroom areas can be accommodated within the overall floor area of each individual apartment;

- the public open space would meet the 25% space requirement, but would not be provided in a single continuous space, however, there is some flexibility in the Development Plan to allow for this where site characteristics dictate otherwise;
- as referred to by the Planning Authority, the commercial and retail / café uses, which would amount to 0.26% of the gross development floor area, would be acceptable as ancillary uses in the context of a residential-led scheme.

8.2. In conclusion, having regard to the provisions set out under subsections 37(2)(b)(ii) and (iii) of the Planning and Development Act 2000, as amended (hereinafter ‘the Act of 2000’), the applicant asserts that the Board may grant permission for the proposed strategic housing development, despite certain aspects of the proposed development potentially materially contravening provision of the Development Plan,.

9.0 Observers’ Submissions

9.1. A total of 25 observers’ submissions were received within the statutory period primarily from local representative, community and sporting groups, local-elected representatives, neighbouring residents and property owners, as well as a resident and group based in Dundalk, County Louth. These submissions include photographs, correspondence, extracts from planning documents and extracts from the planning application, and they can be collectively summarised as follows:

Principle of the Development

- the provision of housing is generally to be welcomed, but the character of housing, including limited units suitable for families, would be inappropriate for the area;
- the development would result in significant additional population increase for the area, akin to a new town, alongside other housing developments in the area, which requires due consideration with respect to social, community, medical and educational facilities and services;
- the Board’s advice in the pre-application opinion (ABP ref. 307087-20) has not been entirely followed;
- the proposed development is not of strategic or national importance;

- as the proposals lack a school, the proposed development would materially contravene the 'Z15' land-use zoning objectives for the site contained in the Development Plan;
- the fact that the site has been closed since 2019 is superfluous to the consideration of the appropriateness of the development relative to the Z15 zoning, and the required linkages with strategic green spaces are not proposed;
- the Z15 land-uses should remain, in the event that the site is required to serve other developments envisaged and permitted in the Ballyfermot and wider area, and other uses of benefit to the existing community should be considered for the site;
- the density of units proposed would not be appropriate having regard to the provisions of the Sustainable Urban Housing Guidelines;
- the density of the development is excessive for this area, lacking a suitable transition in scale and in an area with insufficient public transport services, resulting in overdevelopment of the site and a material contravention of the provisions of the Development Plan;
- the Part V social housing element is to be welcomed and these units should be provided in an earlier element of the development and distributed throughout the development, which should also feature an affordable housing element;
- the non-residential elements should be provided in the early phases of the development;

Urban Design and Visual Impact

- the proposed development would be over dominant and imposing, it would not successfully integrate with existing and permitted development and it would be excessive in terms of scale, bulk, form, height and massing, resulting in a negative, long-term, profound and obtrusive visual impact;
- proposed building heights over 16m would be out of scale with the prevailing surrounding two-storey housing, including housing in The Steeples and along Ballyfermot Road, and this aspect of the proposals would not be compliant

with the Development Plan standards or the Building Heights Guidelines, with insufficient justification for the proposed building heights;

- the Building Heights Guidelines and the New Apartment Guidelines, including their respective SPPRs, would not be complied with and are unconstitutional;
- the visual impacts and building heights would materially contravene the Development Plan,
- a more appropriate boundary and mitigation measures to address impacts on neighbouring residential amenities along the eastern side should be provided for;
- the potential for anti-social behaviour and littering should be considered in the design;
- the boundary along the Candle Community Trust facility should feature a 3.5m-high masonry wall supplemented by semi-mature planting;

Open Space

- the public open space would be split and the central public open space would not be taken in charge, and as a result this aspect of the proposals would materially contravene the provisions of the Development Plan;
- the GAA pitch would not be publically-accessible and therefore should not be included as forming part of the public open space;

Development Standards

- a poor housing mix is proposed, which would be lacking in sufficient numbers of three-bedroom units, with no consideration for families wanting to reside in the area, thereby materially contravening the Development Plan;
- any cladding to be used should be non-combustible;
- childcare provision would materially contravene the Development Plan;
- the provision of a crèche as part of the development does not in itself necessarily guarantee the viability of this facility;

Impacts on Neighbouring Amenities

- the height of the proposed development would impact on neighbouring housing, including via loss of light, loss of privacy, excessive overshadowing and overbearing impacts, as well as other impacts on energy costs and health;
- increased building and works separation distances would be necessary from the adjoining housing within The Steeples, particularly considering the ground level differences and building heights;
- the loss of mature trees along the eastern boundary and the difference in ground levels, would result in a loss of privacy and overbearing impacts for housing in The Steeples;
- the applicant fails to adequately consider the impacts of the proposals on the sensitive environment, amenities and important youth services undertaken in the adjoining Candle Community Trust facility, in particular the lack of clarity regarding the construction access, the six-year construction timeline and the construction compound location for the future school site;

Natural and Built Heritage

- demolition of any elements of the Protected Structure should not be permitted and the rationale for relocating the gate entrance piers needs to be considered;
- the proposed development would denude and be highly overbearing on the setting and character of the Protected Structure and it would fail to comply with policy CHC2 of the Development Plan regarding the conserving and enhancing of the setting of Protected Structures, a matter that the applicant fails to address in their Material Contravention Statement;
- the mature healthy trees on the eastern boundary serve as a natural shelter and barrier mitigating noise, disturbance, nuisance and air pollution, and these trees should be maintained, particularly as the proposals show that they would not be replaced;
- the construction of the development and the resultant loss of trees and flowers would impact on biodiversity;

- a material contravention of the Development Plan would arise with respect to impacts on an Architectural Conservation Area (ACA);

EIA / AA

- the EIAR lacks sufficient consideration of the cumulative impact of the proposed development alongside the future school development on site;
- based on BS 5228-1:2009, as a health or community use, the Candle Community Trust facility would be more sensitive to noise impacts than residential properties and this is not reflected in the noise impact assessment submitted, which incorrectly refers to the noise impact on this facility as being of negative, moderate and short-term characteristics;
- the application, including documentation, does not comply with regulatory planning requirements, including the EIA Directive and does not permit an assessment of the potential environmental impacts of the proposed development;
- if the proposed development is considered to not comply with objectives of the Development Plan, the Local Area Plan, the Masterplan and / or Urban Design Framework, it would be in unlawful breach of the Strategic Environmental Assessment (SEA) Directive;
- the information submitted by the applicant contains lacunae and is not based on appropriate scientific expertise and the AA Screening Report does not have sufficient or adequate information for a complete AA screening to be carried out or a stage 2 AA;
- there would be potential for increased pollution to Phoenix Park and the River Liffey;

Traffic, Access and Parking

- an excessive increase in traffic would arise onto heavily trafficked roads that are regularly subject of accidents and feature poor visibility. These roads are also being used by heavy-goods vehicles (HGVs) and require speed-limit reductions;

- there would be insufficient car parking spaces for residents, including electric-vehicle charging points, which would materially contravene the Development Plan;
- insufficient parking and facilities for scooters and bicycles considerate of the significant increase in such traffic in recent years;
- access for the patrons, staff and deliveries to the Candle Community Trust facility and the Ballyfermot Resource Centre, including crèche, daycare centre, training centre, meeting and counselling facilities, support offices and other community services, should be maintained and not disrupted, and a more appropriate access would be off Ballyfermot Road;
- an alternative access should be provided from the Chapelizod side of the development;
- the area features infrequent bus services and the development would be over-reliant on cars;
- a DART+ stop and Dublin bikes station should be considered for the Ballyfermot area considering the scale of this development and to ensure adequate public transport would be available;
- clarification regarding a road reservation for Bus Connects along The Steeples road frontage with Ballyfermot Road is required;

Playing Pitches

- the multi-use playing pitch area would not of sufficient size to cater for a regulation adult-sized Gaelic Athletic Association (GAA) pitch, as required in the contract for sale of the lands, which would need to feature suitable boundary treatments, including ball-stop netting, parking and changing facilities, emergency-vehicle access, ancillary off-field areas for equipment, teams, coaches and patrons of local schools and sports teams, including Ballyfermot De La Salle GAA;
- for over four decades Ballyfermot De La Salle GAA club used pitches on the site, which are central to the community they serve, for training and games, and the club was at a substantial loss owing to the denial of access to the facilities following the acquisition of the site by the applicant;

- based on the contract for sale, a sports management company should be incorporated to maintain and manage the playing pitch facilities, however, shared use of the pitches is only being provided for and it is unclear how the pitches would be funded or maintained;
- a condition should be attached to the permission to address the need for a full-sized GAA pitch with ancillary storage, changing and toilet facilities to be laid out in the development for the sole use of Ballyfermot De La Salle GAA, a sports management company should be incorporated to provide initial funding for the upkeep and maintenance of the facilities and the playing pitch facility should be secured with suitable fencing and netting;

Construction Impacts

- there is a lack of clarity in the application regarding the construction access, which should not be off Lynch's Lane;
- a five-year permission is sought, yet a six-year construction period is required;
- construction hours should be limited to eight hours daily with no night-time working or deliveries, as well as noise and dust reduction mitigation measures;

Other Matters

- the area already suffers from limited school places, particularly with the amalgamation of three schools into a restricted campus, with nothing definitive offered in terms of additional school places on site and an increased demand for school places arising from the proposed development;
- the proposed school site is too small and requires a play space;
- the application does not identify sufficient public transport, drainage, water services, flood risk, retail, policing infrastructure to demonstrate sufficient capacity for the proposed development;
- safety concerns regarding boundary treatment along east side;
- flood risk to The Steeples requires proper consideration;

- the proposed development would result in the depreciation in the value of properties in the vicinity and reduced commercial desirability for Chapelizod village;
- the developer should engage and liaise with the local community;
- the application was submitted hastily in order to still be considered under the strategic housing development process.

10.0 Planning Authority Submission

10.1. In accordance with the provisions set out under subsection 8(5) of the Act of 2016, the Planning Authority submitted the report of its Chief Executive Officer in relation to the application, summarising the external consultee and observers' submissions received, and providing planning and technical assessments of the proposed development. The views of the Chief Executive Officer of the Planning Authority can be summarised as follows:

Principle and Density

- it is considered that a residential-led redevelopment of the site is acceptable in principle within the Z15 zoning objective;
- the applicant has liaised with the Department of Education and reserved a school site capable of providing for 16 to 32 classrooms;
- the site coverage and plot ratio are acceptable, while the high density of the development is generally supported;
- the proposal to include for flexible community space is considered to accord with the spirit of the Z15 zoning objective attached to the site;
- the Part V social housing provision is noted;

Building Height, Scale, Layout and Design

- concerns arise with respect to scale, massing and height of the development;
- the proposed building heights materially contravene the provisions of the Development Plan;
- there is no objection in principle to the increased heights at this location

- concerns that the proposed residential blocks would be of much greater height and mass than the two-storey domestic dwellings forming the immediate context of the area;
- the layout of the scheme is considered legible, with good permeability for pedestrians and cyclists, which would provide good quality, new public realm and would contribute to the strategic green network in this area;
- the location of the proposed community space fronting onto the new urban plaza addressing Ballyfermot Road, and adjacent to the proposed commercial unit in Block B, would ensure that there will be a consistent level of activity thus catering for an enhanced sense of place and vibrancy along Ballyfermot Road;
- concerns arise regarding the extent of space provided around the proposed playing pitch, in particular along the eastern boundary to the access road and blocks H and G;
- the proposed materials would be of sufficient quality;

Visual Impact

- the proposed development would be located on a visually-prominent, elevated site when viewed from the north and west, in particular from Chapelizod village and Phoenix Park;
- the height and massing of apartment buildings along the northern boundary of the site, in particular blocks E, F and G, would result in a visually-dominant and overbearing form of development;
- the ten storey and 13-storey blocks would not be successfully integrated without causing undue harm to the visual amenities of the wider area;
- the visual change arising from the proposed development would not be positive and consistent with the emerging planning policy for the area. The long-range views of the site from Chapelizod in particular are problematic and some consideration should be given to reducing the overall height of the proposal;

Open Space

- the open space provision split into three units is satisfactory in the context of the overall development layout, connectivity and accessibility;
- the proposed development caters for the appropriate provision of open space and green infrastructure links, which have been strategically designed to integrate with the existing Markievicz Park;
- despite the fact that there is no provision for servicing requirements, including changing rooms, toilets and storage, separation distances around the proposed full-size playing pitch would be inadequate with inadequate spacing for patrons to congregate during match and training events and limited space to facilitate the construction of the ten-storey block G, which would be provided in phase 4 of the development, after the playing pitch;
- the layout and footprint of the proposed access road, Blocks H and G should be reconsidered to address the inadequacy of ancillary space to the pitch in the event that the Board is minded to grant planning permission for the development;
- the location, access to light and quantum of the proposed communal open space would generally be satisfactory;

Residential Amenities and Development Standards

- the proposed minimum apartment floor areas, dual aspect provision, floor-to-ceiling heights, lift and stair core access, storage provision and private amenity space would meet or exceed the relevant standards within the New Apartment Guidelines;
- the assessment of the impacts on lighting are noted, including the units that would not meet the internal lighting standards and the compensatory measures to address lighting shortfalls;
- residents' communal amenity spaces are noted and the shortfall in lighting to block F courtyard would be acceptable having regard to the provision of views north towards the river and the additional option of access to roof gardens serving these blocks;

- the proposed childcare provision, as well as surrounding social and community infrastructures are noted;

Neighbouring Residential Amenities

- the separation distances would be sufficient to negate the potential for overlooking, overshadowing and overbearing impacts of properties along Ballyfermot Road;
- based on the proposed layout of terraced block E, the setback to be provided and the indicated screening, it is not considered that the proposal will result in significant overlooking of the rear of properties in The Steeples estate;
- the assessment of the lighting impacts of the development on neighbouring properties are noted;

Access, Traffic and Parking

- from a mobility strategy perspective, there would be concern regarding the proposed delivery of supporting uses, such as the crèche and retail / café, as well as extensive basement parking to blocks A and H, in the latter phases of a development of this scale;
- the intended scheduling of works to Ballyfermot Road and Lynch's Lane are unclear;
- the provision of shared space for cyclist access in the proximity of the proposed toucan crossing would impact on the space for a footpath;
- cycle lanes would not be altered along Ballyfermot Road, however works may be required to these lanes to facilitate increased cycle traffic resulting from the proposed development;
- it is not clear if a bus shelter would be provided for a relocated bus stop;
- as varying details have been submitted, it is not clear if the existing right-turn filter would remain for the access onto Lynch's Lanes;
- the proposed mouth of the Lynch's Lane / Ballyfermot Road junction measuring approximately 8m would be too wide, the respective radii appear excessive and it is not clear if the junction aligns with DMURS. The stop line

conflicts with the pedestrian crossing and there is not a connecting footpath on the west side;

- there would be conflict between pedestrian crossings and parked cars along Lynch's Lane and the revised on-street parking layout may need to be revised to accommodate bus parking, as per the existing arrangement, as well as schools access. A condition to address these redesign and layout issues could be attached;
- a two-way junction should be provided from the development onto Lynch's Lane;
- measures to address vehicles using the cycle access route would be necessary along Ballyfermot Road;
- the absence of footpath along the western side of the main access road is noted and measures would be required to address the prioritisation of cars within the development and the need for specific loading bays for service and delivery requirements, including the proposed crèche;
- at the proposed toucan crossing cyclists would appear to have to use the footpath;
- the proposed access strategy for the school relies on privately-managed roads. Notwithstanding this, all roads should be designed to a 'taken in charge' standard;
- parking matters could be addressed via a car parking management plan, including clarity regarding spaces for electric vehicles with 20% of spaces to feature charging points, the provision of 15 car-share spaces also featuring charging points and the allocation of crèche and commercial unit car parking spaces;
- the quantum of cycle parking is acceptable, however, the allocation of cycle parking spaces and the management of cycle parking would need further consideration, including the provision of a cycle parking management plan;
- the scope of the traffic survey is acceptable, although the estimated trip generation data is not clear, including consideration for the extent of parking, the intended modal splits and the opening year;

- the impact of the proposed development on Lynch's Lane is not necessarily representative of the sensitivity of this lane to development, considering the existing school safety zone, the proposed school site and the potential need to provide for filtration of traffic through the development and / or turning facilities;
- construction traffic details are unclear, including information regarding access via Lynch's Lane, temporary access proposals and expected vehicular movements;

Built Heritage

- the demolition works are noted and generally considered appropriate;
- reduced building heights for blocks closest to the northern boundary should be considered in order to address the impact of the development on the Chapelizod ACA;

Trees and Biodiversity

- the extent of tree loss is noted, but not objected to;
- the Board is the competent authority for the purposes of AA and EIA and a condition can be attached in the event of a permission with respect to the implemented of the stated mitigation measures in the applicant's EIAR;

Services and Other Matters

- flood risk assessment and drainage proposed are noted;

Conclusion, Recommendation and Statement

10.1.1. The Planning Authority recommend a grant of planning permission for the strategic housing development, subject to 18 conditions, including the following of note:

Condition 2 – development to be amended to provide maximum heights of seven to eight storeys;

Condition 5 - 1(b) – provide a construction traffic management plan;

Condition 5 - 2(a) – final design of works to the public roads to be agreed;

Condition 5 - 3 – revised layouts required to address DMURS;

Condition 5 - 4 – a revised phasing strategy;

Condition 5 - 6 – the provision of a service and delivery strategy;

Condition 6(iv) – tree protection measures;

Condition 6(vi) – provision of public art.

10.2. Inter-Department Reports

- Archaeology, Conservation and Heritage (Archaeology Officer) – archaeological surveying, testing, excavation and mitigation recommended;
- Archaeology, Conservation and Heritage (Conservation Officer) – alterations to the development are recommended, including revised building lines, gate pier details, maintaining of a single-storey loggia and category A and B trees, revised massing to blocks, as well as additional details regarding servicing, salvaging and recording;
- Engineering Department (Drainage Division) – no objection, subject to conditions;
- Environmental Health Officer – should permission be granted, conditions are recommended with respect to noise and air quality control;
- Housing Department – previous engagement regarding Part V obligations are noted;
- Parks, Biodiversity and Landscape Services – reservations regarding the loss of existing trees, however, no objection to the development subject to the inclusion of appropriate conditions;
- Transportation Planning Divisions - extracted comments provided in Chief Executive Officer's report and conditions recommended;
- Waste Regulation and Enforcement Unit – conditions need to be addressed;
- Planning and Property Development Department - a bond and section 48 development contributions are recommended.

10.3. Elected Members

10.3.1. On the 11th day of May, 2022, the proposed development was presented to the Elected Members from the South Central Area Committee of the Local Authority. In accordance with subsection 5(a)(iii) of the Act of 2016, the comments of the Elected Members at that meeting have been outlined as part of the Chief Executive Officer's report and these can be summarised as follows:

- the absence of build-to-rent apartments is welcomed;
- breaches in Development Plan policy would arise in relation to building heights and massing, which are excessive and out of character with the area;
- proposals would result in overlooking and loss of light for neighbouring residents;
- a significant increase in traffic would arise from the development in an area already experiencing significant traffic congestion;
- road safety, architectural and biodiversity concerns raised;
- the impact on social and community infrastructure needs to be considered given the increase in population envisaged;
- proposals represent a piecemeal form of planning with insufficient public and social infrastructure;
- questioning regarding the allocation of the playing pitch and the provision of support facilities for same;
- Part V units should be distributed throughout the development and in an earlier phase of the development;
- engagement with the public and the Planning Authority would be required for the construction phase and access to a community facility off Lynch's Lane needs to be addressed.

11.0 Prescribed Bodies

11.1. The following comments were received from prescribed bodies:

Irish Water

- wastewater – there is an existing wastewater sewer running through the site, which the application must achieve minimum horizontal separation distances from or a diversion of;
- water - connection is feasible without infrastructure upgrade;
- conditions are recommended, including those relating to connections and agreements, and compliance with Irish Water’s standards, codes and practices.

Department of Housing, Local Government and Heritage

- a planning condition pertaining to further Archaeological Assessment and Geophysical Survey in advance of construction stages within the development site should be included;
- where archaeological material/features are shown to be present, further monitoring or excavation may be required;
- pollutant runoff towards the River Liffey requires addressing, as set out in a suite of mitigation measures in the NIS to avoid mobilisation of polluting materials from the development site through surface runoff;
- lighting sensitive to bat species using the site should be installed.

National Transport Authority (NTA)

- based on the existing and proposed provision of public transport services and subject to other planning considerations, the proposed development would be consistent with the land-use planning principles contained in the Transport Strategy for the Greater Dublin Area 2016-35;
- the ratio of car parking per residential unit would be appropriate, the up-front provision of electric-vehicle charging points could be increased and an increase in car-share spaces would also reduce the impacts of car parking on the streetscape and encourage more sustainable travel patterns;
- the proposed development would facilitate the proposed Bus Connects core bus corridor scheme.

Inland Fisheries Ireland

- site specific, appropriate, and flexible mitigation measures should be incorporated into a CEMP and appropriately designed, sized and maintained drainage measures should be incorporated into the final approved design to protect the aquatic environment, post-construction;
- the CEMP should detail and ensure best construction practices, including measures to prevent and control the introduction of pollutants and deleterious matter to surface water, either directly or indirectly, through the storm water drainage network, and measures to minimise the generation of sediment and silt. A series of measures to address impacts and comply with relevant, guidance and standards are outlined;

Department of Education

- the applicant has engaged with the Department and is aware that a school would be required on this site, although the precise requirements are not known at present and will be based on wider matters, such as demographics;
- the Board should consider a future school development ranging from a 16 classroom (3,000sq.m gross internal floor area) to a 32-classroom (5,200sq.m gross internal floor area) school;
- suitable separation distances from the east or west boundaries of the site should be provided to address future amenities, including those of neighbouring residents of the proposed development;
- measuring 0.6ha, the site reserved for a future potential school would be substantially below the traditional school site area, however, given the scarcity of urban land, the off-site designation of facilities, the potential for multiple storeys and separation distances to be achieved, sites smaller than the traditional can be considered;
- the school building envisaged for this site would be likely to cater for a minimum of 500 to 1,000 pupils;
- the Department requests guarantees from the Board with respect to the provision of a multi-storey structure for the school, transport infrastructure, car parking, including allocation, type, grouping and protection;

- up to 50% of the adjacent playing pitches shall be made available for exclusive school use during school term and during the operational hours of the school day.

Irish Aviation Authority

- the applicant should be directed to engage directly with the Dublin Airport Authority and the Irish Aviation Authority Air Navigation Service Provider in order to assess the impact of the proposed development on Dublin Airport's obstacle limitation surfaces, flight procedures and flight checking. This should also incorporate the proposed utilisation of any cranes that would be necessitated during construction;
- the applicant should be conditioned to notify the Dublin Airport Authority and the Irish Aviation Authority of the intention to commence crane operations with at least 30 days prior notification of these operations.

11.1.1. The applicant states that An Taisce, The Heritage Council, Fáilte Ireland, An Comhairle Ealaíon and the Dublin City Childcare Committee were notified of the application. An Bord Pleanála did not receive a response from these bodies within the prescribed period.

12.0 Oral Hearing

12.1. The submission received from Aengus Ó Snodaigh TD and Councillors Daithí Doolan and Máire Devine requested that an oral hearing be held in respect of this application, as it is asserted that the development, including an asserted 3,000 person increase in the population, would place substantial pressures or benefits on local amenities and services in the Ballyfermot area. I note that Section 18 of the Act of 2016 provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board shall:

- (i) have regard to the exceptional circumstances requiring the urgent delivery of housing, as set out in the Action Plan for Housing and Homelessness, and;
- (ii) only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

12.2. Having regard to the circumstances of this case, to the issues raised in the observations and submissions received by the Board, and the assessments set out in sections 13, 14 and 15 below, I consider that there is sufficient information available on the file to reach a conclusion on all matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this case.

13.0 Assessment

13.1. Introduction

13.1.1. This assessment considers the proposed development in the context of the statutory plan for the area, as well as national policy, regional policy and relevant guidelines, including section 28 guidelines. Having regard to the documentation on file, including the application submitted, the contents of the Chief Executive Officer's report received from the Planning Authority, issues raised in the observations on file, the planning and environmental context for the site, and my visit to the site and its environs, I am satisfied that the substantive planning issues arising for this assessment can be addressed under the following headings:

- Development Principles;
- Density;
- Urban Design;
- Building Heights and Scale;
- Impacts on Neighbouring Amenities;
- Residential Amenities and Development Standards;
- Access, Parking and Traffic;
- Services;
- Material Contravention.

13.2. Development Principles

Strategic Housing

- 13.2.1. The site is located on lands with a zoning objective 'Z15', where residential development is 'open for consideration' under the terms of the Dublin City Development Plan 2016-2022. The application seeks permission to demolish parts of an existing school building complex on site that are stated to amount to 4,533sq.m, including rear ancillary buildings and the classroom wings to the school. It is also proposed to demolish a former monastery building with a stated floor area amounting to 1,700sq.m. These buildings and structures amounting to a total floor area of 6,233sq.m would be removed and they would not form useable floor space within the subject development.
- 13.2.2. The proposed new and maintained buildings would comprise a stated 68,205sq.m of residential floor space, including circulation, plant, bin and other ancillary residential floor space. It is proposed to provide 921sq.m of communal amenity floor space, which I am satisfied would be for the enjoyment of the development's residents and, therefore, this space can be categorised as ancillary residential floor space. A total of 1,275sq.m non-residential floor space is proposed in the form of a childcare facility, commercial use, community use and retail / café use, and this would amount to 1.8% of the overall development gross floor area. Extensive associated undercroft and basement floor space for parking and services, including an electricity substation and plant area are also proposed, primarily providing ancillary floor space for the apartments, although a proportion of the basement area serving block H is intended to serve the retail / café use in this block, as well as parking for a potential future school, while a small proportion of the undercroft area to block B would be likely to be ancillary to the commercial in this block. Based on the actual proposed non-residential (1,275sq.m) floor area, an additional 3,225sq.m of the undercroft and / or basement floor space would need to be specifically assigned to the non-residential uses, in order to exceed the 4,500sq.m statutory limitation for non-residential uses set in section 3 of the Act of 2016. This would clearly not be the case based on the floor plan details and the allocation of the vast majority of car parking in these basement / undercroft areas for residential uses. Furthermore, I am satisfied that the cumulative non-residential element of the development would not

exceed 15% of the overall development gross floor area; a limitation set in section 3 of the Act of 2016. Accordingly, I am satisfied that the proposed development would comfortably come within the statutory definition of a 'strategic housing development'.

Land-Use Zoning and Specific Objectives

13.2.3. As stated, the proposed development is located on lands zoned 'objective Z15' in the Dublin City Development Plan 2019-2022, which seeks to 'protect and provide for institutional and community uses and to ensure the existing amenities are protected'.

13.2.4. Residential development is 'open for consideration' within this zoning objective, and the Development Plan states that with any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network and the delivery of housing in the city. Furthermore, under the provisions of the Plan, the redevelopment of Z15 zoned lands is subject to the preparation of a masterplan and the provision of 25% of the lands for open space and/or community uses, which has the potential to form part of a strategic green network. It is stated that the 25% of the public open space shall not be split up, unless site characteristics dictate otherwise.

13.2.5. Section 14.8.14 of the Development Plan further states that where there is an existing institutional and/or community use on Z15 lands, the following is required to be demonstrated in redevelopment proposals:

- How the proposal is in accordance with and assists in securing the aims of the zoning objective.
- How it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses.
- How it secures the retention of existing functional open space, for example, school playing fields.
- The manner in which the nature and scale of the proposal integrates with the surrounding land uses.

13.2.6. The applicant states that since 2019, after 67 years in use, the subject lands are no longer in active use by the De La Salle order, as the school was closed and the monastery building had been vacated. The applicant asserts that the De La Salle order no longer have a holding or association over the land. The applicant's

Planning Report addresses two scenarios; where it is considered that there is no longer a need for the site to be used for the existing institutional or community use and where it is considered that there is an existing institutional or community use on site.

- 13.2.7. The Planning Authority acknowledge that a Masterplan document has been submitted by the applicant, demonstrating that an area has been reserved for a future potential school and that other areas are allocated for the community, including central open space, playing pitches, plaza areas and a community facility. The applicant states that the 0.5 hectare area reserved on the masterplan for the potential future school could accommodate a school featuring 16 to 32 classrooms, which the Department of Education confirm to be of sufficient size to meet their future requirements. The Masterplan and images of a three-dimensional model of the proposed development included in the applicant's Architectural Design Statement generally indicates the potential footprint and scale of a school building on the reserved site. The Conservation Officer from the Planning Authority refer to revisions that may be required in a future application for this school to address the potential impacts on the Protected Structure on site, while the Department of Education wish to ensure that the separation distances between the school and surrounding uses would not prejudice a future planning application.
- 13.2.8. While the applicant has provided a reasonable level of detail as part of the application and Masterplan document proposals for the school site, it is important to note that the school is not proposed as part of this application. Notwithstanding this, I am satisfied that a reasonable area has been allocated for the future potential school as part of the proposed development, and the layout, scale, building heights and arrangement of the proposed development would not reasonably impede the future development potential of the lands allocated for the school.
- 13.2.9. The Masterplan and application details refer to the manner in which the overall layout and the design of the development has been undertaken to integrate the proposals with surrounding land uses. Observers raise concerns regarding the potential impacts of the proposed development on the neighbouring facilities to the west off Lynch's Lane, including the Candle Community Trust, a gated development and educational youth training facility, which is asserted would be highly sensitive to development on the application site. The layout of the proposed development

provides for the future school site and the proposed playing pitches along the western boundary of the development, which would generally continue the most recent uses along this side of the site and would provide for a reasonably sustainable approach to developing the lands considerate of the adjoining land uses and property types. Furthermore detailed consideration with respect to the design and layout of the development is undertaken below, where I also address impacts on neighbouring amenities.

13.2.10. I am satisfied that the applicant's Masterplan and supporting statements and drawings, constitute a masterplan for the purpose of the land-use zoning, as they addresses the entirety of the subject Z15 zoned lands, and adequately address the aims of the land use objective.

13.2.11. Observers assert that the development would not tie in with strategic green spaces and that the public open space should not be split up, as in doing so it would materially contravene the Development Plan. The applicant asserts compliance with this element of the zoning objective generally via the provision of 25% of the site (2.07ha) as open space, including playing pitches (1.16ha) that would be open and accessible to the public, as well as other spaces, including a central open space (0.91ha) and a plaza onto Ballyfermot Road with links to neighbouring strategic green infrastructure, including Markievicz Park. The Planning Authority acknowledge that the proposals meet the 25% public open space requirement under the subject zoning objectives, and although this would not be provided in a single continuous space, the Planning Authority highlight there is some flexibility in the Development Plan to allow for this to occur where site characteristics dictate otherwise. The layout of the open space would appear to reflect the need for variety in the function and aesthetics of this space from an urban design perspective, as well as tying in with other established open space in the immediate area. Based on the Development Plan provisions, the public open space should not be split up, unless site characteristics dictate otherwise and I am satisfied that the characteristics of the application site would justify same primarily in needing to protect the setting and character of features on site, to address the amenities of neighbouring properties, to meet the varying needs of future residents, to address urban design requirements and to secure previous main uses of the site. Accordingly, I am satisfied that this element of the proposals would adequately address the requirements of the subject

land use zoning objective and would not materially contravene the Development Plan provisions in this respect.

13.2.12. The most recent primary institutional and community uses on these lands relate to the vacant primary school, the associated playing fields and the monastery building, and observers have sought that the main school and playing field uses are secured in any future development of the lands. Observers contend that in the absence of a school not being provided as part of the subject development proposals, this would be tantamount to a material contravention of the zoning objectives of the Development Plan, and that the site should not be developed, in the manner proposed, as it may be required for other purposes to serve the wider community. The Department of Education acknowledge that the applicant has engaged with them and they are satisfied that sufficient space has been reserved for a future school, albeit subject to access to the playing pitch and the allocation of car parking being addressed. I am satisfied that the educational use of the site is being suitably secured by the area reserved in the southwest corner of the site and this would be subject of a separate application proposal where the Department of Education identify a specific need to be met. Despite not proposing the school as part of the subject proposals, I do not consider this a material contravention of the zoning objectives for the site.

13.2.13. The existing playing fields associated with the school would be removed as part of the proposals, and new playing pitches are proposed to be provided along the west side of the lands. The specific zoning objectives for these lands requires consideration regarding how the redevelopment secures the retention of existing functional open space, for example, school playing fields.

13.2.14. A number of observers, the Department of Education and the Elected Members of the Planning Authority have raised concerns regarding access to the proposed playing pitches. At present the playing fields are not accessible to the public, as their access was facilitate by the De La Salle order who have vacated the site. The Department of Education request that up to half of the adjacent playing pitches should be made available for exclusive school use during school-term and during the operational hours of the school day. Ballyfermot De La Salle GAA Club request sole use of the facility and the Elected Members raised concerns regarding the allocation of the playing pitch. The applicant states that the playing pitch would be taken in

charge by Dublin City Council, as indicated in the taking in charge drawing (no.D1808-12), it would not be for the sole use of any one club or sporting organisation and it would be available for use by both future residents of the development and the wider community in Ballyfermot. The playing pitch would therefore form public open space alongside the other spaces, including the central park. I appreciate the request of the various parties to be allocated the pitch, however, as the space would form functional recreational space open to the public it would most appropriately be managed by the Planning Authority, as is practice for over 230 playing pitches in the Dublin City Council area. Notwithstanding this, certain matters arise with respect to the scale, functionality and ancillary elements of the playing pitch, which I address below.

- 13.2.15. The Planning Authority raise several concerns regarding the extent of space provided around the proposed playing pitch, in particular along the eastern boundary to the access road and proposed blocks H and G. The applicant and observers refer to the contracts of sale for the subject lands requiring the accommodation of a GAA playing pitch, while some observers refer to the playing area as not being of sufficient size to accommodate a full-size GAA pitch for competitive adult games. The proposals identify a playing area, which the applicant states could be subdivided into smaller playing pitches for use by different teams and for various uses. Accordingly, the playing pitches could be used by children and adults, and for various sports, including GAA activities, such as Gaelic football and hurling.
- 13.2.16. The precise function and use of the playing pitches is unclear, such as whether goalposts would be installed and their potential positions, or if competitive games would be played. The Planning Authority and observers refer to the need to address the potential for patrons to congregate during use of the playing pitches, as well as the necessity for other ancillary facilities to serve the playing pitches to be provided as part of the subject development, including changing rooms, toilets and storage areas. Observers also refer to the need for a fence and ball-stop netting to be installed around the playing area.
- 13.2.17. With respect to the zoning objectives for these lands, I am satisfied that there is a requirement to consider how the proposed development secures the retention and functioning of the school playing fields. Public open space explicitly required to function as playing pitches under the zoning objectives of the site may require

ancillary features to allow the playing pitches to function in a manner similar to the manner in which they were previously used. The applicant has proposed demolition of existing changing rooms and toilet facilities as part of the development, as well as removal of existing ball-stop netting, and they have not proposed replacement facilities and equipment. The Planning Authority, who would ultimately manage the playing fields, has sought the provision of such facilities and equipment, which I am satisfied would be standard ancillary elements necessary in securing the functioning of the playing pitches for competitive or non-competitive sports.

13.2.18. There is recognition throughout the application from all parties that GAA games were previously played on the school playing pitches and it is anticipated that the proposed pitches are intended to function in a manner to facilitate these games. Consequently, this requires due consideration of how the playing pitches might impact on surrounding uses.

13.2.19. The playing pitch area would feature an open boundary and would be surrounded by a 2m to 2.5m-wide pedestrian path. The playing pitch would adjoin private property to the west, a mature landscaped strip to Chapelizod bypass to the north, block G of the proposed development to the east, and the new roadway serving the development and associated on-street parking adjoining the eastern and southern sides of the pitch area. To define and safeguard the operation of the playing field, the playing area would need to be secured in some physical form to restrict access and to only facilitate maintenance of the area for the playing of sports. Accordingly, some form of boundary treatment is required to fully surround the playing area, and restrict access, and such details would be necessary as a condition in the event of a grant of planning permission for the proposed development.

13.2.20. Block G would be positioned within 5m from the edge of the playing pitch area and is proposed to feature balconies and windows onto the playing pitch area. Given the proximity of this building and the proposed access road to the pitch area, some form of netting would be required for the safety of road users and future residents of block G. It is unclear what type of netting would need to be installed, including the height of such netting and whether this would be retractable or permanent. Furthermore, the implications of the requirement for some form of ball stop netting in such close proximity to the proposed residences in block G is unclear, including impact on outlook, as well as the general appearance of the netting relative to block G.

13.2.21. As noted above, for the playing pitches to reasonably function in a manner similar to how they were previously used, there would be a necessity to provide changing and toilet facilities to serve patrons of the playing pitches. Given the zoning requirements and provision of 25% open space on site, the limited available space surrounding the playing pitches, the management of the changing rooms and toilets by the Local Authority and the concerns regarding the likely requirement for ball-stop netting, it would be reasonable and warranted for block G within the proposed development to be redesigned as part of the proposed development to facilitate the necessary ancillary playing pitch elements. A condition to this effect would address the safety and amenities of residents and the public, while also addressing the visual impacts of ball-stop netting and ensuring that the proposed development complies with the specific zoning objectives for these lands, including securing the function of the playing pitches to be replaced. Redesign of block G and the provision of an appropriate physical boundary to the playing area would also allow the applicant to address whether sufficient space has been allocated around the proposed pitches for patrons of the playing pitches.

13.2.22. Accordingly, subject to conditions addressing the above matters, I am satisfied that the proposed development would ultimately provide for the main former educational and institutional uses for which the site was used, to be facilitated and secured as part of the proposed development.

13.2.23. In addition to residential and other uses, the Development Plan identifies that the childcare, community and open space uses in the proposed development would be permissible on Z15 zoned lands. I am satisfied that these uses would be complementary to the other proposed uses and would not conflict with the zoning parameters or adjoining land uses. However, the proposed development would also feature a retail / café and commercial use, which are not permitted in principle or open for consideration on Z15 zoned lands. In this case the Development Plan stipulates that these uses would not be permissible. The Planning Authority do not address this matter and the applicant addresses this within their Material Contravention Statement, asserting that as the floor area of these units would amount to 0.26% of the gross development floor area, these uses would be acceptable as ancillary uses in the context of a residential-led scheme.

13.2.24. Under the provisions of section 9(6) of the Act of 2016, the Board may decide to grant a permission for a proposed strategic housing development where the proposed development, or a part of it, contravenes materially the Development Plan relating to the area concerned, albeit with exception to a material contravention of zoning objectives and subject to other circumstances outlined below. While I accept that the scale of the overall development is such that the inclusion of the proposed commercial and retail / café units would be of lower order and of doubtful materiality, it could also reasonably be maintained that the inclusion of these units would represent a material contravention of the zoning objectives of the Development Plan. Accordingly, from a precautionary perspective I am satisfied that the proposed commercial and retail / café units should be omitted via condition or refused permission as part of the development. As the units are internalised in the proposed apartment blocks, there would only appear to be scope for the units to be conditioned to be omitted from the scheme in the event of a grant of planning permission for the proposed development.

13.2.25. Given the layout of the development, the nature of the uses proposed and the uses allowed for on these lands, subject to conditions I am satisfied that the proposed development would generally comply with the land-use zoning objectives of the Development Plan, and the proposed development would not conflict with neighbouring land uses and would not prejudice the proper planning and sustainable development of the area. I am satisfied that the development would provide for a complementary mix of uses on this site, compliant with the overall vision for the lands, as set out within the Development Plan and, subject to conditions, it would not materially contravene the Development Plan in relation to zoning or land use objectives.

Phasing

13.2.26. The applicant has provided a phasing plan (drawing no.D1808-13) for the entirety of the site, which identifies that all of the road works, blocks B and C along Ballyfermot Road containing 229 apartments and the central open space and playing pitches would form phase 1 of the development. The remainder of the development would be followed through generally in an anti-clockwise block arrangement with blocks A and H forming the final phase of the development.

- 13.2.27. Observers to the application have highlighted several concerns regarding the applicant's phasing strategy, including the omission of supporting uses from the initial phase of the development and the Transportation Planning Division of the Planning Authority has requested a revised phasing strategy to ensure that the mobility strategy for the site and access to supporting facilities are maximised.
- 13.2.28. I have numerous reservations with respect to the applicant's phasing strategy, including the undertaking of works to the Protected Structure and the provision of the childcare facility, community unit and front plaza area, in the final phase of the development. While I appreciate that it may not be possible to provide all support infrastructures in the initial phase of the development, a more logical approach to the phasing strategy for the development would be necessary and the request of the Transportation Planning Division would be reasonable in this regard. Furthermore, it is not clear from the phasing strategy when the applicant intends to demolish the west wing and associated structures on that part of the application site allocated for the future potential school site. A condition to address this would be necessary in the event of a planning permission being granted for the proposed development.
- 13.2.29. The applicant has sought a grant of permission with a standard five-year duration, although the construction timelines estimate that the project may take between five and 7.5 years to complete based on section 11.7.2 of the EIAR. While I acknowledge that this issue is referred to in an observation, it is imperative for the developer to complete the development in accordance with the permission and deviation from same would potentially be an enforcement matter to be addressed by the Planning Authority.

Housing Tenure

- 13.2.30. Appendix 2A of the Development Plan addresses the supply of social housing in the city and requires 10% of new units on all residential zoned land be reserved for the purpose of social housing. The applicant has submitted Part V proposals that comprise the provision of 32 one-bedroom apartments, 48 two-bedroom apartments and 13 three-bedroom apartments, or 10% of all the units (93) to Dublin City Council, from ground to sixth-floor level in quadrangular block D of the development. The Housing Division of the Planning Authority has stated that the applicant's

representative has engaged with the Planning Authority on this matter and is aware of their obligations.

- 13.2.31. Part V of the Act of 2000 was amended by the Affordable Housing Act 2021, inter alia, amending provisions with respect to the Part V percentage allocation, dependent on the date of purchase of a site. The applicant's Part V Proposal report includes correspondence asserted to demonstrate that the applicant purchased the subject application site in December 2018 and as a result a 10% Part V requirement would be applicable. Evidence to the contrary is not available to me and a 10% Part V requirement would appear to continue to apply. I am satisfied that Part V requirements can be finalised with the Planning Authority by means of a condition, should the Board decide to grant permission for the proposed development.
- 13.2.32. The observations and Elected Members from the Planning Authority refer to the Part V units not being well distributed throughout the development and based on the phasing strategy I note that these units in block D would be constructed in phase 2 of the development following the construction of 229 units in phase 1. The Housing Division of the Planning Authority has not objected at this juncture with respect to the distribution of units or the timing of their delivery relative to the remainder of the development. The intended timing for the delivery of the Part V units would appear reasonable having regard to the proposed phasing and the scale of the development. Notwithstanding this, a dispute in reaching an agreement on this matter can be referred to An Bord Pleanála for determination.
- 13.2.33. In conclusion, I am satisfied that the Part V housing proposals provided accord with the requirements set out within the relevant Guidelines, the proposed Part V provision can be finalised at compliance stage and the overall social housing provision would help to provide a supply of housing for all sectors of the existing and future population, as well as facilitate the development of a strong, vibrant and mixed-tenure community in this location.
- 13.2.34. Based on the Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (2021), there is only a requirement to regulate investment in the proposed end-of-terrace three-storey house (E01) and the proposed duplex units in block E (E02–E07 and E11-E18), as apartments, are exempt from a restrictive ownership condition. In the event of permission being

granted, a condition should be attached to this effect to ensure an adequate choice and supply of housing within the development, including affordable housing. I acknowledge that the apartments in the subject proposed development could be owner-occupied or rented in the future.

13.3. Density

- 13.3.1. Comprising 927 units on a gross site area of 8.3ha, the proposed development would feature a density of 112 units per hectare. Based on an overview of the site layout plan, which reveals that much of the site area includes sections of roadway, the future school site and playing pitches, the net site area would amount to approximately 6.24ha, which would result in a net density of 149 units per hectare. When compared with residential densities in the wider urban environment, such densities would be clearly at the higher end. When using the net site area, the subject development would have a plot ratio of 1.11. Using the gross site area the development would feature 32% site coverage.
- 13.3.2. Based on the Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities (2009) (hereinafter the 'Sustainable Residential Development Guidelines'), the Planning Authority consider the site to be brownfield and located on 'institutional' lands and that the density of the proposed development would be justifiable, as a maximum density is not explicitly stated for such lands, given the proximity to Ballyfermot key district centre and given the site location relative to existing and future public bus services. The observers assert that the proposed scale and density of this development is not one that would be appropriate for these lands having regard to the provisions of the Sustainable Urban Housing Guidelines and that the proposals would lead to overdevelopment of the site with an excessive increase in population placing constraints on local services. It is also asserted by observers that public transport to serve the development would not have sufficient capacity to serve the development and that the density of units proposed would materially contravene the provisions of the Development Plan.
- 13.3.3. The applicant considers that the site is situated on 'institutional' lands with the development providing for the open character of the site to be maintained. The applicant also states that the site is within a 'public transport corridor' given its proximity to transport services and that this further justifies the density of the

proposed development, particularly with regard to National planning policy encouraging more compact forms of development in existing urban areas.

Development Plan Policy

- 13.3.4. The Development Plan does not specifically set out minimum or maximum density limitations for residential developments. In estimating the allocation of housing on rezoned lands within the city, the Development Plan refers to a density assumption of 100 units per hectare. The Development Plan refers to the density provisions set out in the Sustainable Residential Development Guidelines and the need to have regard to the policies and targets in the Regional Planning Guidelines 2010 – 2022 or any Regional Spatial and Economic Strategy that replaced the regional planning guidelines. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supersede the previous Regional Planning Guidelines.

Sustainable Residential Development Guidelines

- 13.3.5. The Sustainable Residential Development Guidelines set out where increased residential densities will generally be encouraged, including in city or town centres, on brownfield sites within city or town centres, along public transport corridors, on inner-suburban / infill sites, on institutional lands and on outer-suburban / greenfield sites.
- 13.3.6. No parties to the application contest that the site is ‘brownfield’ and I am satisfied that the site is ‘brownfield’ based on the definition for same provided in the Sustainable Residential Development Guidelines, although it is not within a city or town centre and it does feature greenfield area. The Guidelines refer to walking distances from public transport services as best guiding densities along public transport corridors with scope for increased densities in locations within 500m walking distance of a bus stop or within 1km of a light rail stop or a rail station. The nearest public bus stops to the application site include stop no.2714 fronting the site and stop no.2711 on the opposite side of Ballyfermot Road. These bus stops provide access to Dublin Bus route 40 and Express bus mini-coach route 860. Other bus stops in the area include stop nos.2648 and 2706 on Decies Road, approximately 250m to the south of the site, which are served by Dublin Bus routes 79 and 79a and GoAhead route 18. Go Ahead Ireland services 76 and 76a operate

from stop 2696 on Ballyfermot Road, a five to ten minute walk from the application site. The Guidelines refer to the capacity of public transport services requiring consideration with respect to appropriate densities, a matter that I specifically address further below.

- 13.3.7. I am satisfied that based on guidance and the stated zoning objectives for the site, the site could be considered to fall into the category of a site located within a public transport corridor and on institutional lands. Lands within public transport corridors are stated in the Sustainable Residential Development Guidelines to generally be suitable for minimum net residential densities of 50 units per hectare, subject to appropriate design and amenity standards, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Institutional lands would be suitable for average net densities at least in the range of 35 to 50 units per hectare according to the Sustainable Residential Development Guidelines. The proposed development meets the minimum net density targets for this category of land. With respect to institutional lands the Sustainable Residential Development Guidelines also require the open character of these lands to be retained by concentrating increased densities in selected parts. I am satisfied that the provision of a large playing pitch area and central open space sufficiently provides for the open character of the lands to be retained. With the inclusion of a reference stating '(say up to 70 dph)', the Sustainable Residential Development Guidelines appear to be referring to a cap of approximately 70 units per hectare on institutional lands, albeit in a quite ambiguous manner, and based on Development Plan provisions requiring due regard for regional planning policy, as addressed below.

Regional Policy

- 13.3.8. In addressing the settlement strategy for Dublin city and its suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area and ensure that the development is co-ordinated with the delivery of key water and public transport infrastructure. This approach is reaffirmed within RPO 4.3 of the Strategy.
- 13.3.9. As per RPO 5.4 of the RSES, the future development of strategic residential development areas within the Dublin metropolitan area shall provide for higher

densities and qualitative standards, as set out in the Sustainable Residential Development Guidelines, the New Apartments Guidelines and the Building Heights Guidelines. The RSES also refers to key national strategic outcomes in the NPF, followed through into the RSES, as targeting compact growth in urban areas. Accordingly, any consideration of the appropriate density provisions for a development site within the Dublin city area cannot be solely based on the provisions of the Sustainable Residential Development Guidelines, but must also consider other national planning guidance.

National Policy and Section 28 Guidelines

- 13.3.10. In terms of the national policy context, the NPF promotes the principle of ‘compact growth’ at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within existing urban envelopes. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary.
- 13.3.11. In relation to Section 28 guidance addressing housing density, the Building Heights Guidelines and the New Apartments Guidelines all provide further guidance in relation to appropriate densities and support increases in densities at appropriate locations, in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 13.3.12. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

13.3.13. The New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. Suitable locations stated in the Guidelines include 'central and/or accessible urban locations', 'intermediate urban locations' and 'peripheral and/or less accessible urban locations'. The Guidelines also state that 'the range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors'.

Access to Public Transport

13.3.14. The applicant considers the site to constitute a 'central and/or accessible urban location' based on the terminology in the New Apartment Guidelines, as it is located within close proximity to bus services, including those of frequent service. Observers to the application refer to limitations in public transport in this area, including the need for alternative services and improved infrastructures. In considering the general provision of public transport available in this area, I would note that the capacity of services is intrinsically linked to frequency, as inferred in section 5.8 of the Sustainable Residential Development Guidelines.

13.3.15. Dublin bus route 40 connecting Liffey Valley with Charlestown shopping centre via O'Connell Street, provides services every 10 to 12 minutes between 06:00 and 19:00 hours Monday through Friday, and a reduced frequency of services outside of these hours. Express Bus Route 860 running between Parkwest and Aston Quay features one to two buses per hour during weekdays. The no.79 and 79a bus connects Spiddal Park, Cherry Orchard / Parkwest with Aston Quay in the city centre providing four to six services per hour between 07:00 and 20:00 hours Monday through Friday and less frequent services outside of these hours. The nos.76 and 76a operate two to three services per hour between 07:00 and 24:00 hours Monday through Friday connecting The Square in Tallaght with Blanchardstown shopping centre. The no.18 bus connects Palmerstown with Sandymount via Baggot Street in the city centre,

with three to four services per hour between 07:00 and 20:00 hours Monday through Friday, and less frequent services outside of this. Buses connecting with the city centre would provide for good links to other public transport modes.

13.3.16. The NTA notes intentions for BusConnects core bus corridor (G-Spine) to commence operation along the Ballyfermot Road in 2022 with an increased frequency of services every six to eight minutes, as well as additional services in the vicinity, including G1, G2 and S4 services. The commencement of these services is understood to be imminent. The proposals are stated by the NTA to facilitate the delivery of a core bus corridor along Ballyfermot Road with significant upgrades in terms of dedicated bus lane infrastructure to improve bus travel times. In addition to the BusConnects project, the NTA also refer to the medium-term intention for a new DART station at Kylemore, as part of the DART+ project. The Kylemore Road crossing over the Irish Rail lines is approximately 800m to the southwest of the site. The site is a five-minute walk from Ballyfermot key district centre.

Location Category

13.3.17. I note that the Guidelines state that for a site to be in a central and/or accessible urban location it must be within easy walking distance to/from a high frequency urban bus service. Easy walking distance is referred to in the New Apartment Guidelines as being up to five-minute walk time or up to 500m from a site. I am satisfied that based on bus timetables and guidance within the New Apartment Guidelines defining 'high-frequency' bus services as those operating at a minimum of every ten-minutes during peak hours, the bus stops within easy walking distance of the application site feature 'high-frequency' bus services. Based on the existing services operating during peak hours from stops within easy walking distance of the application site, and standard bus capacities on the routes, such services could cater for in the region of 970 to 1,255 passengers during peak hours. The completed and fully-occupied proposed development would be likely to cater for a population of between 1,593 and 3,110 residents based on the stated number of bed spaces. According to the census data from the Central Statistics Office, 22.1% of the population in Dublin city travelled to work, school or college by public modes in 2016. This would indicate that between 352 and 687 residents in the proposed development would be expected to rely on similar transport requirements, at varying times throughout the day. Given the present provision of bus services, the additional

potential future population residing in the proposed development, the timelines for the proposed construction of the development and the stated improvements in public transport services envisaged for the area, the proposed development would be unlikely to overwhelm public transport services.

13.3.18. Under the terms of the Dublin Transport Authority Act 2008, the NTA is required to review the Transport Strategy for the Greater Dublin Area and I note that a Draft Greater Dublin Area Transport Strategy 2022-2042 has been published, with policy measures such as 'Measure BUS5 – Bus Service Network Monitoring and Review' outlining the intention of the NTA to continually monitor the demand for bus services in the Dublin Area as part of the roll-out of the new service network and as part of the monitoring and periodic review of the Transport Strategy, and to enhance or amend the service network as appropriate. While the Strategy is currently in draft format, I am satisfied that this reveals the intention, and the ongoing transport strategy approach, to constantly ensure public transport serving the greater Dublin area have capacity to meet demand, whether this be via reduced or increased levels of service. Overall I am satisfied that the site would have good access to high capacity and high frequency public bus services available in the immediate area and I acknowledge that the NTA has not identified any concerns in this regard.

13.3.19. On the basis of the proximity and accessibility criteria analysed above, I am satisfied that the site can be categorised as being within an 'accessible urban location' and in accordance with the New Apartment Guidelines such locations can support higher-density residential development that may wholly comprise apartments. Minimum and maximum residential densities are not set within the New Apartment Guidelines for such locations, although I recognise that with regard to less accessible 'intermediate urban locations' the Guidelines refer to densities of greater than 45 dwellings per hectare being appropriate.

Neighbouring Densities

13.3.20. The immediate areas to the application site are very much defined by low residential densities to the east and south, as well as low-rise community and education facilities to the west. With reference to the closest recent strategic housing developments permitted by the Board in the vicinity of the application site, I note that densities of 137 (ABP ref. 312290-21 – Park West Business Park), 290 (ABP ref.

312218-21 – Naas Road), 166 (ABP ref. 311606-21 – Carriglea Industrial Estate), 330 (ABP ref. 309627-21 – Davitt Road), 197 (ABP ref. 307092-20 – Kennelsfort Road Upper) and 321 (ABP ref. 303435-19 – Davitt Road) units per hectare have been permitted.

Density Conclusion

13.3.21. The statutory plan for this area does not specifically set out definitive minimum or maximum densities for this site, while highlighting the need to have regard to the density provisions outlined within the Sustainable Residential Development Guidelines and in regional planning guidelines, including any subsequent revisions to same (i.e. the RSES). The RSES highlights the need to consider the New Apartments Guidelines and the Building Heights Guidelines with respect to appropriate development densities. Definitive maximum densities for developments within public transport corridors are not specified in the Development Plan or the Sustainable Residential Development Guidelines. I recognise reference in the Sustainable Residential Development Guidelines to an approximate 70 units per hectare cap for residential density on institutional lands. Notwithstanding this, given the level of ambiguity in which this standard is expressed within the aforementioned Guidelines, the fact that such a standard or similar is not referenced in the Development Plan and the necessity in the Development Plan for density parameters to be considered having regard to regional and section 28 guidelines, including the Guidelines referred to above published following the adoption of the Development Plan in 2016, it cannot be reasonably considered that development at the density proposed on the application site would materially contravene the density provisions in the Development Plan.

13.3.22. These Guidelines and strategic guidance in national and regional plans, highlight that increased densities should generally be sought in the subject location, primarily based on access to public transport. My assessment of the location of the site relative to the range of locations within the New Apartment Guidelines, would suggest that the site is within an accessible urban location where higher-density development should be sought. A general overview of planning decisions, would suggest that the density proposed on the subject site would be comparable with densities recently permitted for other large-scale housing developments closest to the site.

13.3.23. Having regard to national and local planning policy, I am satisfied that the site, which is within the Dublin city and suburbs area of the metropolitan area, as defined in the RSES, is well placed to accommodate growth at the net density proposed of 149 units per hectare. In conclusion, the proposed density for the application site complies with the provisions of the Development Plan and Government policy seeking to increase densities in appropriate locations and thereby deliver compact urban growth. Notwithstanding this, certain criteria and safeguards must be met to ensure a high standard of design and I address these issues in my assessment below.

13.4. Urban Design

- 13.4.1. Layout, massing, design and open space are considered in this section in terms of the urban design quality of the proposed development and the impacts on the De La Salle National School Central Classroom Block, a Protected Structure. Building heights are primarily considered under section 13.5, the potential impacts on the amenities of the area are primarily considered in section 13.6 and the potential visual impacts are considered in section 14.12 of the EIA.
- 13.4.2. Section 16.2.1 of the Development Plan addressing 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines and the public realm.
- 13.4.3. The observations assert that the proposed development would fail to integrate with the surroundings area and would be excessive in terms of scale, bulk, form, height and massing. The Planning Authority raise concerns with respect to the scale, massing and appearance of the development relative to the two-storey houses dominating the neighbouring residential areas.

Design

- 13.4.4. The applicant has provided a variety of material to rationalise their development designs, including an Architectural Design Statement and a Heritage Impact Assessment. Section 2 of the Architectural Design Statement and section 4.2 of the Masterplan document sets out how the applicant considers the detailed design of the scheme to meet the 12 principles of the Urban Design Manual accompanying the Sustainable Residential Development Guidelines.

13.4.5. The scheme is to be split into five character areas surrounding a central open space, comprising similar building typologies and addressing the varying contexts for the site. I am satisfied that the character areas that are proposed would be reasonably distinct and would aid in creating a sense of place and providing a transition in scale leading away from the most sensitive boundaries of the site. Building heights, are lowest along the roadside and residential boundaries, generally increasing towards the northeastern corner of the central public open space. Abrupt transitions of scale between zonings are avoided via setbacks from Ballyfermot Road, the provision of playing pitches and future school site onto Lynch's Lane, and the siting of duplex buildings (1 and 2 of block E) along the eastern boundary. In relation to the proposed buildings, I note that they would feature regular rhythm and proportions, with a consistent architectural language used throughout the scheme based on a limited palette of contemporary materials, including extensive coloured-brick elements defining each character area, as well as glass balustrade balconies and aluminium-framed windows throughout. The scale and form of the apartment blocks combined with the proposed materials and the palette of colours would visually harmonise and integrate the entire residential scheme. Final materials can be addressed via condition in the event of a grant of planning permission for the proposed development and in accordance with the requirements of the Planning Authority.

13.4.6. In conclusion, there is variety in the scale and a consistency in the rhythm and proportions of the proposed buildings, and I am satisfied that the proposed scheme is of a contemporary design that would make a reasonable contribution towards place-making in the area. High-quality, long-lasting materials are proposed throughout the development, which together with the proposed contemporary architectural composition would generally enforce the urban design principles set out in the Development Plan.

Layout

13.4.7. The applicant is proposing to construct seven primarily quadrangular blocks with landscaped semi-private courtyard spaces and a linear block E, featuring building 1 to the south and building 2 to the north running parallel with the eastern side boundary. Block A would form a 'u-shape' with internal courtyard space backing onto the Protected Structure. Two blocks (B and C) would be positioned fronting

onto Ballyfermot Road and two blocks (D and H) would be positioned on the east and west side of a central public open space. The rear two blocks, comprise an inverted 'L-shaped' block (F) onto the northern boundary and block G overlooking the playing pitches. An open boundary and plaza would be provided onto the Ballyfermot Road fronting the Protected Structure, and a pedestrian street would lead north from this plaza connecting into the central open space. The primary proposed internal vehicular access route within the development would be provided off the northern end of Lynch's Lane weaving towards the Ballyfermot Road at the location of the existing entrance to the monastery grounds.

- 13.4.8. According to the applicant, the proposed layout respects its environs and would not deter the amenities enjoyed by neighbouring users. The Planning Authority consider the layout of the development to be legible, as well as featuring good permeability for pedestrians and cyclists. Observers refer to the potential for alternative access to be provided from the northern side. I note that access from the north would have to be from the Chapelizod bypass, which features much higher traffic volumes when compared with Ballyfermot Road, as well as dual carriageways, a steep embankment bounding the application site and an absence of footpaths, cycleways and bus stops. Provision of an access off the dual carriageway to the north would not be necessary in this context.
- 13.4.9. There may be scope for two pedestrian routes to be provided in the future from locations situated between The Steeples block A and no.11 The Steeples and The Steeples block A and Phoenix View. Extending the proposed pedestrian path along the northern boundary and providing a path between buildings 1 and 2 of block E could facilitate this. These connections could in future provide for greater pedestrian permeability through the site towards Chapelizod village and Phoenix Park to the north. I have further reservations regarding the absence of a pedestrian route from the proposed footpath along the southside of block E (road 03/04 junction) connecting along the east side of block C with the existing footpath on Ballyfermot Road. Provision of same would provide for more convenient pedestrian movements from the east side of the site towards services and infrastructure east of the site. Subject to these amendments I am satisfied that the layout would provide for satisfactory permeability across the site.

- 13.4.10. The Planning Authority refer to the proposed commercial, crèche and community uses situated along the plaza onto Ballyfermot Road, as ensuring a consistent level of activity and an enhanced sense of place and vibrancy along Ballyfermot Road. While I highlight certain issues with respect to the commercial use above, I am satisfied that such uses would provide for greater activity along the street, however, as noted above, these elements would best be provided as part of the initial phases of the development.
- 13.4.11. There is a clear relationship between the proposed blocks, which are generally separated by distances between 12m to 22m across the proposed road network, the open space and pedestrian plazas. The building line along Ballyfermot Road is not rigidly defined with substantive setbacks from the street to the monastery and school buildings on the application site, to the community buildings to the west and the residential blocks in The Steeples to the east. All these buildings are screened from view by mature trees along the roadside boundary. On the opposite side of the street there are two-storey houses set back consistently on average 6m from the public footpath. The proposed development would feature a staggered building line onto Ballyfermot Road and I am satisfied that the position of proposed blocks B and C would not be out of character with existing building setbacks along Ballyfermot Road. I specifically address the relationship between proposed blocks A and B and the Protected Structure further below.
- 13.4.12. Block E would be positioned a minimum of 7.8m from the eastern boundary with The Steeples development, while block C would be a minimum of 17.5m from the nearest block (F) in The Steeples. The closest proposed block (G) relative to the Candle Community Trust grounds would be separated by a distance of over 90m across the playing pitch element of the proposed development. I consider the appropriateness of these relationship further below with respect to the impact of the development on neighbouring residential amenities (see section 13.6). The layout of the blocks and their design would appear to attempt to generally address the sensitivity of neighbouring lands to the proposed development, as well as the future development potential of the school site. Furthermore, I am satisfied that the layout of the scheme, including the allocation of open spaces and pedestrian streets, would provide good linkages with the existing strategic green network in this area, in particular Markievicz Park.

Demolition Works

- 13.4.13. De La Salle National School Central Classroom Block on the application site is a Protected Structure that is included in the RPS under reference 8784. A Heritage Impact Assessment included with the application and the Conservation Officer's report refer to the heritage value of the buildings on site, including details of architectural, historical and social interest. Photographs and drawings of all of the existing buildings are included within both the applicant's assessment and the observations. The Conservation Officer asserts that their assessment would rate the central classroom block as being of regional rating from an architectural heritage perspective, despite not being included in the NIAH.
- 13.4.14. As part of the proposed development it is intended to demolish and remove parts of the school complex, as well as the monastery and associated buildings on the site. The monastery building is stated to date from the 1950s-60s period and is included in the NIAH (ref. 50080372) with a 'local' rating. As addressed further below, the Department of Education has not sought the maintaining of the existing school, or part thereof, as part of the proposed development, notwithstanding that they anticipate that in the future they would require a school on the site.
- 13.4.15. An appendix to the applicant's Heritage Impact Assessment comprises correspondence from the Planning Authority, which is asserted to confirm that the protected elements of the existing structures on site solely comprise the central classroom block, including two staircase towers, two flanking single-storey loggia and principal paired entrance gate piers. The Architectural Heritage Protection Guidelines for Planning Authorities require applicants to provide justification for demolition proposals and not to adversely affect the character of a Protected Structure.
- 13.4.16. The Conservation Officer states that they would have preferred if the existing buildings, including the monastery, were maintained as part of the development, although they acknowledge their loss as part of a dense form of residential development. Policy CHC5 of the Development Plan only allows for demolition of Protected Structures in exceptional circumstances. The applicant sets out that following its consideration for inclusion in the Record of Protected Structures, the monastery building was not included in the Record. They also state that this building

has been compromised by vandalism and fire, and the condition of its main elements, including roofs, walls, floors, services and outbuildings would not support protection of this building. The nearest ACA identified in the Development Plan relative to the application site, is situated over 220m to the north of the site in Chapelizod, while the closest conservation area is 50m to the north of the site on the opposite side of the bypass.

13.4.17. The nature of the proposed development is such that not all historic elements of the features within the grounds of the primary school would remain as part of the subject proposed development, but clearly a sustainable approach needs to be undertaken in this regard from a planning and development perspective. The NIAH does not include the school and asides from the monastery building it does not outline other features within the grounds of the monastery as being of importance in the description and appraisal of the property. Based on the information available, planning policy and guidance and the rationale presented, the proposed demolition of the monastery building and other associated structures that are not within the Record of Protected Structures would appear reasonable, particularly given the overall development strategy in providing for efficient use of urban lands, while generally refurbishing and renovating features of the architectural heritage of the site that are most worthy of conserving. Furthermore, the demolition of structures on site would not impact on the character or setting of the nearest neighbouring conservation areas.

13.4.18. Picture 2 of the Heritage Impact Assessment indicates in plan form the elements of the school building included in the Record of Protected Structures, including the central classroom block, which would be maintained and upgraded as part of the proposed development and the adjoining loggia and return wing housing the former toilet block, which are proposed to be demolished. The Conservation Officer in the Planning Authority states that the single-storey loggia at either end of the central block should be retained in their entirety as they form part of the listing for the Protected Structure, although they do not resist the loss of the rear toilet block. The applicant asserts that maintaining the toilet block would be harmful to the character of the main building, as it is fundamentally unremarkable, it detracts from the appearance of the central block and as it is not readily adaptable for other uses. With regard to the loggia, the applicant asserts that maintaining these elements

makes no sense with the removal of the east and west classroom wings and that their shape would be at odds with the proposed layout, making too strong a statement drawing patrons towards these 'portal' type features, presenting concerns from a structural perspective as they are built into the classroom wings and as they no longer have a purpose, including within the proposed scheme.

13.4.19. I recognise the balanced symmetrical and formal planned layout to the school complex, as well as those elements of the complex that have been specifically set out for protection. In this regard I note that the toilet block appears of limited architectural merit and I consider and there are exceptional circumstances for demolition and removal of this element of the Protected Structure. Notwithstanding the fact that the loggia are constructed partially into the classroom wings, these structures can largely be maintained in situ, in a similar manner to the entrance piers discussed further below, and they can be maintained and included as features within the subject proposals, including the main pedestrian route into the development. The loggia are quite distinct elements of the Protected Structure and I do not consider that exceptional circumstances have been presented to justify their demolition and removal. In the event of permission for the proposed development, a condition should be attached requiring the single-storey loggia features adjoining the central classroom block to be maintained as part of the proposed development.

Change of use of De La Salle Primary School

13.4.20. It is proposed to reuse the central classroom block, as part of the subject proposals, by undertaking various works externally and internally to the structure, including change of use of the structure to a childcare facility and a community use. Policy CHC2 of the Development Plan stipulates that changes of use of Protected Structures that would have no detrimental impact on the special interest of these structures and are compatible with their future long-term conservation, will be promoted. The Architectural Heritage Protection Guidelines for Planning Authorities refer to the original use as being the most appropriate use for a Protected Structure and state that the best method of conserving an historic building is to keep it in active use.

13.4.21. The Conservation Officer has not specifically commented on the principle of repurposing the Protected Structure, while The Heritage Council and An Taisce did

not respond to consultation regarding the application. The subject Ballyfermot schools complex was constructed in 1950 to accommodate 1,000 pupils from the local area. The building has been unoccupied since 2019. According to the applicant the reuse of the Protected Structure for uses similar to the original use would be appropriate, particularly having regard to the minimal intervention required in adapting the building for this purpose. I am satisfied that reuse of the former school for childcare and community uses would safeguard its conservation and would not strip the building of its value and distinctiveness as a Protected Structure, as well as a building of architectural, historical and social merit.

13.4.22. As part of the change of use of the central classroom block there would be only minor external alterations and the applicant has set out that they propose to replace the existing windows, which are not original and that this would be subject to submitting samples for the agreement of the Planning Authority. The Planning Authority outline specific requirements with respect to the replacement windows and I am satisfied that any replacement windows should be historically correct. The internal alterations of particular note include the alterations to the plan form, which are stated to be required in order to meet the revised needs for the childcare and community use facilities. The Planning Authority considers the extent of information provided to be limited although the degree of impact on the character of the Protected Structure would be relatively low. The Planning Authority has requested the attachment of conditions addressing procedures for the submission of a photographic record of the building and the requirement for further building and construction details, including repair works, and conditions addressing these matters would appear warranted and reasonable to attach in the event of a grant of planning permission for the proposed development.

13.4.23. Observations raise concerns regarding the rationale for relocating the gate entrance piers, which form part of the Protected Structure. These existing piers are situated directly onto the back edge of the footpath along Ballyfermot Road and they would be relocated 5m to 6m further into the site as part of an open plaza area fronting the central classroom block. The piers have been painted a different colour to the adjoining low-dashed boundary walls and railings, which would be removed as part of the subject landscaping proposals. While the piers would be relocated, the landscape plans for the development do not appear to show gates attached to these

piers. I recognise the applicant's intention for the relocated piers to potentially accommodate a future core bus corridor route, although this has not been permitted. However, given the intention to remove the front boundary wall and railing as part of the overall proposals to open access into the lands, the relocation of the gates and piers would appear reasonable and would serve as a visual reference to the former use of the site and its function as a primary access for local school children. The Planning Authority has requested details with respect to the relocation of the gate piers, including capping details, and I am satisfied that such details could be requested as a condition in the event of a grant of planning permission.

13.4.24. The applicant asserts that the plaza landscape features would provide additional status fronting the central classroom block and I am satisfied that this aspect of the proposals would enhance the character and setting of the former school building. The remainder of the landscaping works immediate to the Protected Structure would largely entail works proposed as part of pedestrian routes. I am satisfied that a sustainable approach has been undertaken in this regard, as the landscaping finishes would not substantively damage the setting or character of the Protected Structure. Finalised materials for the landscaping works can be agreed in the event of a grant of planning permission for the proposed development.

Impacts on Central Classroom Block

13.4.25. Observations object to the development on the basis of the impact of the proposed apartment blocks on the character and setting of the Protected Structure. The observers' concerns primarily relate to the height and scale of the proposed apartment blocks closest to the Protected Structure, which they assert would have a highly overbearing appearance on the Protected Structure and would denude its setting and character. The closest block to the Protected Structure would be the 'u-shaped' block A, which would steadily step up from two-storeys 1m to 3.6m from the rear of the existing classroom block, to five storeys over 43m from the rear of the classroom block. The potential future context for the relationship between the new blocks and the existing classroom block is best visualised via the applicant's CGIs 1 and 2. According to the applicant, block A has been laid and designed in a quadrangular form in order to respect the symmetry along the rear of the classroom block and the Conservation Officer from the Planning Authority asserts that the

courtyard arrangement between the existing and proposed blocks would be reasonably sympathetic to the character and setting of the Protected Structure.

13.4.26. Increased building heights moving further from the Protected Structure would appear appropriate in these circumstances. The proposed landscape and building design responds to the geometry and setting of the classroom block and respects the status of the Protected Structure as the central feature fronting the development. The height of proposed block A would not be overly dominant and would not compete with the setting of this Protected Structure. The Conservation Officer in the Planning Authority raised concerns regarding the positioning of block B along the site frontage, as this block would be significantly forward and substantially higher than the classroom block. Block B would only limit views of the Protected Structure when approaching from the east along the Ballyfermot Road frontage, where at present views of same are restricted by trees along the site roadside boundaries. The proposed development would improve views towards the Protected Structure by providing a more open view onto Ballyfermot Road and the 16m-wide pedestrian street between block B and the Protected Structure would allow views towards the side elevation of the Protected Structure to be achieved, despite block B being proposed to be positioned 5m forward of the classroom block. I am satisfied that the position, scale, design and appearance of the proposed building closest to the classroom block, would be sympathetic to the aesthetics, character and setting of this building.

13.4.27. The Conservation Officer in the Planning Authority objects to the loss of trees on site, asserting that these are required in order to protect the special architectural character and setting of the Protected Structure and the mature sylvan setting of this site. I address the extent of tree loss specifically under section 14.7 of the EIA when addressing biodiversity, where I note the limited value in the categorisation of many of the trees on site, as well as the applicant's replacement planting proposals as part of the sustainable development of this urban site. The existing trees to be removed along Ballyfermot Road do not at present enhance the setting of the Protected Structure on site, as these trees are of poor quality and based on historical images of the site submitted with the application and the details within the arboricultural survey, these trees were not original landscape features defining the character or setting of the Protected Structure on site.

13.4.28. Accordingly, I am satisfied that the proposed development would serve to conserve and enhance the setting of the Protected Structure on site and would not contravene policy CHC2 of the Development Plan.

Landscaping and Lighting

13.4.29. The Parks, Biodiversity and Landscape Services section of the Planning Authority do not object to the proposals and they require numerous standard conditions to be attached relating to open space management, taking-in-charge areas, landscaping specifications, tree protection, a tree bond and public art. The applicant has provided extensive details of landscaping features and materials with respect to each of the above matters within their application, including a Landscape Design Statement, as well as associated drawings. I am satisfied that the proposed development would feature a reasonable quality of public realm that would contribute towards creating a high quality urban design. The landscape details required by the Planning Authority would be reasonable to request and can be agreed with the Planning Authority via condition in the event of a grant of planning permission.

13.4.30. Lighting details have also been provided as part of the application package, including a public lighting layout plan and an Outdoor Lighting Report identifying likely illumination levels relative to the proposed lighting stands to be used within the proposed development. The proposed lighting stand positions do not appear to conflict with tree planting and underground service locations. In the EIAR the applicant refers to the use of bat-sensitive lighting, as part of the protection of habitats and species and this is also referenced in the applicant's Outdoor Lighting Report. The Planning Authority are satisfied that finalised lighting details can be agreed as a condition in the event of a permission and I am satisfied that this would be a reasonable request.

Urban Design Conclusion

13.4.31. Subject to conditions, I am satisfied that the overall layout, massing and design of the scheme would provide a logical, practical and legible response in developing this site from an urban design perspective, respectful of the Protected Structure on site, in accordance with the principles set out in the Urban Design Manual and generally in accordance with the provisions of the Development Plan. I am satisfied that the subject proposals would not materially contravene policies CHC1 and CHC2 of the

Development Plan, which seek to preserve the built heritage of the city and safeguard the special interest of protected structures. Accordingly, I am satisfied that the proposed development would create an appropriate form of urban development on this site, which would generally comply with the provisions of section 16.2.1 of the Development Plan addressing design principles. Further consideration of the proposed building heights and scale is undertaken directly below.

13.5. Building Heights and Scale

- 13.5.1. The Planning Authority refer to the site as lending itself to much greater building heights than those in the surrounding area, however, they state that tallest building heights in the proposed development on a visually-prominent, elevated site require a reduction to minimise visual impacts on the wider area, including overbearing form. The Planning Authority have specific concerns regarding the ten to 13-storey proposed blocks, in particular long-range views from the historic village of Chapelizod, Phoenix Park and the surrounding residential area. These concerns align with concerns raised by the Conservation Officer in the Planning Authority with respect to the visual impact of blocks E, F and G on the special architectural character and legibility of Chapelizod ACA. The Planning Authority recommend that a maximum of seven to eight storey building heights should be permitted across the site and a condition is recommended with respect to same.
- 13.5.2. The proposed building heights and scale are asserted to be excessive by observers to the application, which they consider to be out of character with surrounding building heights, including two-storey housing, thereby being non-compliant and materially contravening the provisions of the Development Plan. The Elected Members consider the proposed building heights to be excessive for this area.

Context and Proposals

- 13.5.3. The existing monastery and school buildings on site feature a maximum height of 10.8m to 12.7m to chimney level, similar to the height of the neighbouring school and community buildings to the east, and slightly higher than the height of two-storey housing to the south and east. The highest element of the proposed development would comprise apartment block H, which would feature 13 storeys and would be

42.5m in height. Each of the other blocks feature a variety of building heights ranging from two-storeys (approximately 6.9m) to ten storeys (approximately 32.8m). Existing ground levels drop gradually by approximately 9m from the southwest corner to the northeast corner with a steep drop onto the Chapelizod bypass on the northern boundary. These variations in building heights and ground levels are illustrated on the various site section drawings submitted. The proposed development would be substantially higher than existing buildings in the immediate area.

- 13.5.4. The policy basis for my assessment of the proposed building heights is informed by both national and local planning policy. In terms of national policy, I assess the development against the Building Heights Guidelines, which provide a detailed approach to the assessment of building heights in urban areas. I have considered these Guidelines alongside other relevant national planning policy standards, including national policy in the NPF, in particular NPO 13 concerning performance criteria for building height, and NPO 35 concerning increased residential density in settlements. I have had regard also to the observers' submissions, to the application details, including the Landscape and Visual Impact Assessment in the EIAR, the photomontages and CGIs, and the Architectural Design Statement, as well as my visit to the site and its surroundings.

Local Planning Policy

- 13.5.5. In terms of local planning policy, I have had regard to the Development Plan. Policy SC16 of the Development Plan recognises that Dublin city is fundamentally a low-rise city and that the intrinsic quality associated with this feature should be protected. In order to ensure that all proposals for mid-rise (and taller) buildings make a positive contribution to the character of the city, policy SC17 of the Development Plan refers to the criteria, principles and development standards in chapters 15 and 16 of the Development Plan, as well as the need for proposals to demonstrate sensitivity to various areas, including established residential areas and open recreational areas. Section 16.7.2 of the Development Plan sets 16m as the maximum height permissible for residential and commercial buildings in this low-rise area of the outer city. The Plan also states that building heights could increase up to 24m in areas within 500m of rail hubs, which are stated in the Development Plan to comprise existing and proposed Luas, mainline, DART, DART Underground and Metro

stations. The site is not within 500m of an existing rail hub and while I am aware of a potential project for DART+, including a station referenced by the NTA at Kylemore, I am not aware of an application or permission for such a project or that the station would be within 500m of the application site.

- 13.5.6. With the exception of block E, each of the proposed apartment buildings would fall into the category of mid-rise buildings that would exceed the 16m height limit criteria recommended for this area. Consequently, I am satisfied that the proposed development could reasonably be considered to materially contravene the provisions of Development Plan policy SC17 referencing maximum permissible building heights. The applicant has addressed this matter in their Material Contravention Statement and, accordingly, it is open to the Board to consider the proposal in terms of a material contravention and I refer the Board to section 13.10 hereunder in relation to same.

National Planning Policy

- 13.5.7. The Building Heights Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 Guidelines have informed my assessment of the application. SPPR 3(a) of the Building Heights Guidelines states that where a Planning Authority is satisfied that a development complies with the criteria under section 3.2, then a development may be approved, even where specific objectives of the relevant Development Plan may indicate otherwise. Observers do not consider the proposals to comply with the provisions of the Building Heights Guidelines. Section 3.1 of the Building Heights Guidelines presents three broad principles that Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights:

1. does the proposal positively assist in securing National Planning Framework objectives of focusing development into 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?

2. is the proposal in line with the requirements of the Development Plan in force and such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights 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?

13.5.8. As noted and explained throughout this report, by focussing development in key urban centres and supporting national strategic objectives to deliver compact growth in urban centres, I am satisfied that the proposed development meets the requirements set out in item 1 of 3 directly above. The Planning Authority is also of the opinion that the site is suitable for a higher density of development, in accordance with the principles established in the NPF.

13.5.9. Item 2 above would not be met as part of the subject proposals. Blanket height limits relative to context, as well as limited scenarios are applied in the Development Plan, which I am satisfied does not take clear account of the requirements set out in the Guidelines and lacks the flexibility to secure compact urban growth through a combination of both facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations.

13.5.10. In relation to the question in item 3 above, it cannot be demonstrated that implementation of the policies of the Development Plan, which predate the Guidelines, support the objectives and policies of the NPF.

13.5.11. The applicant's Material Contravention Statement asserts compliance with SPPR 3(a) of the Building Heights Guidelines. In principle, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR 3(a), which refers to the criteria in section 3.2 of the Building Heights Guidelines. Section 3.2 of the Building Heights Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies certain criteria at the scale of the relevant city/town, at the scale of the

district/neighbourhood/street and at the scale of the site/building, in addition to featuring specific assessments.

Section 3.2 Criteria: At the scale of relevant city/town

- 13.5.12. The first criteria under section 3.2 of the Building Heights Guidelines relates to whether the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport. The Planning Authority consider the site to be well served by public transport and my assessment above addressing the location of the proposed development with respect to appropriate densities, indicates that the site would be within reasonable walking distance of high frequency and high capacity public bus services, which would link with other modes of public transport. The applicant refers to future BusConnects proposals to serve the area, while the observers refer to the need for additional alternative services for the area.
- 13.5.13. National and local policy recognises the need for a critical mass of population at accessible and serviced locations within the metropolitan area. I am satisfied that the site is reasonably-well located and serviced with options to access existing high-frequency, high-capacity public transport routes, with links between modes, as well as increased access and connections available through more active modes of walking/cycling, and with an array of services and amenities within walking and cycling distance of the site.
- 13.5.14. Overall, I am satisfied that the level of public transport currently available is of a scale that can support the resultant future population. Additional planned services in this area would be supported by providing for developments such as this, which will support a critical mass of population at this accessible location within the metropolitan area, in accordance with national policy to consolidate urban growth and increase densities.
- 13.5.15. Point two under this part of the section 3.2 criteria relates to the scale of the development and its ability to integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, the setting of key landmarks and the protection of key views. The Planning Authority asserts that the proposals have not been demonstrated to properly integrate into the neighbouring and wider area.

13.5.16. A visual impact assessment of the proposed development, including all photomontage viewpoints, is undertaken in section 14.7 of this report, which clarifies that the photomontages provide a reasonably accurate portrayal of the proposed development and allows a thorough visual assessment. This visual impact assessment concludes that the proposed development, specifically those blocks with heights greater than eight storeys (blocks F, G and H) would form overly dominant and highly visible new features within the immediate and wider area, and while these elements of the development would only be of reasonable contemporary architectural quality, their visual impact on the established low-rise intrinsic character of the city, including immediate approaches and areas to the north of the site comprising open recreational grounds, would not be positive. Mitigation measures are suggested to address the visual impact of the development via the attachment of a planning condition restricting building heights to eight storeys in the proposed development.

13.5.17. With regard to the contribution of the development to place-making and the delivery of new streets and public spaces, I note that the development would feature the provision of an area of public open space, as well as distinct character areas and new streets with a reasonable quality of public realm. As noted in section 13.6, the proposal does not have sufficient regard to its proximity to neighbouring properties and without the attachment of a condition requiring the omission of building 1 to block E, it would negatively impact on the amenities enjoyed by residents of adjacent properties to the east. Following on from my assessments, I am satisfied that with the attachment of specific conditions, the proposed development can be revised to integrate with the surrounding character and to make a positive contribution to place-making.

Section 3.2 Criteria: At the scale of District / Neighbourhood / Street

13.5.18. The bullet points under this section of the Building Heights Guidelines relate to how the proposals respond to the overall natural and built environment and contribute to the urban neighbourhood and streetscape, whether the proposal is monolithic in form, whether the proposal enhances the urban design of public spaces in terms of enhancing a sense of scale and enclosure, the issue of legibility through the site, integration with the wider urban area and the contribution to building/dwelling typologies available in the neighbourhood.

- 13.5.19. The applicant considers the development to respond to its overall natural and built environment by providing public open space that would be strategically linked with neighbouring green space, as well as repurposing the Protected Structure on site as a valuable piece of the local neighbourhood and streetscape. It is also asserted by the applicant that the proposals feature a high-quality design, with building heights and positions sensitive to their context and with materials and finishes making a positive contribution to the streetscape.
- 13.5.20. The block arrangement would provide for passive surveillance of the public realm, open spaces and the pedestrian routes running through the site. As referred to above, the site is on elevated ground with extensive views towards the site from the north across the river valley and those elements of the proposed development greater than eight storeys would have significant impacts on the visual amenities of the immediate area, including the approach from the west and south. Without the attachment of a condition to address this visual impact, specifically the proposed building heights over eight storeys, I am satisfied that the proposed development would not make a positive contribution to the subject urban neighbourhood and the streetscape along Ballyfermot Road.
- 13.5.21. In terms of how the development responds to the overall natural environment, I note the loss of trees throughout the site, in particular within the grounds of the monastery building and fronting Ballyfermot Road. Notwithstanding this, the loss of trees along the frontage and boundaries would not be out of character with the existing immediate housing areas, and there would be scope to provide replacement tree planting, which the Planning Authority request to feature semi-mature varieties.
- 13.5.22. The requirements of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009) have been complied with as part of the applicant's submission of a Site Specific Flood Risk Assessment, and matters relating to flood risk are addressed further below in section 13.9.
- 13.5.23. With regard to the consideration of the criteria relating to legibility, the proposals would provide some contribution to the improvement of legibility in the wider urban area, although some additional improvements could be made via the provision of a potential future connection on the northeast boundary with The Steeples / Phoenix

View and via the provision of a pedestrian route with access on the southeast boundary with Ballyfermot Road.

13.5.24. The mix of residential units is discussed further below, and I am satisfied that given the existing nature of housing in the area, which is primarily dominated by family-size housing, the provision of apartments would add to the typology of housing in this area.

Section 3.2 Criteria: At the scale of site / building

13.5.25. As per the Building Heights Guidelines, in considering the scale of the development relative to the site/building, this is undertaken in section 13.6, including daylight and overshadowing impacts for neighbouring properties. Section 13.7 also considers the provision of lighting to the proposed apartments and the open space on site. I consider the form of the proposed development to be reasonably-well considered in this regard.

Section 3.2 Criteria: Specific Assessments

13.5.26. A number of specific assessments have been undertaken and submitted with this application, including an EIAR. The applicant has referred to micro-climatic effects, but does not appear to consider specific impact assessments in relation to micro-climatic effects to apply. Given the elevated location of the site, the nature of the receiving environment, the scale, height and clustering of the proposed buildings in the development and the provision of public and communal open spaces, including courtyard spaces and roof gardens, it would appear prudent to undertake an assessment of the potential micro-climate effects, which should include mitigation measures should effects need to be addressed. I am satisfied that this can be addressed via condition in the event of a grant of permission.

13.5.27. A Stage 1 AA Screening Report, NIS and a biodiversity assessment, including bat surveys and consideration of collision risk for birds, have been submitted as part of the application to demonstrate no significant impact on ecology, and no likely adverse impacts on protected habitats or species.

13.5.28. The applicant considers the likely impacts for telecommunication channels in chapter 10 of the EIAR addressing material assets, although I note that this does not consider the potential implications of the proposed buildings on existing wireless telecommunications networks, including microwave links. This should be requested

as a condition in the event of a grant of planning permission for the proposed development.

13.5.29. The applicant asserts that the proposed development would maintain safe air navigation, although no assessment as to how this would be achieved is provided. In response to consultation on this application, the Irish Aviation Authority has not objected to the proposed development and has advised that the applicant should be requested to engage directly with the Dublin Airport Authority and the Irish Aviation Authority Air Navigation Service Provider, in order to assess the impact of the proposed development, including crane operations, on Dublin Airport's obstacle-limitation surfaces, flight procedures and flight checking. This should be requested as a condition in the event of a grant of permission.

13.5.30. Various design statements are included with the application, as well as a Heritage Impact Assessment addressing the architectural heritage of the buildings on site and referring to the surrounding context. Strategic Environmental Assessment would not be required for this project. I am satisfied that adequate information has been submitted to enable an assessment of the substantive potential impacts of the proposed development.

Permitted Building Heights

13.5.31. With reference to neighbouring strategic housing developments, I note building heights have been permitted by the Board for seven to 15 storeys at Park West Business Park (ABP ref. 312290-21), ten-storeys (33.5m) on the Concorde industrial estate, Naas Road (ABP ref. 312218-21), five to eight storeys (26m) at Carriglea Industrial Estate, Naas Road (ABP ref. 311606-21), three to nine storeys (28m) on Davitt Road (ABP ref. 309627-21), four to eight storeys on Kennelsfort Road Upper (ABP ref. 307092-20) and three to seven storeys on Davitt Road (ABP ref. 303435-19). With the exception of the Park West Business Park (ABP ref. 312290-21) and Concorde industrial estate, the proposed development would exceed the height of the other permitted developments.

13.5.32. The permissions above show a consistency in terms of mid-rise building heights with only limited heights above eight storeys, and where this arises the respective sites notably adjoin rail or Luas lines and would not be situated on elevated sites. Where heights greater than ten storeys are permitted on the Park West site, this only relates

to slender building elements and not a cluster of buildings, as proposed on the application site.

Building Heights and Scale - Conclusion

- 13.5.33. Based on my assessment, including the visual impact, I am satisfied that there would not be sufficient architectural or planning rationale to permit the subject buildings at heights greater than eight storeys, as the information available suggests that such heights would not have a positive impact on the low-rise character of the city and would fail to suitably integrate with the immediate established residential urban context. Consequently, such building heights would fail to comply with policies SC16 and SC17 of the Development Plan, which seek to protect the intrinsic low-rise character of the city and ensure proposals for mid-rise buildings make a positive contribution to the urban character of the city.
- 13.5.34. Overall, I am not satisfied that the proposed development would make a positive contribution to the area and would not respond well to the built and natural environment in visual terms. Should the Board consider granting planning permission, the Planning Authority has suggested that the maximum height of the buildings on site should be no more than seven or eight storeys. A condition of planning permission needs to be specific with regards to any amendments and based on my assessment of the proposed development, it is those elements above eight storeys that present the most significant visual impacts of the proposed development and fail to comply with the provisions of the Development Plan. I am satisfied that the necessary reduction in building heights to ensure that the proposed development would have a positive impact on the low-rise character of the area, can be dealt with as a condition of a planning permission.
- 13.5.35. The Board may in circumstances approve development for higher buildings, even where specific objectives of the relevant Development Plan may indicate otherwise, as per SPPR 3(a). In this regard, the proposed building heights and the height that the buildings should be reduced to are greater than the standard heights outlined within the Development Plan and would be greater than the height of existing neighbouring buildings. I am satisfied that subject to suitable conditions, including a condition reducing building heights to no more than eight storeys, the proposed development would provide variety in building heights and a well-designed urban

form at this accessible, serviced site, and the building heights proposed would be in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas. I am satisfied that there would be sufficient modulation within the respective individual apartment blocks (F, G and H) to allow for the heights to be reduced via omission of the top floors, as opposed to intermediary floors. Such an approach in the reduction of building heights to eight storeys would result in the omission of 62 units in total, in a mix of 22 one-bedroom units, 38 two-bedroom units and two three-bedroom units, as well as two roof gardens.

13.6. Impacts on Neighbouring Amenities

- 13.6.1. The observations assert that the proposals would have undue impacts on the amenities of properties in the area, including houses and community facilities, as a result of overlooking, overshadowing and overbearing impacts, as well as the loss of light and privacy and increased disturbance. The Planning Authority do not raise any specific concerns with respect to the proposed development and neighbouring residential amenities. The Elected Members refer to the potential for excessive overlooking and loss of light for neighbouring residents arising from the proposed development.

Context

- 13.6.2. The nearest existing residential properties comprise the two-storey terraced houses along Ballyfermot Road to the south and housing within The Steeples to the east. Separation distances to these neighbouring residences are identified on the proposed site layout plan and height differences are illustrated on the site section and elevation drawings. A five-storey element to block B would be 36.7m from the nearest housing along Ballyfermot Road with an approximate height difference of 8.2m between the closest part of proposed block B roof parapet and the roof ridge height to the existing houses. The side five-storey element of block C would be a minimum of 24m from no.1 The Steeples and 17.5m from block F in The Steeples, which are situated on lower ground. The roof parapet to proposed block C would be approximately 12.3m over the existing roof ridge height to no.1 and 10m over the roof ridge height to block F. Three-storey block E would be 18.5m from the rear of housing along nos. 3 to 11 The Steeples, with the seven-storey element to block D

an additional 24m from these properties (i.e.42.5m). The roof parapet to proposed block E would be 2m above the roof ridge heights to the houses along nos.3 to 11 and the roof parapet height to block D would be 16.75m above these houses. The side elevation to block A in The Steeples would be 9.9m from the rear of proposed block E, which would feature a roof parapet height similar to the roof ridge height to existing block A.

Overlooking and Loss of Privacy

- 13.6.3. In discussing standards specifically with respect to houses, the Development Plan refers to a traditional standard separation distance requiring 22m between the rear of two-storey houses and provisions for this to be relaxed where it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. While not directly applicable in assessing new apartment developments, I am satisfied that this traditional standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive overlooking between the proposed apartments and existing housing.
- 13.6.4. The stepped block arrangement would generally position the highest elements of the proposed buildings furthest from the neighbouring residences. Given the separation distances listed above, as well as the Development Plan provisions in this regard, and the fact that blocks A and F in The Steeples feature secondary side elevations facing onto a mature bank of trees and hedgerows and with limited size window openings and outlook from same, I am satisfied that the proposed blocks would not provide for excessive direct overlooking or loss of privacy to the internal areas of housing in blocks A and F of The Steeples and along Ballyfermot Road. However, I would have concerns regarding the proximity of block E (building 1) directly to the rear of nos.3 and 11 and the potential for direct overlooking from internal living rooms at upper-ground floor level in block E to the existing first-floor of housing along nos.3 to 11. I acknowledge that the first-floor windows in proposed block E would only feature secondary windows serving the residences, therefore, it is only the level below this that presents concerns in this regard.
- 13.6.5. Numerous trees would be removed along the intervening boundary and some trees and planting would remain in the adjoining gardens alongside scope for new planting

within the rear gardens of the proposed development. The potential future relationship between block E and The Steeples is addressed in the applicant's Residential Amenity Report and illustrated in two section drawings (sections B-B and F-F). I recognise that section BB (drawing no.D1808-20) suggests that direct overlooking between block E and housing along no.1 The Steeples would not arise, however, Section FF (drawing no.D1808-24) and the elevation and section drawings for block E (drawing no.D1808-E-02) show that direct overlooking between the upper-ground floor of building 1 to block E would be possible with the first-floor of housing in nos.3 to 11 The Steeples. The applicant's intention to install a timber-panel fence on a retaining wall structure backing onto these properties would not suitably mitigate the potential for excessive direct overlooking to arise between the existing and proposed residences.

13.6.6. In relation to the potential to overlook the amenity areas of neighbouring housing, I recognise that most of the neighbouring properties along nos.1 to 11 The Steeples feature gardens to the rear. The proposed boundary treatments separating the proposed development from neighbouring houses in The Steeples on lower ground, would provide sufficient screening of the private amenity areas to these neighbouring houses (see section F-F – drawing no.D1808-24).

13.6.7. Several observers refer to the potential impact on the community buildings to the west of the development, which would be over 100m from the nearest proposed buildings, including their grounds. Playing pitches and an area for a future potential school are proposed along the nearest side of the development with these neighbouring properties and these land uses are similar to this already existing in this area. The separation distances from the community buildings to the nearest apartment buildings and the other elements of the proposed development would be substantive and could not reasonably be considered to excessively impact on the amenities of these facilities in light of the most recent use of the subject site. Concerns were also expressed regarding the proposed boundary treatment between the Candle Community Trust facility and the proposed development. In this regard I note that the applicant intends to plant a hedge along the existing boundary railing, which would appear a sustainable means of defining the boundary between the properties.

Outlook and Overbearing Impacts

- 13.6.8. The proposed development would be visible from schools and community buildings, as well as the private amenity areas and internal areas of housing neighbouring the site. Consequently, it would change the outlook from these neighbouring properties. Having visited the area and reviewed the application documentation, including the photomontages and CGIs, I consider that the extent of visual change that would arise from those areas with views of the development, would be substantive having regard to heights of the proposed building block elements over eight storeys. This is addressed further within the visual impact assessment below (section 14.12).
- 13.6.9. Another key consideration is whether the height, scale and mass of the proposed development and its proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. The proposed development clearly exceeds the prevailing lower building heights of the area. The most sensitive neighbouring properties, including the potential building height differences and the minimum separation distances between existing and proposed buildings, are detailed above.
- 13.6.10. Photomontages 4, 6 and 8 of the applicant's Photomontage booklet best illustrate the appearance of the development closest to the housing areas to the south, west and east. CGIs 1 and 2 also provide some additional information to appreciate the scale of the development when viewed from neighbouring properties along Ballyfermot Road. I am satisfied that the proposed development would not be overly prominent when viewed from the nearest houses, with an open outlook and sky view maintained for neighbouring residences. Photomontage views 6 and 8 provide images of the development along the most sensitive boundaries with Ballyfermot Road and the neighbouring houses in The Steeples, and while I note the height of the five and seven-storey block elements closest to the respective site boundaries, there would be sufficient intervening space between the existing houses to ensure that the proposed buildings would not be excessively overbearing onto the public realm and neighbouring residences. The stepped and modulated design of the proposed apartment blocks, coupled with the separation distances from the existing housing and other buildings, is such that where visible from neighbouring properties the proposed development would not be excessively overbearing.

Impacts on Lighting - Sky and Sunlight

- 13.6.11. In assessing the potential impact on light access to neighbouring properties where the occupants would have a reasonable expectation of daylight, two primary considerations apply, including the potential for excessive loss of daylight and light from the sky into existing buildings through the main windows to living rooms, kitchens and bedrooms, and the potential for excessive overshadowing of existing external amenity spaces, including parks and gardens.
- 13.6.12. The applicant has provided a Daylight and Sunlight Assessment Report assessing the effect of the proposed development on the vertical sky component (VSC) and relying on the standards of the BRE 209 Guide and the European/British Standard EN17037/BS EN17037 Lighting for buildings code of practice for day lighting. Notwithstanding provision within the BRE 209 Guide allowing developers or Planning Authority's to use different target values in special circumstances, given that 'special circumstances' have not been identified and as the BRE 209 Guide and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' are referred to in the relevant guidelines for the assessment of residential development in Ireland, for the purposes of this assessment it would be more prudent to rely on the BRE 209 Guide and BS 8206-2: 2008 standards.
- 13.6.13. The BRE 209 guidance on daylight is intended to be used in assessing daylighting to rooms in neighbouring houses, including living rooms, kitchens and bedrooms. When considering the impact on existing buildings, criteria is set out in figure 20 of the guidance, and this can be summarised as follows:
- if the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light would be minimal. Should a lesser separation distance be proposed, further assessment would be required;
 - if the proposed development subtends an angle greater than 25° to the horizontal when measured from the centre line of the lowest window to a main living room, then further assessment would be required;
 - if the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum;

- if the VSC with the development in place is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight;
- in the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

13.6.14. The tests above are a general guide only and the BRE 209 guidance states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites, and the need to address impacts on existing residents, as much as is reasonable and practical.

13.6.15. The existing baseline VSC for 153 windows on neighbouring properties in The Steeples and along Ballyfermot Road was calculated and presented in the applicant's report, and the results were compared with the proposed development in place. I am satisfied that the applicant appears to have sufficiently modelled the position of windows serving the neighbouring residences to enable a precise assessment of the impacts on lighting to all existing neighbouring windows, rooms and residences that have greatest potential to be impacted by the proposed development.

13.6.16. Baseline VSC values for a number of the tested windows in The Steeples are estimated to be below 27% for numerous reasons, possibly including the existing deep mature treeline within the application site. Notwithstanding this, the estimated VSC values for all tested windows with the proposed development in place would be greater than a ratio of change of 0.8 of the existing value, which would comply with the minimum target standard sought under the BRE 209.

13.6.17. I am satisfied that based on the worst-case scenario results presented, any potential for loss of light to other houses would be minimal and assessment of their VSC levels would not be necessary. Accordingly, a refusal of permission or modifications to the proposed development for reasons relating to daylighting to neighbouring properties would not be warranted.

Sunlight Provision

13.6.18. British Standard (BS) 8206-2:2008 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours (APSH), including at least 5% of APSH during the winter months. As part of their Daylight and Sunlight Assessment Report the applicant has also calculated the expected levels of APSH for the main windows serving habitable rooms within blocks A and F adjacent to the site in The Steeples.

13.6.19. I acknowledge that an updated BS EN 17037:2018 'Daylight in Buildings' guide replaced the BS 8206-2: 2008 in May 2019 (in the UK) and an Irish Standard (IS) EN 17037:2018 has also been published, however, I am satisfied that these guidance documents do not have a material bearing on the outcome of my assessment and that the relevant guidance documents remain those referenced in the Building Heights Guidelines.

13.6.20. Of the 20 window points tested all would meet the target recommended APSH values over the annual period and during the winter period when sunlight is most valuable. Some improvements in the baseline values are estimated, which the applicant asserts to be based on the removal of the coniferous trees along the eastern boundary of the application site. I am satisfied that the levels of sun lighting to the neighbouring properties following completion of the proposed development would allow for recommended targets to be met.

Overshadowing

13.6.21. The BRE 209 Guide requires greater than half of neighbouring gardens to receive at least two hours of sunlight on the Spring equinox. The applicant's Daylight and Sunlight Assessment Report identifies those properties with greatest potential to be overshadowed by the proposed development, including nos.1-6, 8-11 The Steeples. Table 5.14 of the applicant's report highlights that all of the sensitive neighbouring gardens tested would receive more than two hours sunlight for over half of their area

on the Spring equinox and that the change in sunlight to these spaces would not be less than a ratio of change of 0.8 when compared with the existing situation. In conclusion, based on the information provided showing compliance with the minimum requisite standards, I am satisfied that excessive overshadowing of neighbouring gardens and green spaces would not arise as a result of the proposed development.

Construction Impacts

- 13.6.22. Observations assert that the proposed development would result in nuisance for neighbouring residents as a result of disruption during the construction phase, including noise and dust emissions. Concerns have been raised with regard to the maintaining of safe access to the community premises and parking spaces along Lynch's Lane during the construction phase of the proposed development.
- 13.6.23. The construction phase is estimated to take place over a five-year period according to chapters 4 and 16 of the submitted EIAR with a 12 to 18-month period for the apartment development stages. The applicant's Preliminary CEMP sets out intended measures to address traffic during the construction phase, as well as control noise, dust and vibration emissions below relevant levels.
- 13.6.24. Two construction accesses are proposed in the applicant's Preliminary CEMP, one off Lynch's Lane and one directly to the front of the central classroom block on site from Ballyfermot Road. Contrary to this, table 11.2 of the applicant's EIAR suggests that construction traffic would not use Lynch's Lane for construction access. As noted above, the proposed development would feature numerous redesigned elements along Lynch's Lane to tie in with Ballyfermot Road, the potential core bus corridor project and the requests of the Planning Authority. The site compound would be entirely within the site and a construction traffic management plan would be prepared, including details of haul routes and measures to strictly minimise the impact of construction traffic on the surrounding road network. It is estimated that HGV movements would vary over the different construction phases of the project, with four HGV movements per hour during the development works and a peak of 25 HGV movements during the excavation works. Any construction phase impacts, would only be of a temporary nature and would also be subject of a final project Construction and Environmental Management Plan that can be agreed with the

Planning Authority in the event of a grant of planning permission. As a public route, access along Lynch's Lane would have to be maintained and any temporary alterations with respect to parking layouts along Lynch's Lane would be subject to final redesign proposals to be agreed with the Planning Authority.

13.6.25. The applicant sets out working hours of 07:00 to 19:30 hours Monday to Friday (excluding bank holidays) and 08:00 to 14:00 hours on Saturdays, and observers require the working hours to be restricted to eight hours per day. As would be standard practice for housing developments in this context, I am satisfied that site development and building works should only be carried between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. A condition can be attached to this effect in the event of a grant of planning permission.

Anti-Social Behaviour

13.6.26. The observations assert that due consideration should be undertaken of the potential for anti-social behaviour to arise. The proposed development would redevelop vacant properties previously used for education and institutional purposes and which the applicant notes have been subject to vandalism and fire damage. Matters relating to anti-social behaviour are dealt with under differing legal codes and I am satisfied that there is no reason to suggest that the layout and design of the proposed development could reasonably be considered to support increased levels of anti-social behaviour in this area, particularly as the design of the scheme provides for extensive passive surveillance of the open spaces, new routes and existing streets.

Conclusions

13.6.27. In conclusion, sufficient information has been provided with the application to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring residential amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring properties, as well as the public realm. Building 1 of block E in the proposed development would feature upper-ground floor windows within 18.5m and directly facing first-floor windows in two-storey housing along nos.3 to 11 The

Steeple, which I am satisfied would have the potential to result in excessive overlooking between the respective neighbouring residences and undue loss of privacy for residents of nos.3 to 11 The Steeples. Repositioning building 1 of block E may have implications with respect to the standards within DMURS and increasing the height of a boundary fence along these residences may have material impacts for neighbouring residents. Furthermore, I am not aware of the consequential implications of revising the upper-ground floor internal layouts and rear elevation to block E (building 1) in terms of residential amenity standards. I do not consider the omission of block E (building 1) to be detrimental to the scale and overall design of the proposed development, and accordingly, I am satisfied that block E (building 1 only) should be omitted from the proposed development, and the resultant area suitably landscaped as part of the overall scheme, unless it is subject of a grant of permission for an alternative development. A condition to this effect would be necessary in the event of a grant of planning permission.

13.6.28. In conclusion, subject to conditions, the proposed development should not be refused permission for reasons relating to the likely resultant impacts on neighbouring amenities. The observations assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Following on from the assessment above, including the suggested amendments, sufficient substantive and objective evidence has not been provided to support claims that the proposed development would be likely to result in a depreciation of property values in the vicinity.

13.7. Residential Amenities and Development Standards

13.7.1. An assessment of the amenities of the proposed development relative to quantitative and qualitative standards for residential development is undertaken below having regard to the guidance set out in the New Apartments Guidelines, the Development Plan and the Building Heights Guidelines, which also refer to documents providing guidance for daylight and sunlight assessments within new developments. The proposed apartments would not come within a category of development that would be open to relaxed development standards based on the terms of the New Apartment Guidelines.

- 13.7.2. I note that policy QH1 of the Development Plan seeks to have regard to various Department guidance documents, including the 'Sustainable Urban Housing: Design Standards for New Apartments' (2015). Section 16.10.1 of the Development Plan requires proposals for apartments to comply with the standards set out in the 2015 version of the New Apartment Guidelines. Since the adoption of the Development Plan, these section 28 New Apartment Guidelines were updated in 2018 and again in 2020. Where guidelines referred to in the Development Plan have been updated since the Development Plan was adopted, the Planning Authority refer to the current guidance in their report on this application, including the 2020 New Apartment Guidelines. This is considered to be a reasonable approach in assessing the acceptability or otherwise of the subject proposals.
- 13.7.3. Further to this, I am satisfied that the provisions within section 16.10.1 of the Development Plan are clearly standards and deviation from these standards would not be likely to be of a material nature, particularly where there is compliance with contemporary and more up-to-date development standards.

Apartment Mix

- 13.7.4. Observations assert that a poor housing mix is proposed as part of the development, lacking in units suitable for family-living. The mix of apartments proposed would comprise 35% one-bedroom, 58% two-bedroom apartments and 7% three-bedroom apartments. Section 16.10.1 of the Development Plan requires a mix of no more than 25% to 30% of one-bedroom units in a development and a minimum of 15% of three or more bedroom units. The proposed development would not comply with this standard of the Development Plan. I do not consider this to be a material contravention of the Development Plan, as it only relates to deviation from a standard of the Development Plan, and not a policy of this Plan. Furthermore, the more contemporary requirements under SPPR1 of the New Apartment Guidelines state that apartment developments may include up to 50% one-bedroom or studio-type units and that there shall be no minimum requirement for apartments with three or more bedrooms. The Planning Authority do not object to the unit mix and I am satisfied that the mix would comply with SPPR1 of the New Apartment Guidelines.
- 13.7.5. The applicant's proposals include two-bedroom apartments, each of which would serve three persons, rather than the standard four persons. The 36 two-bedroom

three-person apartments would amount to 4% of the units in the scheme, which would be within the 10% provision normally allowed for in the New Apartment Guidelines.

Apartment Standards

- 13.7.6. A Housing Quality Assessment with a Schedule of Accommodation has been submitted with the application, which provides details of apartment sizes, room sizes, storage space, aspect and private amenity space.
- 13.7.7. Minimum unit size requirements of 45sq.m, 73sq.m and 90sq.m are respectively required in the Development Plan and the New Apartment Guidelines for standard one, two and three-bedroom units. The two-bedroom units accommodating three-persons, are required to measure a minimum of 63sq.m based on the New Apartment Guidelines. The smallest of the respective apartments in the proposed development would meet or exceed the stated minimum apartment floor area standards.
- 13.7.8. The internal design, layout, block configuration, room sizes and widths, and storage space for each of the apartments and blocks, as identified in the drawings and Housing Quality Assessment, would appear to accord with or exceed the relevant standards, as listed in the New Apartment Guidelines, including the appendix 1 standards. Floor to ceiling heights of greater than 2.7m are identified for the apartment buildings in compliance with SPPR5 of the New Apartment Guidelines.
- 13.7.9. The applicant refers to 74 of the 927 units featuring living/dining/kitchen areas or bedroom areas that would not meet the minimum aggregate floor areas for these areas in the Development Plan, which I note to align with the New Apartment Guidelines requirements. The applicant states that where this arises the aggregate shortfalls, ranging from 0.1sq.m to 0.4sq.m, can be accounted for elsewhere within surplus floor areas in each of the respective units. I do not consider this shortfall in aggregate room areas to be material, given the very limited shortfalls stated. Furthermore, this aspect of the proposed development would not represent a material contravention of the Development Plan, as it only relates to deviation from a standard of the Development Plan and it could not be considered material given the achievement of minimum overall apartment floor areas.

- 13.7.10. In safeguarding higher standards, the 10% additional floor space required in section 3.8 of the New Apartment Guidelines for the majority of apartments would also be achieved. With 61% of the apartments exceeding the 10% target, it is asserted that the proposed development would exceed the additional floor space standard, which appears to be an accurate assertion and is not contested by parties to the application.
- 13.7.11. As acknowledged by the Planning Authority, private amenity space for each of the apartments, including balcony and terrace sizes and depths, would meet or exceed the minimum requirements set out in the New Apartment Guidelines and the Development Plan. Rear gardens are provided for the duplex units within block E and I am satisfied that the space provided would be appropriate to serve future residents of these units in this urban context.
- 13.7.12. Under the heading 'Block Configuration', the Development Plan allows for a maximum of eight apartments per floor per core. The number of apartments per floor per core would not exceed ten, as per the less onerous lift and stair core provisions of SPPR6 of the New Apartment Guidelines, with a maximum of ten units per core in proposed block A and nine units per core in proposed block B.
- 13.7.13. The applicant highlights that 39 (4%) of the apartments would be served by deck access, which the Development Plan only permits in limited situations, including where primary bedrooms do not face onto such decks. Of these proposed units facing onto decks, eight would feature bedrooms facing onto deck access. I am satisfied that the very limited provision of bedrooms onto deck access would be acceptable having regard to the orientation and floor area of the respective individual apartments exceeding the standards, and the need to balance other living requirement standards, including the more onerous lighting requirements for living/kitchen/dining areas when compared with bedrooms.
- 13.7.14. Consistent with the assessment of unit mix and minimum aggregate floor areas for the apartments, I do not consider deviation from block configuration standards cited in section 16.10.1 of the Development Plan, including deck access, to represent a material contravention of the Development Plan. There is not a specific need under contemporary national guidance for up to eight apartments in an apartment

development to be provided with lift and stair core access or a restriction on deck access.

Dual Aspect Apartments

13.7.15. With regard to aspect, the Development Plan refers to standards contained in SPPR4 of the New Apartment Guidelines, which require 33% dual aspect apartments in accessible urban locations, such as the application site. However, the Guidelines also state that in larger apartment developments on greenfield or standalone brownfield regeneration sites, where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. Given the nature of the site and proposed development, I am satisfied that the 50% dual aspect standard would be more applicable in this case.

13.7.16. A total of 583 apartments are stated to form dual aspect units, which would equate to 63% of the apartments within the scheme. Having reviewed the drawings submitted, I am satisfied that the provision of dual aspect units would generally be in compliance with SPPR4 of the New Apartment Guidelines. The applicant states that north-facing single aspect units are not proposed, however, I would have reservations regarding this assertion, as the south-facing living areas to four proposed ground-floor apartments in block H (units H002, H003, H004 and H005) would overlook sunken winter gardens of extremely limited aspect and size. Units D016 and D017 in block D would also appear to be north-facing single aspect units with a sunken winter garden serving unit D016 on the south side. I address the standards of these units further below.

Daylight Provision

13.7.17. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, in order to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 and BS 8206-2:2008. Where a proposal may not be able to fully meet all the requirements of the daylight provisions in these guides, this must be clearly identified and a rationale for any alternative, compensatory design solution 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 site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. Section 6.6 of the New Apartment Guidelines also states that Planning Authority's should have regard to the BRE 209 Guide and the BS 8206-2: 2008 standards with respect to daylight provision.

13.7.18. The applicant's Daylight and Sunlight Report provides an assessment of daylight and sunlight access within the proposed scheme having regard to the quantitative standards in the BRE 209 Guide. The Planning Authority do not raise concern regarding the provision of lighting to the proposed apartments. The BRE 209 Guide and BS 8206-2:2008 standards recommend that for the main living spaces/living rooms of residences, a minimum average daylight factor (ADF) of 1.5% should be achieved, with a 1% ADF for bedrooms and a 2% ADF for kitchens. The applicant has referred to these targets in their assessment, with results provided in tabular and illustrated format.

13.7.19. The applicant initially tested the ADF value for each of the rooms on the ground floors of the proposed apartment blocks and where a room falls short of the ADF standard the room on the level directly above this in a similar position has been tested. This resulted in inferred results being assumed for 1,772 of the 2,528 proposed rooms.

13.7.20. The results of testing identified that eight bedrooms within proposed blocks B, G and H would feature ADF values between the range 0.67% and 0.94%. This is akin to 5% of the bedrooms failing to meet the 1% ADF target value. For the 927 living/kitchen/dining rooms, the applicant calculates that 38 of these rooms would not meet the minimum 2% ADF target value and that when a 1.5% minimum ADF target value is applied to these rooms, 24 would fall short of the standard. The applicant identifies the first-floor units in block F (F08, F09, F10 and F11), featuring ADF values of between 0.78% and 0.94%, as faring worst with regards to ADF values, which they state to be primarily as a result of an overhead walkway to provide circulation space to upper-floor blocks and the proximity of the rooms to block D. Mitigation measures in the form of full height/width glazing and southerly aspect are stated to improve ADF values in the respective living/kitchen/dining rooms in block F.

- 13.7.21. When using the 2% ADF target value for living/kitchen/dining rooms, the testing identified that 98% of the entire rooms in the overall development would comply with the minimum ADF targets. While it would be more preferable for the ADF targets to be achieved for all internal living areas, as highlighted above, the BRE 209 and BS 8206-2: 2008 guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. Where shortfalls occur with respect to the 2% target ADF to kitchen/living/dining rooms, the applicant has asserted that if a 1.5% target ADF was assigned as the target value for kitchen/living/dining rooms, the fail rate would fall to 1% of all rooms in the overall development.
- 13.7.22. I note that ADF is only one of a wide spectrum of interrelated requirements in the successful design of new apartments such as those proposed, with room sizes and layouts, window types and positions, and the provision of balconies interacting with the achievement of ADF values. In this regard a reasonable balance needs to be achieved to ensure an appropriate standard of living accommodation and amenities for residents, and I am satisfied that this would generally be achieved in this case.
- 13.7.23. Notwithstanding this, following on from my reservations with respect to the aspect to serve ground-floor apartments in blocks D and H, I note that the applicant states that where rooms include a winter garden, the winter garden is deemed to be an extension to the interior space and will be included in the assessed area of the room for the purposes of calculating ADFs. This approach would lead to skewed ADF results for the four single-aspect units in blocks D and H featuring winter gardens. The ADFs for the respective living/kitchen/dining rooms and their winter gardens reveal that one unit (H004) would not achieve the target 2%, and the remainder of the units (H002, H003 and H005) would be marginally above the ADF target (2.04% to 2.75%). These apartments (D016, H002, H003, H004 and H005), as well as the north-facing single-aspect apartment D017, would be served by poor aspect and outlook, as well as limited access to natural light, and I am satisfied that they should be omitted from the development, and the resultant space should be used subject of a separate application for planning permission. While I accept that in certain situations flexibility needs to be applied, however, given the new build nature and scale of the proposed development, a condition attached to a permission would be necessary in this case to omit these units.

13.7.24. The New Apartment Guidelines recognise that a discretionary approach should be taken with regard to compliance with daylight provision in certain circumstances and I am satisfied that such an approach would be reasonable given the estimated limited shortfall in ADF for 2% of the total rooms, as well as the stated compensatory measures with respect to the living/kitchen/dining rooms in block F falling short of the target ADF value and the suggested condition to omit six ground-floor apartments in blocks D and H.

13.7.25. In conclusion, in measuring the adequacy of the provision of daylight by the proportion of rooms meeting ADF standards, subject to a condition, I am satisfied that the lighting to the proposed development would adequately meet the residential amenity levels for future residents.

Privacy and Overlooking

13.7.26. As mentioned the Development Plan refers to the traditional standard 22m separation distance in attempting to preserve the amenities and privacy of adjacent occupiers and this standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive overlooking between the proposed apartments. Generally the proposed quadrangular arrangement facilitates that this traditional separation distance is achieved throughout the scheme, with shortfalls primarily only arising across the public realm, which I am satisfied would be appropriate, as the public realm and communal areas would serve as a visual distraction between opposing apartments.

13.7.27. Separation distances substantially below this 22m standard would not be achieved between proposed apartments at upper levels in blocks D and F with windows generally directly facing each other, including between units D001/D002 and D024, units D031 and D033, units D015 and D0041, units F016 and F073, as well as all units in a similar context and position directly above these. Specific design measures are not proposed to address the potential for direct overlooking between the respective units and I am satisfied that the applicant should be requested to provide some form of mitigation to address the potential for excessive direct overlooking and a resultant loss of privacy between the respective apartments. This may entail use of opaque glazing to the respective windows, repositioning of windows or the provision of high-level windows to sensitive elevations. Such

measures would only have limited impacts on lighting to the respective units and the revisions can be requested as a condition in the event of a grant or planning permission.

13.7.28. Where balconies and terraces would be separated to serve adjoining individual apartments, some form of vertical screens would be necessary in providing privacy between the respective private amenity spaces. While I note some drawing references to 'selected obscure glazing' between shared balcony spaces, for clarity a condition should be attached in the event of a permission requesting comprehensive details of vertical screens to be used throughout the development, including where the sides of balconies would have potential to result in excessive overlooking of neighbouring residences, for example apartments G053, G055, G066 and G068 in block G, as well as the apartments directly above these in a similar position and context.

13.7.29. In general, there is sufficient space fronting the buildings to ensure that the privacy of future residents on the ground floor or podium levels would not be substantially undermined by residents and the public passing by these windows. The provision of planting within landscaped privacy strips to serve as defensible space in locations fronting terraces and windows throughout the development has been proposed, including apartments onto the communal amenity space and pedestrian routes.

Communal Open Space

13.7.30. According to section 16.10.1 of the Development Plan and appendix 1 of the New Apartment Guidelines, the communal open space provision to serve the development should amount to a minimum of 5sq.m per one-bedroom unit, increasing to 9sq.m for a three-bedroom unit. Based on the housing mix and these planning provisions, the proposed development would require 5,931sq.m of communal open space. According to the applicant, communal amenity areas would be provided in the form of courtyards to each of the apartment blocks, with the exception of block E, alongside roof gardens to blocks B, F, G and H, in total amounting to 8,339sq.m. The location and areas of the communal space would accord with the requirements set out in the New Apartment Guidelines.

13.7.31. There is variety in the function and aesthetics of the communal spaces, including the roof gardens. With the exception of the courtyard communal space serving block F,

over half of the courtyard communal open spaces would receive at least two hours of sunlight on the 21st day of March, which would exceed the minimum requirements set out within the BRE 209 Guide. As block F would also feature two roof gardens at sixth and eighth-floor level, the Planning Authority do not object to the proposed provision of communal space to serve this block. In conclusion, I am satisfied that the communal open space proposed would provide a reasonable level of amenity for future residents based on the relevant applicable standards.

Communal Facilities

- 13.7.32. In total nine communal rooms would be provided within the proposed development amounting to 921sq.m and these would be distributed throughout the proposed blocks, with the exception of block E. I am satisfied that the provision of residents' amenity facilities would be comparable with other contemporary apartment schemes of a similar scale and would be in line with the provisions set out in the New Apartment Guidelines.
- 13.7.33. Policy SN17 of the Development Plan looks to facilitate childcare facilities in certain settings and appendix 13 of the Development Plan provides guidelines for childcare facilities stating that for new residential development proposals, a benchmark of one childcare facility for every 75 units is recommended. Deviation from this shall have regard to the make-up of the proposed development and the results of any childcare needs assessment carried out for the area. The applicant's Childcare and School Demand Assessment addresses the standards within the 'Childcare Facilities - Guidelines for Planning Authorities' (2001), including the requirement for a childcare facility with space for 20 children for every development comprising 75 dwellings.
- 13.7.34. Based on a review of existing childcare facilities within the area and the provisions within the New Apartment Guidelines and the Childcare Facilities Guidelines, including an allowance to omit the 325 proposed one-bedroom units from calculations, the applicant asserts that the development would generate a requirement for 161 childcare spaces. The applicant's audit of childcare facilities proximate to the application site, estimated that there were 12 childcare spaces available. The applicant states that the proposed childcare facility in the Protected Structure comprising 12 classrooms would have capacity for 185 children.

13.7.35. Dublin City Childcare Committee has not responded to consultation regarding the application. I am satisfied that based on the information presented and available, there would be sufficient childcare spaces available as part of the proposed development to serve the development in compliance with policy SN17 of the Development Plan, as well as the provisions of the New Apartment Guidelines and the Childcare Facilities Guidelines. Accordingly, this aspect of the subject proposals would not materially contravene the Development Plan with respect to the provision of childcare facilities in new developments.

Schools and Social Infrastructure

13.7.36. Observers assert that the area already suffers from limited school places, particularly following the amalgamation of three schools into a single campus. Within their Childcare and School Demand Assessment, the applicant provides survey information asserting that there is capacity for 181 spaces in neighbouring primary schools and 110 spaces in post-primary schools within a 5km radius of the site. Based on local demographics and the potential future population in the subject development, the application considers that the proposed development would create demand for 199 primary and 199 post-primary school places, which could be partially accommodated in the existing schools, a number of which are earmarked by the Department of Education for development, potentially increasing their capacity. The Department of Education has not objected to the development and has stated that the school site allocated on the subject site would have capacity to cater for a minimum of 500 to 1,000 pupils.

13.7.37. It is also asserted by observers and the Elected Members that the impact on social, community and other infrastructure and services needs to be considered given the increase in population envisaged. Policy SN5 of the Development Plan requires a social audit to accompany applications for development of this scale, as well as implementation and phasing programme details. The applicant has provided a Social Infrastructure Assessment addressing local social, community, education, sports and recreation, religious and other facilities within approximately a 3.5km catchment of the site. This assessment broadly identifies the main services and resources in the immediate area, following the guidance contained within the Sustainable Residential Development Guidelines. The Planning Authority note the audit, including the 119 facilities identified, which they consider to be 'well-

represented in close proximity to the subject site to cater for the existing and future residential population’.

13.7.38. Increased housing in locations such as this, ensure the efficient and increased use of existing and planned services, including schools and other social infrastructure. Such services are dependent on a critical mass of population to justify the establishment of additional services or for them to remain or become viable. In the immediate and wider environs of the site there are schools, shops, medical facilities, parks and open spaces, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. Based on the unit mix of the development and demographics, the number of school-going children residing in the proposed development would be likely to be capable of being absorbed within existing schools in the area, with scope for additional spaces via the allocation of an area on site for a future school. The Planning Authority and the Department of Education did not raise concerns regarding the capacity of schools to accommodate the development and, as stated, detailed and revised phasing proposals can be requested as a condition in the event of a grant of planning permission. In conclusion, the development would not be likely to place significant demands on schools and other social infrastructures and services in the vicinity and permission for the development should not be refused for this reason.

Waste and Recycling Management

13.7.39. The applicant has submitted an Operational Waste Management Plan as part of appendix 12.2 to their EIAR, setting out how the type and storage volumes for waste have been calculated for the apartments and other uses, as well as details of how waste operators would service the site. This plan sets out that bin stores to serve future residents would be provided at basement and undercroft level, with two to three stores allocated to each block. The bin stores for units in block E would be screened by brick walls and timber gates to the front of the duplex units. Swept path diagrams for a waste collection vehicle moving through the roads within the site is provided. On waste and recycling collection days bins would be moved by facilities management to staging areas close to the vehicular access ramps serving each block.

13.7.40. I am satisfied that sufficient provision for waste and recycling collection, comparable with developments of a similar scale and nature, would appear to be provided as part of the development and further details relating to waste and recycling management can be addressed in response to a condition in the event of a grant of permission.

Building Lifecycle and Management

13.7.41. As required within the New Apartment Guidelines, a Building Life Cycle Report assessing the long-term running and maintenance costs and demonstrating the measures that have been considered by the applicant to manage and reduce costs for the benefit of residents, has been included with the planning application. Prior to the lease of individual units, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific owners' management company.

Sustainability and Energy Efficiency

13.7.42. Objective CCO12 of the Development Plan promotes high energy-efficiency standards in existing and new developments. A Development Sustainability Strategy addressing the sustainability and energy efficiency of the proposed development has been submitted with the application and this includes specific reference to mechanical and electrical measures as part of the development strategy. A series of measures are listed in the report to address energy savings in the development. According to the applicant an air to water heat-pump system would be used for heating and hot water generation for all apartments, thereby promoting a reduced need for fossil fuels. According to the applicant, the development is intended to be fully compliant with the requirements of Part L of the building regulations nearly zero-energy buildings (NZEB). All apartments are intended to achieve an A3 building energy rating (BER).

13.7.43. I am satisfied that the information provided with the application reveals that due consideration for energy efficiency has been undertaken as part of the design of the development, in compliance with the Development Plan provisions. Further consideration of energy efficiency matters will be evaluated under a separate code, including Part L of the building regulations.

Residential Amenities and Development Standards - Conclusion

13.7.44. In conclusion, subject to conditions, the proposed development would provide a suitable mix and standard of apartments and amenities, meeting the relevant design standards and providing a suitable level of amenity for future residents.

13.8. Access, Parking and Traffic

13.8.1. The Roads Department of the Planning Authority did not object to the proposed development, although they did raise several issues in relation to access and movement within the site, while also requiring increased car-share parking and further details regarding matters such as construction haul routes and taking in charge details. The vast majority of observations from neighbouring residents and the comments from Elected Members highlight concerns in relation to the potential for the development to result in increased traffic congestion in the immediate area, particularly when taking into consideration other developments within the wider area. It is also noted that a road reservation would be necessary in order to facilitate the BusConnects core bus corridor project.

Access and Connectivity

13.8.2. The observations assert that the subject area is not well served by public transport. The applicant's Traffic Impact Assessment provides details of public transport services currently available in the environs of the site, as well as future proposals. As noted in section 13.3 above, based on the information available, I am satisfied that the site would have easy access to amenities via public transport and consultation with the National Transport Authority (NTA) regarding the proposals has not highlighted concerns regarding the existing capacity of public transport neighbouring the site.

13.8.3. The site is currently accessible by vehicles from entrances on Ballyfermot Road and Lynch's Lane. Both of these roads feature footpaths, while Ballyfermot Road features an on-road cycle lane segregated by bollards on the northern side and an unsegregated on-road cycle lane on the southern side. Ballyfermot Road currently features right-turning intermediary filter lanes onto Lynch's Lane and Garryowen Road, as well as median strips and traffic islands. There is a controlled pedestrian crossing on Ballyfermot Road directly to the front of the former primary school

building and two bus stops with shelters on opposite sides of the road close to the vehicular entrance to the former monastery.

- 13.8.4. The applicant proposes a number of alterations along Ballyfermot Road, including upgrade of the pedestrian crossing to a toucan crossing, cycle lane works, the provision of an additional toucan crossing close to the existing entrance to the monastery, relocation of a bus stop to a more centralised position on the site frontage and alterations to the vehicular entrances onto Ballyfermot Road. The Planning Authority has requested clarification with respect to some elements, including the ramped section of cycleway at the proposed toucan crossing, the right-turn filter lane onto Lynch's Lane, the provision of a bus shelter for the relocated bus stop and cycle lane upgrade details. I am satisfied that clarification of these minor aspects of the proposals would be reasonable to request and they can be addressed as conditions in the event of a grant of planning permission for the proposed development. The Planning Authority has also requested that the applicant clarify that works along Ballyfermot Road and Lynch's Lane would occur in the initial phase of the project, which I am satisfied can be addressed in the applicant's phasing plan.
- 13.8.5. As noted above, an application has been lodged for a bus corridor infrastructure project, including the stretch of Ballyfermot Road fronting the application site. The applicant has submitted a drawing (no. 180189-DBFL-TR-SP-DR-C-1010) identifying the proposed layout along Ballyfermot Road and the entry to Lynch's Lane, to show the differences between the proposed project and the bus corridor project. In general, primarily due to the setback of buildings from the roadway and the provision of hard and soft landscaping in this area, the proposed development would appear to facilitate the bus corridor project if this was to receive permission and proceed. In their application submission, the NTA acknowledge that the proposed development would facilitate the proposed core bus corridor project.
- 13.8.6. Vehicular access to serve the proposed development would be provided by an access off Lynch's Lane and an access in the general area of the existing access to the monastery building. Sightline visibility relative to DMURS requirements would not appear restricted along the proposed Ballyfermot Road entrance. The internal access road running through the development would be 5.5m in width in compliance with DMURS and I am satisfied that the volume of traffic expected to be served by the proposed road and the adjoining potential future school, would be sufficiently

served by this standard carriageway. A separate pedestrian/cyclist/emergency access would also be provided from Ballyfermot Road. The Planning Authority has also requested some alterations with respect to the vehicular entrance arrangements including measures to address turning radii, pedestrian movement and the redesign of the Lynch's Lane access, including parking, school safety zones and the provision of a two-way junction onto the lane. A pedestrian path on the west side of the vehicular access onto Ballyfermot Road is also requested by the Planning Authority. The Planning Authority refer to the roads layout as prioritising cars and requiring pedestrian-priority crossings at raised tables onto internal junctions and at key desire lines and crossing points within the development. The Transport Planning Division of the Planning Authority require taken in charge proposals to be submitted, which I note the applicant provided (drawing no. D1808-12) and this includes the roads within the proposed development, which the Planning Authority require to comply with their standards. I am satisfied that these details would be necessary to address from a road safety perspective and in order for the proposed development to comply with the provisions of the DMURS.

- 13.8.7. Service and delivery details for the non-residential elements are requested by the Planning Authority, as well drop-off / collection details for the childcare facility. In this regard I note the limited scale of non-residential units proposed, the basement / undercroft parking areas with scope to provide service bays. Furthermore, the vast majority of children attending the childcare facility would be from the development itself, thereby limiting the necessity for drop-off and collection bays.

Parking

- 13.8.8. The applicant is proposing a total of 639 car parking spaces to serve the residential development, which would be at surface, undercroft and basement levels, as well as 16 spaces under block H for the future potential school, 19 playing pitch spaces and 13 visitor spaces. A total of 39 spaces would feature access for persons with a disability and 56 spaces would feature electric-vehicle charging points. In total, 26 motorcycle parking spaces are also proposed, as well as five car-share spaces. The Planning Authority note some discrepancies with reference to the number and allocation of parking spaces, and they require 20% of spaces to feature electric-vehicle charging points and 15 car-share spaces. The observations assert that the proposed provision of car parking would be incapable of sufficiently serving the

development and would materially contravene Development Plan provisions, and that additional electric-vehicles charging points would be necessary. The applicant considers the provision of car parking to serve the residential units to be appropriate with reference to existing and future public transport availability, car ownership census data, the maximum Development Plan standards allowing for up to 1.5 car parking spaces per apartment and the provisions of the New Apartment Guidelines seeking to reduce car parking provision in intermediate urban locations.

13.8.9. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in residential developments with a net density of greater than 45 units per hectare. The applicant refers that the Mobility Management Plan provided with the application and that this includes various measures to influence use of more sustainable modes of transport as part of the development. The proposed ratio of parking per apartment, ranging between 0.55 and 0.68 depending on the final allocation of spaces, would be comparable with many other recently permitted strategic housing developments in a similar context within the city, including the Vincent Byrne site redevelopment (ABP refs. 307092-20 / 309899-21), which would feature a ratio of 0.51 parking spaces per apartment.

13.8.10. I am satisfied that car parking standards below the Development Plan maximum standards for the residential element of the proposed development would be reasonable, given its location relative to public transport services, and would not materially contravene the Development Plan provisions in this regard. Based on the information submitted with the application, I am satisfied that sufficient car parking would be provided to serve the proposed development and this would provide sufficient scope for car parking to be allocated in a manner broadly consistent with the request of the Planning Authority, including the provision of a car parking management plan. Ducting to allow for all car spaces to feature electric-vehicle charge points should also be required as a condition in the event of a permission.

13.8.11. A total of 2,429 cycle parking spaces would be provided, comprising 2,296 short-term and long-term residential spaces, alongside spaces for the childcare facility, the pitch and the commercial units. Spaces would be of either 'Sheffield' type or two-tier racks. Provision is also made for 15 cargo bike spaces. Having regard to the Development Plan standards and the New Apartment Guidelines, the Planning

Authority are satisfied with the overall provision of cycle parking, although they note that some matters would need to be addressed, including the security and surveillance of spaces and the location and distribution of spaces relative to car parking, access roads and junctions, as well as surface-level visitor spaces and cargo spaces. I am satisfied that the quantum and locations of cycle parking for the residential development would be welcome in supporting sustainable transport options. The Planning Authority require the provision of a cycle parking management plan, which I am satisfied can be addressed as a condition in the event of a grant of planning permission for the proposed development.

Traffic

13.8.12. The observers refer to an array of concerns regarding the potential for the development, as well as other developments, to increase traffic congestion and road safety concerns already experienced in the area. The applicant submitted a Traffic Impact Assessment as part of their application, which includes traffic survey details for seven junctions along Ballyfermot Road, Sarsfield Road and Con Colbert Road / Chapelizod bypass. The Planning Authority does not raise concerns regarding the fact that the survey dates from 2018, noting that this was prior to the impacts of Covid on traffic and as growth factors have been applied in the assessment, as well as cumulative impacts alongside other permitted developments in the immediate and wider areas and the potential future school development on site. The applicant's assessment uses Road Safety Authority data to assert that road safety trends or issues do not arise across the local road network to the application site.

13.8.13. Using Picady software analyses the applicant undertook modelling of the traffic in the opening year (2024) with 128 units in place and in an interim year (2028) with all the development complete. The applicant's modelling predicts that in 2028 the number of vehicular trips associated with the proposed development exiting onto Ballyfermot Road and Lynch's Lane during the morning peak hour (08:00 – 09:00) would amount to 185 trips, with 127 returning trips during the evening peak hour (16:30 – 17:30). The submitted Traffic Impact Assessment asserts that traffic exiting the site would be evenly split between the east site access (no.2 – Mount Le Salle) and west site access (no.1 – Lynch's Lane).

13.8.14. If permitted, during peak hours the completed proposed development would result in increases in traffic amounting to between 1.3% and 18.5% at the seven assessed junctions. The applicant asserts that slight, imperceptible and not significant impacts would arise for six of the junctions and that moderate impacts would arise for the Ballyfermot Rd (R833) / Proposed Site Access 1 priority junction (Lynch's Lane). The Planning Authority do not consider the applicant's asserted moderate impact on the Lynch's Lane junction to be necessarily representative of the actual likely impact, particularly given the sensitivity of Lynch's Lane to traffic and the failure to consider measures to reduce routing of traffic through the site.

13.8.15. While I accept that the existing traffic levels onto Lynch's Lane would be quite low, the likely increase in traffic onto this road arising from the proposed development would be likely to be significant, although the impacts of this traffic for those that presently use this road would be mitigated by the need for access to be maintained, as well as parking and layouts in accordance with the DMURS. I am satisfied that based on the information provided in the Traffic Impact Assessment, a reasonable approach to modelling future traffic scenarios on the local road network with the development in place has been set out and other than the access along Lynch's Lane, this does not reveal substantive impacts on traffic. The assessment broadly follows the TII guidance on this matter and an alternative technical assessment contradicting the approach or the findings of the applicant's assessment has not been provided. Furthermore, the Planning Authority has not objected to the proposed development based on the findings of the traffic assessment, and I am satisfied that the applicant has provided adequate justification and rationale for the approach undertaken in their Traffic Impact Assessment with sufficient information included for the purpose of this assessment.

13.8.16. The site is located on zoned lands with reasonable access to an array of services. The proposed development would provide for a substantive scale of development, replacing existing vacant educational and institutional buildings. There would undoubtedly be some increase in traffic numbers as a result of the proposed development, which would invariably add to the existing congestion that is referenced by observers. However, traffic congestion at peak periods in an urban area such as this, would be anticipated to occur and various measures and design features have been set out within the application and as part of the proposed

development to support the use of public transport, cycling and walking, as an alternative to the use of private vehicles. All road networks feature limited capacity in terms of accommodation of private cars and increased population in locations such as the application site area, which are reasonably well served by public transport and have the capability for additional services as demand requires, should be developed in the interest of providing for sustainable communities.

Conclusion

13.8.17. In conclusion, subject to conditions, the proposed development would not reasonably result in an unacceptable risk of traffic hazard and it would feature an appropriate provision of car and cycle parking. While significant additional traffic would arise onto Lynch's Lane as a result of the proposed development and this would be addressed as part of the application and conditions in the event of a grant of planning permission, significant traffic congestion in the wider area would not be likely to arise.

13.9. **Services**

13.9.1. The observations assert that the proposed development would impact on existing services, including water supply and drainage. The application was accompanied by an Engineering Services Report, including various appendices.

Surface Water Drainage

13.9.2. The surface water drainage on site would initially drain towards an attenuation tank under the central open space, prior to draining to a 450mm-diameter surface water sewer running along Ballyfermot Road. This drainage network discharges to the River Liffey. Sustainable urban drainage system (SUDS) features to limit the runoff from the proposed development to mimic the natural characteristics of rainfall runoff, would include bioretention areas and rain gardens, tree pits, filter drains, permeable pavement, green roofs, water butts, silt-trap manholes cellular attenuation system and fuel interceptors.

13.9.3. According to the applicant, the surface water management measures would have sufficient capacity to effectively accommodate 1-in-100 year storm events and a freeboard for climate change factors, in accordance with the requirements of the Greater Dublin Strategic Drainage Study. The applicant also states that following the

preparation of a Site Specific Flood Risk Assessment, as submitted with the application, the development would not be at material risk of flooding. Any historical flood events in the area are noted to have been in much lower areas of the river valley to the north of the application site. The Planning Authority state that the surface water drainage and flood risk proposals are generally acceptable, subject to further details with respect to SUDS measures. The requested details are standard elements requiring agreement with the Planning Authority following a grant of planning permission and I am satisfied that conditions can be attached in the event of a permission to address same.

- 13.9.4. I recognise that the core bus corridor project (ABP ref. 314056-22) includes a drainage attenuation measure on a wedge of the applicant's lands fronting Ballyfermot Road, however, this appears to be primarily within the area reserved for the future school development, as well as an area of hard and soft landscaping. I am satisfied that the proposed development would not compromise the provision of same should the core bus corridor project and the proposed development receive planning permission. Accordingly, subject to conditions, I am satisfied that the drainage details submitted with the application reveal that the subject development can be satisfactorily served by drainage services.

Foul Water

- 13.9.5. It is proposed to discharge foul wastewater from the development by gravity to a 375mm-diameter foul sewer running through the site, which would be partially decommissioned and diverted as part of the subject proposals. Run-off from basements and undercroft areas would also discharge to the foul network. Irish Water have no objection to the proposals noting that the diversion of the foul sewer must achieve minimum horizontal separation distances. I consider the foul drainage proposals to serve the subject development to be satisfactory, subject to appropriate and standard conditions.

Water Supply

- 13.9.6. There is an existing 300mm-diameter watermain running along Ballyfermot Road, which the proposed development would connect into. Irish Water has confirmed in their submission that a connection to their water supply infrastructure can be made based on the details of the proposed development and subject to standard

connection agreements. In conclusion, I consider the water supply proposals to serve the subject development to be satisfactory, subject to appropriate conditions.

13.10. Material Contravention

- 13.10.1. Under the provisions of section 9(6) of the Act of 2016, the Board may decide to grant a permission for a proposed strategic housing development where the proposed development, or a part of it, contravenes materially the Development Plan relating to the area concerned, albeit with exception to a material contravention of zoning objectives, as outlined above, and subject to circumstances provided for under section 37 of the Act of 2000, as outlined below.
- 13.10.2. The application contains a statement indicating why permission should be granted for the proposed development, having regard to the provisions specified in section 37(2)(b) of the Act of 2000, notwithstanding that the proposed development materially contravenes the Development Plan with regard to specific statutory planning requirements, including the provision of a commercial and a retail / café unit. Observers assert that a material contravention would arise consequent to non-compliance of the proposals with the land-use zoning objective for the site, specifically the lack of proposals for a school on site and the splitting of public open space. For reasons outlined above and in section 13.2 and subject to the attachment of a condition omitting the commercial and retail / café units from the proposed development, I am satisfied that a material contravention with respect to current land-use zoning objectives for the site would not arise in the case.
- 13.10.3. The applicant also addresses the potential for material contraventions to arise with respect to the proposed development and the unit mix, block configuration, internal apartment space standards and public open space provisions contained in the Development Plan. For reasons outlined above, I am satisfied that a material contravention would not arise regarding these matters.
- 13.10.4. The observers also refer to the potential for material contraventions to arise with respect to the proposed development and the density standards, public open space requirements, car parking standards, childcare provision, ACA provisions and policy CHC2 of the Development Plan. For reasons outlined above, I am satisfied that a material contravention would not arise regarding these matters.

13.10.5. The proposed building heights in the development would contravene the building height provisions contained within the Development Plan. The applicant addresses non-compliance of the proposals with this matter in their Material Contravention Statement and in such a situation it is open to the Board to consider the proposal in terms of material contravention procedures.

13.10.6. Section 37 of the Act of 2000 provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in circumstances where at least one of the following applies:

- (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;
- (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;
- (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.

Building Heights

13.10.7. Material contraventions of the Development Plan are stated by the applicant to arise with respect to the proposed building heights. Observers and the Planning Authority are in agreement with same. The application documentation, including the Material Contravention Statement provides the applicant's justification for the proposed building heights, including compliance with development management criteria set out in the Building Heights Guidelines.

13.10.8. With respect to building heights, my conclusions above refer to the proposed development materially contravening Development Plan policy SC16 and SC17 and that in order to address this and significant visual impacts of the development on neighbouring established residential areas and the wider city, particularly the immediate approaches and the area to the north, including open recreational

grounds, a condition would need to be attached requiring the proposed building heights not to exceed eight storeys.

13.10.9. Further to my assessments above, I am satisfied that the proposal positively assists in securing NPF objectives to focus development into key urban centres and to deliver compact growth in urban centres. The proposed development is of strategic and national importance by reason of its potential to substantively contribute to the achievement of the Government's national policy to increase housing supply, as set out in 'Housing for All – A New Housing Plan for Ireland' (2021) and 'Rebuilding Ireland – Action Plan for Housing and Homelessness' (2016) within the Dublin Metropolitan Area Strategic Plan and on a high-capacity, high-frequency public transport corridor, with links to further sustainable modes of the transport network. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the building height standards of the Development Plan.

13.10.10. The Development Plan sets a limit of 16m building height (approximately five storeys residential) for this area. In relation to the matter of conflicting objectives in the Development Plan or objectives that are not clearly stated, as addressed in section 37(2)(b)(ii) of the Act of 2000, I am satisfied that the provisions of same would not apply in the case as the objectives in the Development Plan with respect to building heights are reasonably well stated.

13.10.11. With regard to section 37(2)(b)(iii), as per my detailed assessment in section 13.5 above, I am satisfied that the building heights for the proposed development would be in accordance with national policy, as set out in the NPF, specifically NPOs 13 and 35. Furthermore, subject to the aforementioned condition reducing the proposed building heights to no more than eight storeys, the proposed development would be in compliance with SPPR 3 of the Building Heights Guidelines, which references criteria set out in section 3.2 of these Guidelines. Having regard to the provisions of section 37(2)(b)(iii) of the Act of 2000, I am satisfied that a material contravention is justified in this case with regard to guidelines under section 28 and policy of the Government set out in the NPF.

13.10.12. In relation to section 37(2)(b)(iv) of the Act of 2000, I note that for neighbouring sites subject of similar statutory plan height restrictions, permissions

have recently been approved for seven to 15 storeys at Park West Business Park (ABP ref. 312290-21), ten-storeys (33.5m) on the Concorde industrial estate, Naas Road (ABP ref. 312218-21), five to eight storeys (26m) at Carriglea Industrial Estate, Naas Road (ABP ref. 311606-21), three to nine storeys (28m) on Davitt Road (ABP ref. 309627-21), four to eight storeys on Kennelsfort Road Upper (ABP ref. 307092-20) and three to seven storeys on Davitt Road (ABP ref. 303435-19). The proposed development, including a condition addressing building heights, is to an extent, continuing on that pattern of development and the provisions under section 37(2)(b)(iv) of the Act of 2000 apply.

- 13.10.13. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan policies pertaining to building heights, I consider that the provisions of sections 37(2)(b)(i), (iii) and (iv) have been met with respect to the proposed building heights. In this regard I am satisfied that the Board can grant permission for the proposal.

14.0 Environmental Impact Assessment

14.1. Introduction

- 14.1.1. This section sets out an EIA of the proposed project and should be read in conjunction with the planning assessment above. The development provides for 927 residential units, playing pitches and open space, a childcare facility, a commercial unit, a retail / café unit and residents' amenity areas on a gross site area measuring 8.3ha. The site is located within the area of Dublin City Council. A number of the topics and issues raised by observers that concern environmental matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.
- 14.1.2. Item 10(b) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021 and section 172(1)(a) of the Act of 2000 provides that an EIA is required for infrastructure projects that involve:

- (i) construction of more than 500 dwelling units

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

- 14.1.3. 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. It is within a class of development described in item 10(b)(i) above, thereby requiring EIA. Consequently, the applicant has submitted an EIAR with this application.
- 14.1.4. The observers refer to the proposed development being subthreshold for the purposes of EIA, however, this is incorrect. The observers also refer to the applicant's EIA Screening as being insufficient with respect to risk to human health, pollution, nuisances, collision-risk for birds and bats, and the general impact on biodiversity and human health arising from the proposed development. It is also asserted in an observer's submission that the EIA Screening Report does not comply with statutory requirements and is inadequate, as it fails to assess the impact of the increased population on local services and as it is not based on a complete development description, omitting details of the construction phase. The same observers assert that the Board lacks the expertise or access to same in order to examine the EIA Screening Report. In response to all of these matters, I note that an EIA Screening Report has not been submitted with this application.
- 14.1.5. The EIAR comprises a non-technical summary and a main volume with supporting appendices, alongside standalone reports with the application. A schedule of mitigation measures and monitoring described throughout the EIAR has been prepared and is presented within Chapter 16 of the EIAR. The introduction to chapters describes the competencies of those involved in the preparation of the EIAR.
- 14.1.6. 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; (c) land, soil and geology; (d) water; (e) air quality and climate; (f) noise; (g) material assets; (h) archaeology and cultural heritage; and (i) landscape. It also considers the interaction between the factors referred to in points (a) to (i).

14.1.7. 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 2001-2022. 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 the Planning Authority, the prescribed bodies and members of the public, which are summarised in sections 9, 10 and 11 of this report above. 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.

14.2. Vulnerability of the Project to Major Accidents and/or Disaster

- 14.2.1. The requirements of Article 3(2) of the amending Directive includes consideration of 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. The EIAR specifically addresses the issue of major accidents and/or disasters within sections 3.25.3 and 8.9. Categories of risks considered include those at construction phase relating to health and safety and at operation phase relating to fire and flooding. The nearest notifiable Seveso sites to the application site is the Irish Rail Maintenance Works in Inchicore approximately 800m from the application site.
- 14.2.2. Given the urban nature of the receiving environment and the nature of the proposed project, it is considered that there is no linkage factor of a hazard that could trigger what would constitute major accidents and disasters. Compliance with the final project CEMP, as well as good housekeeping practices are considered to limit the risk of accidents during construction. The vulnerability of the proposed project to major accidents and / or disasters is not considered significant. The proposed development is primarily residential in nature and will not require large-scale quantities of hazardous materials or fuels. The risk of fire is managed through the Fire Safety Certification process, which is an integral part of the design of the proposed development.
- 14.2.3. I am satisfied that the proposed uses are unlikely to present risk. As noted in section 13.9 above, the site would not be at major risk of flooding. Having regard to the location of the site and the existing land use, as well as the zoning of the site, I am

satisfied that there are unlikely to be any effects deriving from major accidents and / or disasters.

14.3. Alternatives

14.3.1. 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;

14.3.2. 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.

14.3.3. Chapter 3 of the EIAR provides a description of the range of alternatives considered, including locations, uses, alternative designs and layouts, a do-nothing scenario, a do-minimum scenario and a do-maximum scenario. If nothing were done the lands would remain underdeveloped, with an opportunity lost to provide 927 residential units and an efficient use of zoned urban land. Considering that the lands in question are zoned for uses that include housing, as well as the fact that the environmental sensitivities of the site are not such as to preclude development per se, alternative locations are not considered relevant. The process in arriving at the subject proposals as well as the rationale for discounting other options is provided as part of chapter 3 of the EIAR, as well as the applicant's Architectural Design Statement. Constraints in relation to the redevelopment of the site are stated to have influenced the project. I am satisfied that there are no alternative processes having regard to the nature of the proposed project relative to the planning context.

14.3.4. The permissible and open for consideration uses on the site are prescribed by its zoning under the Development Plan. The alternatives that were considered were, therefore, largely restricted to accord with the surrounding developments, as were

the variations in building heights, layout and design. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the Directive with regard to the consideration of 'alternatives' has been met.

14.4. Consultations

14.4.1. During the application process, the applicant would have consulted directly with Dublin City Council and An Bord Pleanála. The observers raise concerns regarding public participation being contrary to the requirements of the EIA Directive and the desire for ongoing engagement with the public. Direct and formal public participation in the EIA process was undertaken through the statutory planning application process under the Strategic Housing Development procedures. Public participation and consultation is an integral part of the Strategic Housing Development process as outlined in the Act of 2016 and the Planning and Development (Strategic Housing Development) Regulations 2017. Prescribed bodies identified in section 11 of this report were notified of the application. 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. As part of the applicant's CEMP it is stated that engagement with the public would occur as part of the construction phase of the project.

14.5. Likely Significant Direct and Indirect Effects

14.5.1. The likely significant direct and 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, soils and geology;
- water;
- air quality and climate;
- noise and vibration;

- landscape and visual impact assessment;
- material assets;
- cultural heritage, archaeology and architectural heritage;
- the interaction between those factors.

14.6. Population and Human Health

14.6.1. Population and human health is addressed in Chapter 4 of the EIAR. The methodology for the assessment is described, as well as the receiving environment. The assessment considers attributes and characteristics associated with local land uses, transport and population, as well as recent economic and demographic trends. Effects from changes in residential amenities, land use, changes in transport nature and flow rate, employment, health and safety, as well as the landscape are assessed. Predicted impacts for human health with respect to other factors of the environment are assessed. Significant impacts for population or land use are not anticipated to arise by the applicant.

14.6.2. In terms of human health, the most likely impact will be during the construction phase of the development and observers have concerns regarding the nuisance arising from the associated construction activity, which would include dust emissions, noise and traffic. Given the control of activity on site by the developer, as noted above, these activities and their emissions can be controlled to appropriate levels through the use of management measures, including those set out in the EIAR, a construction and demolition waste management plan (appendix 12.1 to the EIAR) and a final CEMP. The measures in the Preliminary CEMP and the mitigation measures outline how the proposed works would be delivered safely and in a manner that minimises risks to human health. The imposition of limits by conditions in any grant of permission would reinforce the preservation of human health. With the implementation of remedial and mitigation measures, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.

14.6.3. Other aspects of the development such as air quality, noise/vibration, transportation and water may lead to effects on the local population. In terms of noise and

vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a primarily residential scheme that forms part of the built-up area of the city. The impact of additional traffic on noise levels and the character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the marginal increase that would occur as a result of the proposed development.

- 14.6.4. The population of the area would increase substantially consequent to the operation of the proposed development. The observers have raised concerns regarding the availability of school places to serve the development, while the Elected Members and observers have raised concerns regarding the capacity of local services, both social and community, to cater for the likely increase in population arising from the proposed development. I have considered schools capacity, as well as childcare provision and social infrastructure under section 13.7 of the planning assessment above. When operational, the proposed childcare facilities would support residents of the development and the wider area and based on demographic analysis the proposed development would not have substantive impacts on schools within the area, which are stated to have some capacity to facilitate the development, while a reservation for a future potential school is provided on the application site. The proposed community space and open spaces would also be of benefit to residents and the wider community, offering potential for people to come together, which would further contribute to building a sense of place and community. I also note that the development itself would be likely to have significant direct positive impacts with regard to population, as well as material assets, due to the increase in housing stock that it would make available in this urban area.
- 14.6.5. A detailed assessment undertaken in section 13.6 above identified that the development would have substantive impacts on the amenities of neighbouring properties, by virtue of the position and design of block E (building 1), which would result in excessive direct overlooking of residential properties to the rear along nos.3 to 11 The Steeples. However, this impact could be addressed via omission of this block from the proposed development.
- 14.6.6. I am satisfied that potential effects on population and human health, particularly during the construction phases, would be avoided, managed and mitigated by the

measures that 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.

14.7. Biodiversity

- 14.7.1. Chapter 5 of the EIAR addresses biodiversity with particular attention for species and habitats protected under EU Directives 92/43/EEC and 2009/147/EC. Observers consider that sufficient consideration for collision-risk for birds and bats, and the general impact on biodiversity has not been appropriately considered in the application. The biodiversity chapter details the survey methodology of the biodiversity assessment and the fieldwork undertaken between July 2019 and March 2022 for terrestrial and avian ecology, invasive species and vantage point surveys for avian species (January to March 2022). Aerial photographs and site maps assisted the habitat survey and the habitats identified are categorised in table 5.8 and figure 5.11 of the EIAR. It is noted that a NIS for the project was prepared as a standalone document. As assessed in section 15 of my report, the proposed development is considered in the context of designated European sites.
- 14.7.2. In the event of a permission, prior to the commencement of construction the Waste Regulation and Enforcement Unit of the Planning Authority require the attachment of a condition requesting a survey of the status of invasive species on the site, as well as measures to treat any species identified.
- 14.7.3. The Fossit habitat categories mostly characterising the site comprise buildings and artificial surfaces (BL3), dry meadows and grassy verges (GS2), scrub (WS1), ornamental non-native shrubs (WS3), flower beds and borders (BC4), scattered trees and parkland (WD5) and hedgerows and treelines (WL1). Only habitats of local biodiversity value were found during surveys. Plant species listed as of the alien invasive variety under SI No. 477 of 2011, were not found to be growing on the site. Butterfly bush and sycamore, which are considered to be medium impact invasive species were identified on site. No flora or terrestrial fauna species or habitats of National or international conservation importance were noted during the field survey. No watercourses or wetlands suitable for species such as otter, were found on site. Indirect impacts arising from surface water runoff to downstream

watercourses are considered with respect to fish and other vertebrates. With regard to terrestrial mammal species evidence of a small mammal and a fox using the site was identified, as was the potential for habitat on site to support hedgehog, pygmy shrew, badger and red squirrel. A total of 29 bird species of note were recorded during surveys, largely comprising passerine species, but also including two buzzards perched on site, as well as Light-bellied Brent Geese and Black-headed Gull flying over the site.

- 14.7.4. The applicant's EIAR asserts that the risk of collision for birds would be negligible for numerous reasons, including the apartments blocks design features and the avoidance capabilities of coastal birds noted to fly over the site. Buildings of similar heights to those proposed are common in urban environments and there is no objective evidence to suggest that they would present a significant risk of collision for birds, including those recorded as flying through the site in locations where buildings are proposed. It is reasonable to conclude that the development would not have significant impacts on bird species arising from collision risk with the proposed buildings.
- 14.7.5. A bat survey of the buildings and trees on site and a detector survey were carried out with table 5.2 of the EIAR identifying the survey methods used. An examination of the buildings and trees yielded no evidence of bat presence. A total of 19 trees of bat roosting potential were noted to exist on site. Limited numbers of three bat species were identified as foraging or commuting through the site; common pipistrelle, Leisler's and soprano pipistrelle. In such a scenario it is unlikely that the proposed development would present a particular impact for bats, including from collision-risk. The Department of Housing, Local Government and Heritage request that a bat specialist is engaged to ensure that the finalised lighting scheme for the proposed development would be sensitive to bat species, and I am satisfied that the applicant has already set out that this would occur and this can be requested as a condition in the event of a grant of planning permission for the proposed development.
- 14.7.6. As part of the proposed development, there would be extensive removal of existing trees on site, which many of the observers objecting to the removal of trees along eastern boundary with The Steeples. The Conservation Officer in the Planning Authority requires all 36 category 'B' trees to be maintained to protect the character

and setting of the site, including the Protected Structure. The applicant asserts that the majority of the 156 trees and 30 groups of trees/hedgerows to be removed are of poor quality and value, and while their initial removal would have an impact on the appearance of the site, this would be mitigated by the protection measures for trees to be maintained and the extensive planting of trees of high-quality. In total 36 trees of varying categories would be protected and maintained as part of the subject proposals. It is proposed that the felling of trees on site would only occur during specific periods to avoid disturbance of nesting birds, potential roosting bats and subject of monitoring by an ecologist.

- 14.7.7. I am not aware of an objective to preserve trees on these lands. The extent of tree removal would have minor visual impacts along the roadside areas and the eastern boundary, however, with the maturation of compensatory replacement planting this would allow for softening of the appearance of the development and improvements in the general appearance of the site. I am satisfied that given the extent of trees to be maintained on site and the trees to be protected, the stated condition of the trees on site and the proposed provision of replacement tree planting, a sustainable approach to redeveloping the site has been set out in this regard. In the event that permission is granted for the proposed development, I recommend the attachment of conditions with respect to the engagement of an arborist as part of the landscape works to best provide for the protection of any trees to be maintained on site.
- 14.7.8. Section 5.5 of the EIAR describes the likely effects of the proposed development on biodiversity and table 0-1 (p.200) provides a summary of the construction and operation phase impacts, including the quality, significance, extent, probability, duration and type of impacts that would potentially arise. Measures to minimise the impact of the development on biodiversity, include the design features, such as landscaping, drainage solutions and lighting, and the implementation of measures to manage dust and noise emissions, as well as standard construction work practices, timing for clearance works, monitoring for specific species and the installation of bat boxes. The final project CEMP can be requested as a condition in the event of a grant of planning permission for the proposed development and this should comprise an updated report on the status of any invasive species on site prior to works commencing on site.

14.7.9. Having regard to the foregoing, including the low ecological value of habitat on site and species habituating the site, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity and I am satisfied with regard to the level of information before me in relation to biodiversity. I draw the Board's attention to the AA section of my report (section 15) where the potential impact of the proposed development on the conservation objectives of designated European sites is discussed in greater detail.

14.7.10. I am satisfied that potential effects would be avoided, managed and addressed by the measures that form part of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on biodiversity.

14.8. Land, Soil and Geology

14.8.1. Chapter 6 of the EIAR deals with land, soils and geology, and includes the findings of initial site investigations carried out during 2021 comprising trial hole testing. A Preliminary Site Investigation report is appended to this section of the EIAR.

14.8.2. There is extensive hardstanding over the area adjoining the school buildings, including the quadrangular yard area. Top soil on site to depths of 0.35m to 0.45m was recorded as comprising a dark brown slightly sandy variety, sitting above a layer of light brown, loose, slightly sandy clay to depths of 0.8m to 1.2m. Below this a firm brown clay with some small cobbles was recorded to depths of 2.5m to 3m and investigations were concluded upon reaching a stiff to very stiff, black boulder clay with small angular gravels at depths to 4.6m. Review of the Geological Survey of Ireland (GSI) online mapping service indicates topsoils on site primarily consisting of 'till derived from limestone' with a 'bedrock outcrop or subcrop' along the eastern boundary. GSI mapping information refers to the site featuring bedrock 'Visean Limestone and Calcareous Shale derived from limestone', as well as bedrock outcrop on the southeast corner.

14.8.3. The proposed development would result in the continued use of zoned land for development purposes, including residential uses, but at a more intensive scale. Given that zoned land would remain available in the wider region, this is not considered to be a significant effect of the project.

- 14.8.4. The construction phase of development would feature excavations to approximately 5m below ground level for basements and to 2m to 3.5m below ground level for services. Works would also require the removal of a 0.1m-depth of the existing topsoil layer. Subsoil stripping, excavation works and localised stockpiling of soil will be required during construction. It is estimated that 93,519m³ of materials would be excavated to facilitate construction of the proposed project, 15,873m³ of which would be reused for fill purposes on site and 77,646m³ would be exported to a licenced facility. Importation of structural fill will be required for pavement foundations, drainage and utility bedding. The proposed development would not require substantial changes in the levels of the site. It is therefore unlikely that the proposed development would have significant effects with respect to soil and geology on site.
- 14.8.5. Significant cumulative impacts alongside other development in the area are not considered to arise. Observers have raised issues regarding the nuisance that would be caused by the construction phase of the development, however, I am satisfied that an appropriate construction traffic management plan can address issues that would arise from the export and importation of materials to and from the site, and the project dust management plan, as outlined in appendix 8.3 of the EIAR would manage and minimise dust emissions. Various standard construction practices forming measures to address the potential for hazardous materials to be found during demolition and excavation works and to address the risk of pollution to soils and groundwater are also set out.
- 14.8.6. I am satisfied that the identified impacts on land, soils and geology would be avoided, managed and mitigated by the measures that form part of the project, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the project would not have any unacceptable direct or indirect impacts in terms of land, soils and geology.

14.9. **Water**

- 14.9.1. Chapter 7 of the EIAR addresses the impacts of the proposed development on water. The site lies within the River Liffey subcatchment and the Liffey and Dublin Bay Hydrometric Area. The River Liffey is the closest watercourse to the application site and this is a designated Environmental Protection Agency (EPA) watercourse located approximately 150m to the north of the site. Impacts arising from the

proposed development could potentially result in significant alterations to receiving water. Under the Water Framework Directive (WFD) the overall status of the River Liffey waterbody closest to the application site (between 2013 and 2018) was assessed as being 'moderate'. The Liffey Estuary Upper and Dublin Bay waterbodies have 'good' water quality status for the purposes of the WFD. Under the third cycle of the WFD, the River Liffey waterbody closest to the application site has a WFD risk score of 'at risk' of not achieving good status, while the Liffey Estuary Lower waterbody has a WFD risk score subject to 'review'. Dublin Bay waterbody has a WFD risk score assigned as 'not at risk'. The most recent surface water quality data for the Liffey Estuary Lower and Dublin Bay (2019-2020) indicate that they are 'Unpolluted'. The most recent WFD groundwater status for the Dublin groundwater body is 'good' and with a current WFD risk score subject to 'review'. Groundwater vulnerability is identified as being moderate and extreme for the site based on GSI mapping with the rock outcrop on the east side of the site again identified in mapping. The water table was not reached in any of the trial holes excavated during site investigations.

- 14.9.2. The water supply for the proposed development would be from a connection to the existing 225mm cast-iron watermain running along Ballyfermot Road. An average daily domestic demand for 2,503 persons has been calculated when the site is fully occupied. Irish Water has confirmed that a new connection from the public network is feasible.
- 14.9.3. It is proposed to drain foul effluent from the proposed development to an existing sewer running through the site. The sewer network that would serve the development ultimately discharges for treatment to Ringsend Wastewater Treatment Plant. Irish Water has not objected to the proposed diversion of the wastewater sewer and the connection of the proposed development into their network.
- 14.9.4. Proposals with respect to surface water drainage are outlined within section 13.9 above. Surface water is intended to drain following a series of interception measures before discharging to subsurface drains along Ballyfermot Road. The discharge from these subsurface drains to the River Liffey. There is potential for impacts to arise during the construction phases of the proposed development from the emission of sediments or hydrocarbons to surface water. The potential for such effects would be typical for projects involving redevelopment of urban sites.

Potential impacts would also arise on receiving waters during the operational phase of the project, with SUDS measures to be introduced and connections to services. Standard measures to avoid pollution of waters are to be used and these are described in section 7.6 of the EIAR. The efficacy of such measures is well established in practice. It is reasonable to conclude that the construction of the proposed development would not be likely to lead to a deterioration in the quality of downstream waters.

- 14.9.5. The proposed project was subject to a Site Specific Flood Risk Assessment in accordance with the OPW 'Flood Risk Management Guidelines', and this was included with the planning application as a separate document. The Site Specific Flood Risk Assessment states that the development would be located in Flood Zone C and it would have the required level of flood protection. The design of the development has been undertaken in a manner that would replicate the existing topography on site, as closely as possible and to avoid concentration of additional surface water flows in a particular location. The proposed storm water system has been designed to retain a 1-in-100 year storm event (plus 20% storm level), therefore, the proposed development would reduce the risk of pluvial flooding on site and would not increase the potential for flooding to the receiving catchment. Overland flood flow routes to the surface water drainage outfall and landscape features are proposed. Regular maintenance details to be undertaken are referenced within the applicant's Engineering Services Report.
- 14.9.6. I have considered all of the written submissions made in relation to water and the relevant contents of the file, including the EIAR. I am satisfied with the level of information submitted, and any issues of a technical nature can be addressed by condition as necessary. It can be concluded that, subject to the implementation of the measures described in the EIAR and conditions in the event of a permission, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.

14.10. Air Quality and Climate

- 14.10.1. Air quality and climate are addressed in chapter 8 of the EIAR. The proposed apartments and associated uses would not accommodate activities that would

typically cause emissions that would be likely to have significant effects on air quality and climate. Baseline conditions and traffic modelling amongst other criteria has guided this aspect of the EIAR.

14.10.2. Impacts to climate during the construction/demolition phase are considered to be imperceptible, neutral and short-term based on the nature and scale of the project, including the likely materials and machinery required. Measures have been incorporated into the overall design of the development to reduce the impact to climate where possible during the operational phase, including energy-saving features, as well as a Mobility Management Plan to reduce use of private motor vehicle trips. It is predicted that in the opening year for the development, it would increase carbon dioxide emissions by 0.00001% of the EU 2022 target. In 2039 carbon dioxide emissions would remain at 0.00003% of the EU 2037 target. I recognise that these targets are constantly evolving, however, the level of carbon dioxide emissions is not substantive. The climate impact of the proposed development is considered negative, long-term and imperceptible for the operational phase.

14.10.3. Potential air quality impacts on ecological sites can be scoped out based on the separation distances achieved and TII guidance on this matter. There is potential for dust emissions to occur during the construction phase to other sensitive receptors in the vicinity, including humans, and the applicant considers that this could have a potential significant impact. Measures are proposed to mitigate impacts on air quality, including a dust management plan incorporating various dust suppression measures that would feature typical and robust measures in effectively addressing emissions to air during the construction phase of a development of this nature. Monitoring during the construction phase is also proposed to mitigate any impacts arising on sensitive receptors. Traffic volumes for the operational phase of the development have been modelled and significant impacts are not envisaged on air quality. The development includes a childcare facility and non-residential units, such as commercial, community and restaurant / café units, which may be served by external plant, such as air-handling units. I do not anticipate that any significant impacts would arise from these uses, as standard conditions concerning noise and positioning of plant could be attached in the event of a grant of permission for each

of these uses. It is therefore concluded that the proposed development is unlikely to have significant effects on air quality.

14.10.4. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that 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. With regard to cumulative impacts, no significant cumulative impacts on the air quality and climate are anticipated.

14.11. Noise and Vibration

14.11.1. Noise and vibration impacts are addressed in chapter 9 of the EIAR. Both the outward impact of the development and the inward impact of existing noise and vibration sources on the development itself were considered with noise limits identified, as well as vibration limits. The proposed development would have the potential for significant impacts for neighbouring properties, arising from noise and vibration emissions during the construction phase, as well as the potential for significant impacts for future residents, arising from inward noise during the operation phase.

14.11.2. The applicant refers to guidance within BS 5228-1:2009 with regards to the assessment of noise impacts. Noise was surveyed from four points. Background noise was established to largely arise from traffic movement along the Ballyfermot Road, residential estates and Chapelizod bypass, as well as human activities and birdsong. Noise and vibration impacts would be most likely to arise during the construction phase of the development with potential nuisance for neighbouring receptors, as referenced in observations to the application. Particular noise sources would arise from the demolition and excavation works, although piled foundations are not anticipated. The nearest sensitive receptors within 20m and 35m of the application site are identified, including the Candle Community Trust facility (see figure 9.4 of the EIAR). The developer accepts that the predicted construction and demolition noise levels at the nearest sensitive receptors would be above the relevant construction noise criteria and in the absence of noise mitigation, a negative, significant and short-term impact would be likely to arise. A suite of noise

reductive measures for the construction phase of the project are set out, including selection of quiet plant, noise control at source, screening, liaison with the public and monitoring. A neutral, imperceptible long-term impact arising from the additional traffic associated with the development is anticipated in the operation stage. A minor increase in noise levels is anticipated along Lynch's Lane arising from the additional traffic on this roadway.

- 14.11.3. The future noise environment was modelled and assessed to identify likely requirements to address noise impacts. The EIAR outlines the standards to be achieved in the residential living areas with respect to noise levels and how this would be achieved. Measures to be undertaken to address noise during the operation phases, based on anticipated noise levels, standard limitations and design parameters are outlined, including the provision of relevant sound insulation. Noise levels are expected to increase for the higher floors within the development due to their context relative to the bypass traffic. A suite of operational mitigation measures addressing apartment/façade location, glazing, ventilation and wall construction are included, which would aim to ensure that the internal noise levels in apartments would come within the standard noise level limitations.
- 14.11.4. Significant levels of vibration were not noted in the area during baselines studies. Vibration during the construction programme is primarily associated with the ground-breaking activities, which would be of a short-term duration. The main potential source of vibration levels at the neighbouring receptors are not expected to pose any significance in terms of cosmetic damage to any of the residential or sensitive buildings in proximity to the development works. Vibration impacts at sensitive receptors during the construction phase would be mitigated by standard practices and conditions can be attached to further address this.
- 14.11.5. I have considered all of the written submissions made in relation to noise and vibration. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that 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 noise and vibration. With regard to cumulative impacts, should the proposed development occur simultaneously with the future school development on part of the site, cumulative negative, significant and short-term impacts for

neighbouring sensitive properties may arise according to the applicant. Co-operative scheduling of work between the sites is set out to ensure that relevant noise limit levels would not be exceeded by the works by either contractor at sensitive receptors.

14.12. Landscape and Visual Impact Assessment

- 14.12.1. Chapter 14 of the EIAR outlines the landscape and visual impacts that would arise from the development. To avoid repetition, I have assessed in detail the impact of the scale and height of the proposed development on the environs of the site from an urban design and planning perspective in the planning assessment of my report (see section 13.4).
- 14.12.2. The EIAR refers to the site location on a wooded escarpment along the Chapelizod bypass, 25m above the River Liffey. The immediate suburban landscape is stated in the EIAR to be punctuated by larger-scale uses and buildings embedded into the urban matrix, giving a greater civic weight to the site environs. Reference is made to the location relative to the Chapelizod ACA and the Liffey valley park conservation area, Liffey Vale, the Irish National War Memorial Gardens, Islandbridge and Phoenix Park. Recently permitted developments affecting the townscape baseline situation are identified, including six developments within 450m of the site, which I note would not feature building heights above five storeys. Other developments referred to by the applicant as providing precedent for the proposed development include Milner's Square (four to six storeys) and DCU (five to ten storeys) in Santry, which are over 8km to the northeast of the application site.
- 14.12.3. The site primarily comprises low-rise large former institutional and educational buildings alongside artificial surfaces generally used for yard space and car parking, as well as paddocks, playing pitches and dense treelines particularly along the site boundaries. The site includes a Protected Structure, as referred to in section 13.4 above, and the nearest area subject to ACA designation is located in Chapelizod village 220m to the north of the site. I am not aware of any other Protected Structures immediate to the site. The Development Plan does not identify any protected views or landscapes of particular value directly effecting the site.

14.12.4. The Planning Authority consider that the height of the proposed development should be reduced to seven or eight storeys to address the visual impacts of the proposal from Chapelizod village, Phoenix Park and the surrounding residential development. Observers consider the proposals would have negative, long-term, profound and obtrusive visual impacts and that this aspect of the proposals would materially contravene the provisions of the Development Plan, in particular with respect to the impact on Chapelizod ACA.

14.12.5. A booklet of verified views and CGIs, as well as contextual elevations and photomontages, accompanied the application and the EIAR. A total of ten short, nine medium and four long-range viewpoints are provided in the visual impact assessment. Six CGIs have also been submitted. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontages are taken from locations, contexts, distances and angles, which provide a comprehensive representation of the likely visual impacts from key reference points. I recognise that the building heights identified in figure 14.17 of the EIAR do not correspond with the proposed building heights in the application drawings. The CGIs and photomontages include visual representations, which I am satisfied would be likely to provide a reasonably accurate portrayal of the completed development in summer and winter settings with the proposed landscaping in a mature and well-maintained condition. Environmental conditions would also influence the appearance of the development from the selected viewpoints and I am not aware of any permitted proposals that would have substantive cumulative visual effects alongside the proposed development.

14.12.6. The applicant considers that the visual impact of the proposed development would be moderate neutral and that the established neighbouring residential areas would be largely unaffected by imperceptible views of the development and moderate effects closer to the subject site. The following table 5 provides a summary assessment of the likely visual change from the applicant's selected viewpoints with the completed proposed development in situ.

Table 5. Viewpoint Changes

No.	Location	Description of Change
1	St. Laurence Road – 160m east	Upper-level building formation to blocks D and F would be visible with screening of lower elements by topography, existing buildings and trees during summer time. I consider the magnitude of visual change from this short-range viewpoint to be moderate in the context of the receiving urban environment.
2	Ballyfermot Road – 170m east	Upper-level building formation to blocks B and C would be visible with screening of lower elements by existing buildings. I consider the magnitude of visual change from this short-range viewpoint to be moderate in the context of the receiving urban environment.
3	Markievicz Park – 190m south	Upper-level building formation to blocks B, C and H would primarily be visible with screening of lower elements by existing trees. I consider the magnitude of visual change from this short-range viewpoint to be significant in the context of the receiving parkland environment.
4	Garryowen Road – 145m north	The entire façade to blocks B and C, as well as the upper-floors to block H, would be visible from this short-range viewpoint approaching the site. An open boundary would be provided onto Ballyfermot Road and the proposed development would close the streetscape. I consider the magnitude of visual change from this short-range viewpoint to be significant in the context of the receiving urban environment.
5	Muskerry Road – 260m southwest	Upper-level building formation would be visible with screening of lower elements by existing housing and trees. I consider the magnitude of visual change from this short-range viewpoint to be slight in the context of the receiving urban environment.
6	Ballyfermot Road – 120m east	Building blocks A, B and H and upper-level building formation to blocks C and G would be visible with screening of some lower elements by existing boundary and street trees. I consider the magnitude of visual change in winter from this short-range viewpoint to be

		significant in the context of the receiving urban environment.
7	Ballyfermot Road roundabout – 220m west	Building blocks A and B and upper-level building formation to block H would be visible with screening of some elements by existing boundary trees. I consider the magnitude of visual change from this short-range viewpoint to be moderate in the context of the receiving urban environment.
8	The Steeples – 70m east	Upper-level building formation, including upper floors to blocks C and D, would be visible with screening of lower elements by existing housing. I consider the magnitude of visual change from this short-range viewpoint to be moderate in the context of the receiving urban environment.
9	Convent Lawns – 280m northwest	Upper-level building formation comprising three storeys to the tallest element in block H, would be visible from this location with screening of the lower levels provided by existing buildings, structures and trees. I consider the magnitude of visual change from this short-range viewpoint to be slight in the context of the receiving parkland environment.
10	Chapelizod Hill Road – 425m northwest	Visibility of the subject development would be restricted. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
11	Phoenix Park (Military Road) – 1.8km northeast	Upper-level building formation, including much of the tallest element in block H would be visible from this location and would appear as substantive additions to the urban skyline with screening of the lower levels provided by mature trees in the park. I consider the magnitude of visual change from this medium-range viewpoint to be moderate in the context of the receiving parkland environment.
12	Phoenix Park - 1.4km northeast	With the exception of the three top storeys in block H, visibility of the subject development would be restricted by topography, as well as natural landscape features,

		including mature trees. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving parkland environment.
13	Phoenix Park (playing fields) – 1km northeast	Visibility of the subject development would be restricted by topography, as well as natural landscape features, including mature trees. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving parkland environment.
14	Phoenix Park (Upper Glen Road) – 700m north	Upper-level building formation, including seven storeys of block G and nine storeys to the tallest element in block H, would be visible from this location with screening of the lower levels provided by mature trees on the bypass escarpment and in the park. The proposed development would appear as a substantive addition in the urban skyline from this viewpoint. I consider the magnitude of visual change from this medium-range viewpoint to be significant in the context of the receiving parkland environment.
15	Chapelizod Road – 400m northeast	Upper-level building formation, including five storeys of block D, eight storeys of block F and five storeys of block G, would be visible from this location with some screening of the lower levels provided by mature trees on the bypass escarpment and in the river valley. The cluster of proposed buildings would appear as a substantive new feature in the urban skyline from this viewpoint. I consider the magnitude of visual change from this medium-range viewpoint to be significant in the context of the receiving urban environment.
16	Chapelizod Road – 350m north	Upper-level building formation, including five to six storeys of the proposed blocks F and G along the northern boundary, as well as the tallest element to block H, would be visible from this part of Chapelizod ACA with screening of the lower levels provided by mature trees. I consider the magnitude of visual change from this medium-range viewpoint to be significant in the context of the receiving historical urban environment.

17	Chapelizod Road (bridge) – 410m northwest	Upper-level building formation, including five to six upper floors of the proposed blocks F, G and H along the northern and eastern boundary would be visible from this bridge crossing in the ACA with screening of the lower levels provided by houses, topography and mature trees. I consider the magnitude of visual change from this medium-range viewpoint to be significant in the context of the receiving historical urban environment.
18	Chesterfield Avenue – 2km northeast	Visibility of the subject development would be restricted by topography, as well as natural landscape features, including mature trees. I consider the magnitude of visual change from this long-range view to be negligible in the context of the receiving urban environment.
19	Chesterfield Avenue – 2.7km northeast	Visibility of the subject development would be restricted by topography, as well as natural landscape features, including mature trees. I consider the magnitude of visual change from this long-range view to be negligible in the context of the receiving urban environment.
20	Usher's Quay – 4.3km east	Visibility of the subject development would be restricted by topography, as well as buildings. I consider the magnitude of visual change from this long-range view to be negligible in the context of the receiving urban environment.
21	Royal Hospital Kilmainham – 2.6km east	Visibility of the subject development would be restricted by topography, as well as natural and manmade landscape features. I consider the magnitude of visual change from this long-range view to be negligible in the context of the receiving urban environment.
22	Irish War Memorial Gardens – 1.5km east	Visibility of the subject development would be restricted by natural landscape features, including mature trees. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
23	Irish War Memorial Gardens – 1.5km east	Visibility of the subject development would be restricted by topography, as well as natural and manmade landscape features. I consider the magnitude of visual change from

		this medium-range view to be negligible in the context of the receiving urban environment.
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14.12.7. The proposed development would change the site from a low-rise former education and institutional development on extensive open grounds to a high-density apartment scheme with a cluster of buildings of up to 13 storeys. This represents a substantial increase in building heights and scale when considering the existing low-rise buildings primarily characterising the site, the immediate area and the wider urban district. The development would substantially alter the character of the site and the magnitude of visual impact on the townscape would be significant, particularly where the tallest of the new apartment buildings project over existing natural and built screening.

14.12.8. I am satisfied that the visual change would be largely imperceptible from long-range views, while slight to moderate impacts would be likely from much of the adjoining areas, including housing areas to the east. Significant visual impacts would arise on the immediate approaches to the site from Ballyfermot Road, Garryowen Road and Markievicz Park, and from the river valley area to the north. Where partially discernible from the some mid-range views, the proposed development would read as a substantive new addition in the wider urban landscape, although screening offered by existing buildings and mature tree planting would help to mitigate the visual impact of the development from these views. Upper floor formation in various blocks within the development would project substantively above the existing urban skyline and would appear as significant additions in the city skyline, particularly from the immediate approaches to the south and west, from Chapelizod village and Chapelizod Road, and from the Glen Road in Phoenix Park. While the proposed buildings would be of reasonable contemporary architectural quality, the extent at which these buildings would break the urban skyline would be substantially at odds with the surrounding cityscape and I am not satisfied that this new addition would have a positive contribution to the character of this city area.

14.12.9. In conclusion, the taller elements of the proposed apartment buildings would fail to be appropriately absorbed at the local neighbourhood or wider district level, as these building heights would not enhance the character and appearance of the area and the visual change arising from the proposed development would be significant without some form of mitigation. The assessment above clearly indicates that it is

those taller elements of the development that have hindered the development being appropriately absorbed into the local neighbourhood and wider district from a visual perspective. The clustering of the tallest blocks effectively presents the greatest visual impact. Blocks F, G and H would consistently substantively break the skyline and their positioning on elevated ground would read as an overly dominant cluster of buildings, which would lead to the development dominating the urban skyline in immediate and wider areas. Notably, it is these blocks F, G and H that feature building heights greater than eight storeys. Consequently, and with the benefit of the photomontages for visual analysis, I am satisfied that my assessment would suggest more reasonable maximum heights for the buildings proposed as part this development would be in the order of no more than eight storeys and a planning condition would be necessary to address this in the event that the Board decided to grant planning permission for the proposed development.

14.12.10. I have considered all of the written submissions made in relation to landscape and visual impacts, and considered in detail the urban design and place-making aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified significant visual impacts could be avoided, managed and mitigated by conditions of a permission, and, subject to this, I am satisfied that the proposed development would have acceptable direct, indirect and cumulative effects on the landscape and acceptable direct, indirect and cumulative visual impacts.

14.13. Material Assets

14.13.1. Material assets specifically addressing utilities and services are dealt with under chapter 10 of the EIAR, while material assets addressing transportation are dealt with under chapter 11 and material assets addressing resource and waste management are dealt with in chapter 12. As noted above, the development is likely to have a significant impact on material assets by increasing the housing stock that would be available in this urban area, and as noted throughout the planning assessment, the development would also improve the amenities of the area by providing public open space, including playing pitches, with strategic links to other green space, and additional community services.

14.13.2. In terms of utilities, an overview of the local water supply, foul and surface water drainage, gas and telecommunications, and the electrical supply network is provided by the application. The EIAR states that utilities required to serve the proposed development can be facilitated based on consultations with utility providers. Much of the mitigation and remedial measures for utilities overlap with other measures proposed in the EIAR, including measures to control emissions and to address the protection of soils and receiving surface water. Gas infrastructure is not proposed to serve the development, as it is intended that air to heat pumps would be installed throughout the development. Limited details of wireless telecommunications infrastructure are provided with the application, as the EIAR solely addresses underground telecommunications utilities. The applicant asserts that no significant impacts on telecommunications systems are anticipated, although it is not clear how this has been arrived at based on the information provided. As noted above, given the proposed height of buildings in an elevated urban context, the applicant should be requested to provide a Telecommunications Report to address any potential impacts on microwave links, including measures to address impacts arising.

14.13.3. Observers and Elected Members have raised concerns in relation to public transport services and the car parking proposed. I have addressed these issues under section 13.3 (density) and section 13.8 (traffic and transport) of my report. With the exception of Lynch's Lane, the proposed development would have a low to moderate impact upon the operational capacity of road junctions, and the construction phase impacts on traffic would be managed as part of a construction traffic management plan. Only 50 construction staff are anticipated per development phase, thereby curtailing traffic movements into and out of the site. Mobility around the site would not be impaired as part of the construction phase and construction staff would increase use of public transport in the area. Residents of the development and other permitted developments would also place additional demands on public transport, the carrying capacity of which can be readily increased, as necessary. The development would include measures to upgrade access and movement along Ballyfermot Road, although it would not necessarily improve connectivity within the area. As suggested above, pedestrian paths on site should be extended to the eastern side of the site to potentially facilitate future improved connectivity towards Chapelizod village and other areas to the north of the site. Cumulative

considerations alongside the core bus corridor works and the future potential school site, as well as other permitted developments in the wider area, are accounted for in the applicant's traffic and transportation assessment. The site has reasonable access to public transport services and the development would feature a reasonable provision of parking relative to the appropriate standards. A mobility management plan, as well as car and cycle space parking management plans would be implemented to serve the development and reduce impacts on traffic. As noted above, the applicant asserts that moderate impacts on Lynch's Lane would arise from the increased traffic on this road, however, the Planning Authority assert that this impact would be significant. I am satisfied that the anticipated increase in traffic volumes on this road, greater than 10% of the existing peak hour volumes, would be significant, although this appears to be largely predicated on the fact that the lane currently only serves a small number of properties. Redesign of the road infrastructure to meet the stated requirements of the Planning Authority is recommended as a condition in the event of a grant of planning permission and measures would be employed to ensure the free flow of traffic along this route during both the construction activities and operational phase of the proposed development.

14.13.4. A project specific construction and demolition waste management plan has been prepared for the initial phases of the project (see appendix 12.1 to the EIAR), including the removal of the existing buildings, the excavated materials and the top layer of ground, as referred to above with respect to land, soils and geology. An operational waste management plan has been prepared for the operation phase of the project based on the anticipated level of service relative to the expected population equivalents, as referenced above under section 13.7 of my planning assessment.

14.13.5. I have considered all of the written submissions made in relation to material assets, including those relating to traffic and transport, and drainage services. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets, including utilities, waste management, traffic and transport.

14.14. Cultural Heritage, Archaeology and Architectural Heritage

- 14.14.1. Chapter 13 of the EIAR describes and assesses the impact of the development on archaeology and cultural heritage. The site itself features extensive green areas, as well as buildings of architectural and historical significance. The impact of the development on the architectural heritage of the site and wider area is considered in section 13.4 above. In considering the proposals for demolition of the monastery building and other associated structures that are not within the Record of Protected Structures, I concluded that the works would appear reasonable, given the overall development strategy in providing for efficient use of these urban lands, while generally refurbishing and renovating the features of architectural and cultural heritage on site that are most worthy of conserving. As distinct elements of the Protected Structure the assessment concluded that the loggia features attached to the central classroom block should be maintained as part of the development and various other details should be requested as a condition in the event of a permission, including a record of the building and historically relevant materials / repairs. Reuse of the classroom block as a childcare and community facility would safeguard its conservation and would not strip the building of its value and distinctiveness as a Protected Structure. The proposals are not considered to detrimentally impact on the cultural heritage of the area, the character or setting of the Protected Structure and the nearest neighbouring conservation areas.
- 14.14.2. In terms of archaeological potential, the applicant undertook a desk-based study and field inspection. The applicant's surveying assessed land-use patterns, site topography and the presence of any previously unrecorded sites of archaeological and cultural heritage interest. Various potential archaeological features were identified during analysis, including field and townland boundaries, evidence of human activities, a quarry and structures.
- 14.14.3. A chronological description of the historical context for the site is provided and the applicant states that there are numerous recorded monuments and places (RMPs), proximate to the development, of which Phoenix Park archaeological complex is the closest to the application site (RMP ref. DU018-007). The findings of known archaeological surveying in the immediate area to the site are identified in the EIAR.

The conclusions of the surveying undertaken is asserted to reveal that there is clear archaeological potential identified for the site.

14.14.4. The Department of Housing, Local Government and Heritage has requested that a condition be attached in the event of a permission for the development requiring pre-development archaeological assessment, as well as archaeological preservation if deemed necessary. I am satisfied that given the evidence presented, the proposals to redevelop the site would not give rise to a situation that would preclude the granting of permission for substantive archaeological reasons. Notwithstanding this, given the potential for known and unknown archaeological features to survive on site, a condition similar to that required by the Planning Authority with respect to archaeological assessment and monitoring would appear reasonable and necessary to attach in the event of a grant of permission for the proposed development.

14.14.5. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts on archaeology, architectural and cultural heritage would be avoided, managed and mitigated by the measures that form part of the proposed scheme, by the proposed mitigation measures and through suitable conditions. I am satisfied that the proposed development would not have any significant direct or indirect impacts on archaeology, architectural and cultural heritage.

14.15. The interaction between the above factors

14.15.1. Chapter 15 of the EIAR includes Table 15.1 addressing the interactions between each of the environmental disciplines and whether this interaction would occur at the construction or operational phase of the development. This is preceded by Table 15.2, which comprises a matrix of where significant interactions would occur between the environmental disciplines. All interactions between the various elements of the project were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects would arise as a result of the interaction of the various elements of the development with one another. A total of 29 potential interactions between the assessed disciplines are considered to arise in the EIAR, including the potential for population and human health impacts to interact with four of the 11 environmental disciplines during the construction phase and two of the

disciplines during the operation phase. For example, an interaction between human health and population with air quality and climate, would arise from dust generation during construction works, which could lead to localised dust emissions at neighbouring properties, particularly during dry and windy weather conditions.

14.15.2. I have considered the interrelationships between the factors and whether these may as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures to be put in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified by the applicant. I am satisfied that in general the various interactions were properly described in the EIAR.

14.16. Cumulative Impacts

14.16.1. The proposed development could occur in tandem with the development of other sites that are zoned for development in the area, including the future potential school on the application site, which the Department of Education may require to potentially cater for 500 to 1,000 pupils within 16 or 32 classrooms. Permission has also been granted for substantive residential developments in the neighbouring area, a number of which are discussed above. The observers assert that the EIAR fails to provide a comprehensive cumulative impact of the proposed development, including other strategic housing developments.

14.16.2. Throughout the EIAR the applicant has referred to the various cumulative impacts that may arise for each discipline, as a result of other existing and permitted developments in the environs of the site. Such development would be largely in accordance with the nature and scale of development envisaged for the area within the Development Plan, both of which have been subject to Strategic Environment Assessment (SEA). Subject to conditions addressing the height and scale of the tallest apartment blocks and addressing the proximity of block E (building 1) to neighbouring residences, the nature, scale, form and character of the project would generally be similar to the nature, scale, form and character of development envisaged for the site within the adopted statutory plan for this area. Subject to a conditions omitting commercial and retail / café units and requiring the provision of ancillary facilities for the playing pitches, the nature and scale of the proposed development would be in keeping with the zoning of the site and other provisions of

the Development Plan. Subject to conditions, the proposed development is not likely to give rise to environmental effects that were not envisaged in the statutory plan, which was subject to SEA. It is therefore concluded that the cumulative effects from the planned and permitted developments in the area and the subject project 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.

14.17. Reasoned Conclusion on the Significant Effects

14.17.1. 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 observers in the course of the application, it is considered that the main potential direct and indirect effects of the proposed development on the environment are as follows:

- significant direct positive impacts with regard to population and material assets, due to the substantive increase in the housing stock during operational phases;
- direct negative effects arising for human beings during the operation phase as a result of the potential for excessive direct overlooking from building 1 of block E to housing along The Steeples, which would be mitigated by a condition omitting this block;
- direct negative effects arising from noise during the construction phase and indirect negative effects arising from noise during the operation phase, which would be mitigated by a suite of appropriate construction phase management measures and building design specifications for the proposed apartments;
- indirect negative effects on water, which would be addressed during the construction phase by management measures to control the emissions of sediment to water and addressed during the operational phase by the proposed system for surface water management and the drainage of foul effluent to the public foul sewerage system for treatment;
- significant direct negative effects for traffic during the operational phase along Lynch's Lane, which would be mitigated by the low level of traffic currently experienced on this road, the routing of traffic through the development and use

of an alternative entrance onto Ballyfermot Road, and by compliance with a condition requiring redesign of the road and parking layout along Lynch's Lane;

- significant direct negative effects on the landscape, as the proposed development would feature buildings of excessive heights and scales relative to the surrounding context and on an elevated site, which would be highly visible from immediate approaches to the east and south, and the surrounding areas, particularly in the river valley and Chapelizod village area to the north, the height and scale of which would not be reasonably justified by the overall design and quality of the buildings and the provisions set out in the Development Plan, which would be mitigated by a condition restricting the heights and scales of the proposed buildings to no more than eight storeys, in order to reduce the dominance of the proposed cluster of buildings within the townscape.

14.17.2. 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 all of the individual EIAR chapters are satisfactory, and I am satisfied with the information provided to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. Arising from my assessment of the project, including mitigation measures set out in the EIAR and the application, and as conditions in the event of a grant of planning permission for the project, the environmental impacts identified would not be significant and would not justify refusing permission for the proposed development.

15.0 Appropriate Assessment

15.1.1. The requirements of Article 6(3) of the Habitats Directive, related to screening the need for appropriate assessment (AA) of a project under section 177U of the Act of 2000, are considered in the following section.

15.2. Compliance with Article 6(3) of the EU Habitats Directive

15.2.1. The Habitats Directive deals with the conservation of natural habitats, including 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 AA of its implications for the site, in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of a European site before consent can be given. The proposed development on Ballyfermot Road, 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) of the Habitats Directive.

15.3. Stage 1 AA Screening

- 15.3.1. The applicant has submitted an AA Screening Report dated March 2022 and prepared by professional ecologists from Enviroguide Consulting. This Report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development.

Site Location

- 15.3.2. A description of the site is provided in section 1 above and throughout the assessments above. The site comprises brownfield and greenfield elements, and contains former educational and institutional buildings with associated lands, some of which were used for recreational purposes. The habitats recorded on site are listed under the biodiversity section of the EIA above. The River Liffey is located approximately 150m to the north of the application site and this is the closest substantial natural waterbody to the application site, flowing east towards Dublin Bay. The Grand Canal is situated 1km to the south. No Annex I habitats were recorded within the application site during the applicant's habitat surveys and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded as using the site. Medium-impact invasive species were recorded in locations on the application site, including butterfly bush and sycamore.

Proposed Development

- 15.3.3. A detailed description of the proposed development is provided in section 2 above and expanded upon below where necessary. Details of the construction phase of the development are provided throughout the application documentation, including the Preliminary CEMP and the Material Assets (Transportation) section of the EIAR.

Foul wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Ringsend Wastewater Treatment Plant (WWTP). Following various standard practice construction site environmental management measures, as well as SUDS measures, surface waters would be discharged into the network running along Ballyfermot Road, which the applicant states in their AA Screening Report to drain into a stormwater pipe draining into the River Liffey. Ultimately the resultant treated wastewaters and surface waters from the proposed development would discharge to Dublin Bay.

15.3.4. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
- Operation Phase – disturbance, surface water runoff and emissions to water.

Submissions and Observations

15.3.5. The submissions and observations from observers, the Planning Authority and prescribed bodies are summarised in sections 9, 10 and 11 of this Report. The Planning Authority refer to An Bord Pleanála as being the competent authority for the purposes of appropriate assessment of strategic housing development applications. The IFI and the Department of Housing, Local Government and Heritage acknowledge that the application provides details of measures to be undertaken to address impacts to surface waters entering the River Liffey. The Department require these measures to be incorporated into the final project CEMP and implemented in full, while the IFI require the CEMP to incorporate all mitigation measures stated within the EIAR.

European Sites

15.3.6. The nearest European sites to the application site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 6. European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction

004024	<p>South Dublin Bay and River Tolka Estuary SPA</p> <ul style="list-style-type: none"> • 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> [A149] • 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 [A193] • Arctic tern [A194] • Wetland and waterbirds [A999] 	7.6km	east
000210	<p>South Dublin Bay SAC</p> <ul style="list-style-type: none"> • 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] 	8.7km	east
001209	<p>Glenasmole Valley SAC</p> <ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Petrifying springs with tufa formation (Cratoneurion) [7220] 	9.6km	south
001398	<p>Rye Water Valley / Carton SAC</p> <ul style="list-style-type: none"> • Petrifying springs with tufa formation (Cratoneurion) [7220] • Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] • Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] 	10.0km	west
004006	<p>North Bull Island SPA</p>	10.9km	northeast

	<ul style="list-style-type: none"> • Light-bellied brent goose [A046] • Shelduck <i>Tadorna</i> [A048] • Teal <i>Anas crecca</i> [A054] • Pintail <i>Anas acuta</i> [A054] • Shoveler <i>Anas clypeata</i> [A056] • Oystercatcher [A130] • Golden plover <i>Pluvialis apricaria</i> [A140] • Grey plover [A141] • Knot [A143] • Sanderling [A144] • Dunlin [A149] • Black-tailed godwit <i>Limosa</i> [A156] • Bar-tailed godwit [A157] • Curlew <i>Numenius arquata</i> [A160] • Redshank [A162] • Turnstone <i>Arenaria totanus</i> [A169] • Black-headed gull [A179] • Wetland and waterbirds [A999] 		
000206	<p>North Dublin Bay SAC</p> <ul style="list-style-type: none"> • 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 [1330] • Mediterranean salt meadows [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • Petalwort <i>Petalophyllum ralfsii</i> [1395] 	10.9km	northeast
002122	<p>Wicklow Mountains SAC</p> <ul style="list-style-type: none"> • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Natural dystrophic lakes and ponds [3160] 	12.0km	south

	<ul style="list-style-type: none"> • Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] • European dry heaths [4030] • Alpine and Boreal heaths [4060] • Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] • Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] • Blanket bogs (* if active bog) [7130] • Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] • Calcareous rocky slopes with chasmophytic vegetation [8210] • Siliceous rocky slopes with chasmophytic vegetation [8220] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • <i>Lutra lutra</i> (Otter) [1355] 		
004040	<p>Wicklow Mountains SPA</p> <ul style="list-style-type: none"> • Merlin (<i>Falco columbarius</i>) [A098] • Peregrine (<i>Falco peregrinus</i>) [A103] 	13.2km	south
000199	<p>Baldoyle Bay SAC</p> <ul style="list-style-type: none"> • 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] 	16.0km	northeast
004016	<p>Baldoyle Bay SPA</p> <ul style="list-style-type: none"> • 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] 	16.0km	northeast

004113	Howth Head Coast SAC <ul style="list-style-type: none"> • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • European dry heaths [4030] 	16.5km	northeast
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15.3.7. In determining the zone of influence for the proposed development I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site. Table 2 of the applicant’s screening report identifies the potential links from European sites to the application site. Distances and direction from the site to European sites are listed in table 6 above. I do not consider that any other European Sites other than those identified in table 7 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

Table 7. Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf	Weak hydrological connections exist through: Surface water ultimately discharging to Dublin Bay Wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.	Yes
North Bull Island SPA 004006	QIs – 18 bird species To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it To maintain the favourable conservation condition of the qualifying species		

North Dublin Bay SAC 000206	QIs – ten coastal habitats and species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf	Potential for loss of ex-situ foraging habitat on site and collision risk from proposed buildings for Black-headed gull and Light-bellied Brent Geese, which are species of conservation interest for SPA sites within foraging / commuting range of the application site.	
South Dublin Bay SAC 000210	QIs - 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] https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf		

15.4. Potential Effects

15.4.1. Habitat loss and fragmentation would not arise given the location and nature of the site. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- surface water drainage from the proposed development site during construction and operational phases;
- loss of ex-situ foraging habitat during the construction phase;
- increased noise, dust and/or vibrations as a result of construction activity;
- control of invasive species during the construction and operation phase;
- increased wastewater being sent to Ringsend WWTP during the operational phase of the proposed development;
- collision risk for birds during the operational phase.

Construction Phase

- 15.4.2. There are no surface watercourses on site based on the survey data for the site and the drainage proposals submitted. Surface water from the proposed development would drain to the surface water sewer running along Ballyfermot Road, which drain into the River Liffey and ultimately drain into Dublin Bay coastal waters. According to the EPA, the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' based on categorisation for the purposes of the WFD.
- 15.4.3. The applicant states that in the event of rainfall, and in the absence of standard, appropriate mitigation measures, there is potential for sediments/pollutants from the site to enter the storm water drainage network, the River Liffey and ultimately Dublin Bay via surface water run-off during the construction phase of the Proposed Development.
- 15.4.4. Having regard to the information submitted with the application, including the Engineering Services Report, the Preliminary CEMP and the 'water' section of the EIAR, pollution sources would be controlled through the use of normal best practice construction site management. The proposed construction management measures outlined are typical and well-proven construction (and demolition) methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Furthermore, their implementation would be necessary for a residential development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. I am satisfied that the construction practices set out are not designed or intended specifically to mitigate any potential effect on a European site.
- 15.4.5. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the absence of a likely pollution source on the site, the considerable intervening distances and the volume of waters separating the application site from European sites in Dublin Bay (dilution factor).
- 15.4.6. In the event that the pollution and sediment-control measures were not implemented or failed during the construction phase, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites 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 European sites in Dublin Bay (dilution factor).

- 15.4.7. Survey details provided with the applicant's AA Screening report and the Biodiversity section of the EIAR do not highlight qualifying interest species or other species associated with the conservation objectives of European sites habituating the site or its adjoining area. Black-headed Gull and Light-bellied Brent Geese were identified as commuting through the site during winter bird vantage surveys, but evidence of these birds using the site at present has not been recorded. The applicant refers to evidence of the site having previously served as ex-situ habitat for Light-bellied Brent Geese, as well as reference to extensive use of other neighbouring areas, including Le Fanu Park and playing pitches in Phoenix Park, as ex-situ foraging habitat for Light-bellied Brent Geese. As the playing pitches have not been maintained since 2019 and the grassland areas on site reverted to a high-sward variety, the site is no longer considered to provide a suitable food source for these birds. I have no evidence that the application site is currently serving as ex-situ foraging habitat for birds identified as SCI for SPAs within foraging range of the application site. Accordingly, I am satisfied that loss of ex-situ foraging habitat during the construction phase would not arise.
- 15.4.8. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area.
- 15.4.9. Sycamore and butterfly bush has been identified within the site and standard management measures typically required to provide for their removal and disposal would be put in place as part of the project Construction Environmental Management Plan. Such management measures would be necessary for development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. I am satisfied that the management of these medium-impact invasive species would not be designed or intended specifically to mitigate any potential effect on a European site.

15.4.10. The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

Operational Phase

15.4.11. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through fuel interceptors and various other SUDS. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the application site from European sites in the Dublin Bay area (dilution factor).

15.4.12. Wastewater would ultimately be treated at Ringsend Wastewater Treatment Plant (WWTP) and the proposed development would result in a residential loading equivalent to approximately 2,503 residents based on the applicant's estimated water supply loading for the development. Having regard to the scale of the development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.

Notwithstanding this, water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and the control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying interests, consequent to changes to the physical structure of the habitats or to the vegetation structure that defines their favourable conservation status.

15.4.13. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay and that there is no possibility of

the operational of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay via surface water runoff and emissions to water.

15.4.14. Given the applicant's recordings of Light-bellied Brent Geese and Black-headed Gulls flying over this site, potentially to access nearby ex-situ foraging sites, coupled with the height of the proposed buildings, the applicant asserts in their AA Screening Report that the proposed development may pose a potential collision risk to Light-bellied Brent Geese and Black-headed Gulls associated with South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA. Furthermore, as the flock sizes of Light-bellied Brent Geese amounted to 120 individuals recorded flying over the site, the applicant asserts that a collision event for this species could result in a significant reduction in the population densities of these birds in the subject European sites. Contrary to this the applicant's EIAR asserts that the risk of collision for birds would be negligible for numerous reasons, including the apartments blocks design features and the stated evidence of the avoidance capabilities of coastal birds.

15.4.15. According to the applicant, the design of the proposed development would feature low window to ratio surface areas, visual cues in the form of balconies and overhangs, as well as fly-through conditions to reduce to negligible levels the collision risk for birds within the development area. There are much higher buildings in and around Dublin Bay and city centre that are crossed daily by birds moving out of the coastal area to inland feeding sites without incident. Furthermore, the supporting documents for the conservation objectives and the Natura 2000 data forms for the SPA sites do not refer to any collision risks. Buildings of similar heights to those proposed are common in urban environments and there is no objective evidence to suggest that they would present a significant risk of collision for birds. Accordingly, I consider it reasonable to screen out the potential for bird collisions with the proposed buildings to present a likely significant effect of the proposed development for the respective SPA sites in view of their conservation objectives.

In-combination Impacts

- 15.4.16. This project is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased wastewater volumes to the Ringsend WWTP. The Masterplan for the application site provides for a potential school development on a 0.5ha area alongside the proposed development, subject to a school of specific capacity being required on the site in the future.
- 15.4.17. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2016-2022. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Phased upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.
- 15.4.18. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

AA Screening Conclusion

- 15.4.19. The significant distance between the proposed development site and any European sites, and the very weak ecological pathways are such that the proposal would not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay.
- 15.4.20. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or

projects, would not have a significant effect on European sites, including European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.

15.4.21. I recognise that the applicant has considered that there would be potential for the proposed development to result in effects on the water quality within European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC), as well as disturbance and/or displacement and changes in population densities for bird species of special conservation interest associated with European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA) and European Site No. 004006 (North Bull Island SPA), and, as a consequence they concluded that a AA would be necessary, thus instigating the submission of a NIS for the proposed development with the application. Based on my assessment above, it appears that this approach was taken primarily out of an abundance of caution and a Stage 2 AA of the proposed development would not be necessary.

15.4.22. The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects on European sites, including measures referenced in the EIA above, have not been relied upon in reaching a conclusion in this screening process.

16.0 Conclusion and Recommendation

16.1. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be granted for the proposed development, subject to conditions, and for the reasons and considerations set out in the draft Order below.

17.0 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 13th day of April, 2022, by Dwyer Nolan Developments Ltd. care of Delphi Design, Architecture + Planning of 13 The Seapoint Building, 44-45 Clontarf Road, Clontarf, Dublin 3.

Proposed Development:

The development will consist of:

- demolition and removal of the east and west wings to a former national school measuring stated gross floor areas of 1,250sq.m and 1,244sq.m, school buildings and shelter structures (1,818sq.m), rear return to Protected Structure (121sq.m), two single-storey loggia structures (100sq.m) and the Mount La Salle monastery building (1,700sq.m);
- renovation works and change of use of the two-storey Protected Structure from former education use to childcare use on ground and first-floor levels (1,005sq.m) and community use (92sq.m) on ground floor;
- construction of 927 apartments in eight blocks of two to 13 storeys with residential amenity and support services (921sq.m), commercial uses comprising a commercial unit (107sq.m) and a retail / café unit (71sq.m);
- reserving of 0.5ha in the southwest corner of the site for a potential future school;
- vehicular access off Ballyfermot Road and Lynch's Lane, pedestrian access of Ballyfermot Road, upgrade works along Ballyfermot Road, including relocated bus stop, a new toucan crossing and the replacement of a pedestrian crossing with a toucan crossing;
- provision of 687 car parking spaces, 26 motorcycle parking spaces and 2,249 bicycle parking spaces;
- provision of 1.16ha of multi-use playing pitches in the northwest corner and 1.11ha public open space, including linked central spaces and plazas;
- provision of 8,339sq.m of surface and podium-level courtyards, as well as roof gardens serving as landscaped communal open space;
- relocation of access gate piers on Ballyfermot Road fronting the central classroom block;

- provision of ancillary areas, including bin stores, bicycle stores and plant rooms;
- all associated site and infrastructural works, including sustainable urban drainage systems, lighting, landscaping, green roofs, boundary treatments, signage and all associated site development works.

at De La Salle National School and Mount La Salle, Ballyfermot Road, Ballyfermot, Dublin 10.

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.

Reasons and Considerations

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

- a) The policies and objectives of the Dublin City Development Plan 2016-2022;
- b) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- c) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness issued by the Department of Housing, Planning, Community and Local Government in July 2016;

- d) The provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- e) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- f) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- g) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- h) The provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;
- i) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- j) The provisions of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- k) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- l) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- m) The pattern of existing and permitted development in the area;
- n) The provisions of Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting

permission for a development that materially contravenes a Development Plan or a Local Area Plan;

- o) The submissions and observations received;
- p) The Chief Executive's report from the Planning Authority;
- q) The report of the Planning Inspector.

Appropriate Assessment Screening

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 and observations on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning 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 section 172 of the Planning and Development Act 2000, as amended, 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, the Planning Authority, the observers, 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 the associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- significant direct positive impacts with regard to population and material assets, due to the substantive increase in the housing stock during operational phases;
- direct negative effects arising for human beings during the operation phase as a result of the potential for excessive direct overlooking from building 1 of block E to housing along The Steeples, which would be mitigated by a condition omitting this block;
- direct negative effects arising from noise during the construction phase and indirect negative effects arising from noise during the operation phase, which would be mitigated by a suite of appropriate construction phase management measures and building design specifications for the proposed apartment buildings;
- indirect negative effects on water, which would be addressed during the construction phase by management measures to control the emissions of sediment to water and addressed during the operational phase by the proposed system for surface water management and the drainage of foul effluent to the public foul sewerage system for treatment;
- significant direct negative effects for traffic during the operational phase along Lynch's Lane, which would be mitigated by the low level of traffic currently experienced on this road, the routing of traffic through the development and use

of an alternative entrance onto Ballyfermot Road, and by compliance with a condition requiring redesign of the road and parking layout along Lynch's Lane;

- significant direct negative effects on the landscape, as the proposed development would feature buildings of excessive heights and scales relative to the surrounding context and on an elevated site, which would be highly visible from immediate approaches to the east and south, and the surrounding areas, particularly the river valley, open recreational grounds and Chapelizod village area to the north, the height and scale of which would not be reasonably justified by the overall design and the quality of the buildings, which would be mitigated by a condition restricting the heights and scales of the proposed buildings to no more than eight storeys, in order to reduce the dominance and impact of the proposed cluster of buildings within the landscape.

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 including those permitting a total of 705 residential units with the omission / redesign of 222 residential units, the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, 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 scale of development, would be acceptable in terms of impacts on a protected structure and buildings of architectural / historical merit, would be acceptable in terms of traffic and pedestrian safety, flood risk and drainage, and would provide an acceptable form of residential amenity for future occupants.

The Board considered that with the exception of building heights and subject to the conditions set out below, the proposed development would be compliant with the Dublin City Development Plan 2016-2022, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that with the inclusion of conditions, a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Dublin City Development Plan 2016-2022, and it would materially contravene the Dublin City Development Plan 2016-2022 in relation to building heights. The Board considers that, having regard to the provisions of section 37(2) 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 proposed development is considered to be of strategic and national importance given its potential to substantively contribute to the achievement of the Government's national policy to increase housing supply, as set out in 'Housing for All – A New Housing Plan for Ireland' (2021) and 'Rebuilding Ireland - Action Plan for Housing and Homelessness' (2016) within the Dublin Metropolitan Area Strategic Plan Area on a high-capacity, high-frequency public transport corridor, with links to further sustainable modes of the transport network. Accordingly, the Board is satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the building height provisions of the Dublin City Development Plan 2016-2022;
- it is considered that permission for the proposed development subject to a condition restricting the building heights to no more than eight storeys should be granted having regard to Government policies, as set out in the National Planning Framework, in particular national policy objectives 13 and 35, provisions set out in the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, in particular regional policy objective 5.4, the Urban Development and Building Heights Guidelines for Planning Authorities (2018), in particular Specific Planning Policy Requirement 3(a). Accordingly, the Board is satisfied that the provisions set out under section 37(2)(b)(iii) are applicable with respect to the material

contravention of the building height provisions of the Dublin City Development Plan 2016-2022;

- it is considered that permission for the proposed development should be granted having regard to recent neighbouring permissions in the area, including the pattern of building heights granted permission under An Bord Pleanála references 312290-21 (Park West Business Park), 312218-21 (Concorde industrial estate), 311606-21 (Carriglea industrial estate site), 309627-21 (Davitt Road), 307092-20 (Kennelsfort Road Upper) and 303435-19 (Davitt Road). The proposed development is to an extent, continuing on the pattern of development granted in those permissions. Accordingly, the provisions set out under section 37(2)(b)(iv) are applicable with respect to the material contravention of the building height provisions of the Dublin City Development Plan 2016-2022.

18.0 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. The proposed development shall be amended as follows:
 - (a) the top floors of blocks F, G and H shall be omitted from the proposed development and the building heights for these blocks shall be reduced to not exceed eight storeys;

- (b) proposed building 1 on the south side of block E shall be omitted from the scheme and the resultant space landscaped as public open space and any alternative use of the resultant space shall be subject of a separate grant of planning permission;
- (c) the proposed commercial and retail / café units shall be omitted from the scheme and any future use of the associated space shall be subject of a separate grant of planning permission;
- (d) block G shall be redesigned compliant with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) and item (a) above and shall facilitate suitable ancillary facilities for the playing pitches to fully function and to be provided as part of the development, including changing rooms and toilets;
- (e) boundary treatments to secure the maintenance of the playing area and to provide for ball-stop netting in appropriate locations shall be provided to the playing pitches;
- (f) the proposed ground-floor apartments D016, D017, H002, H003, H004 and H005 in blocks D and H, shall be omitted from the scheme and any future use of the associated space shall be subject of a separate grant of planning permission;
- (g) the two existing single-storey loggia features connecting with the central classroom block shall be maintained and incorporated into the proposed development;
- (h) pedestrian routes on site providing for future potential level connections into The Steeples / Phoenix View development along the north and south sides of proposed building 2 to block E shall be provided;
- (i) a pedestrian route on site providing for a footpath connection along the east side of block C from proposed road 03/04 to the Ballyfermot Road shall be provided;

- (j) a pedestrian path adjacent and parallel to the west side of proposed road 04 connecting the pedestrian path on the east side of block B with the footpath along Ballyfermot Road shall be provided;
- (k) the elevational treatments serving blocks D and F, specifically units D001/D002 and D024, units D031 and D033, units D015 and D0041, units F016 and F073, as well as all units in a similar context and position directly above these units, shall be amended to address the potential for excessive direct overlooking between the respective units;
- (l) vertical privacy screens shall be provided to all adjoining terraces and balconies;

Revised drawings showing compliance with these requirements 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 interests of visual amenities, the amenities and safety of residents and the public, and to comply with the objectives of the Dublin City Development Plan 2016-2022.

- 3. The mitigation and monitoring measures outlined in chapter 16 of the Environmental Impact Assessment Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

- 4. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The first phase of the development shall consist of the crèche / childcare and community facilities, as well as a substantive portion of the public open space

and the main upgrade works along Lynch's Lane and Ballyfermot Road. The phasing scheme shall identify how vehicular access, as well as a sufficient quantum of parking spaces and open spaces to serve residents, occupants and visitors for each phase of the development, would be provided throughout the construction phases of the development, as well as all services, including drainage and external lighting.

- (b) Work on any subsequent phases shall not commence until substantial completion of Phase 1 or prior phase or such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed in writing with the planning authority.

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants and residents of the proposed units and the satisfactory completion of the overall development.

5. Prior to the commencement of any duplex unit in the development, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority and such agreement must specify the number and location of each duplex unit, pursuant to Section 47 of the Planning and Development Act 2000, as amended, which restricts the duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and or by those eligible for the occupation of social and/or affordable housing, including cost-rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description, in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless

otherwise 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.

7. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. The internal road network and works onto Ballyfermot Road and Lynch's Lane serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban roads and Streets.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage. All audits shall be carried out at the Developer's expense in accordance with the Design Manual for Urban Roads & Streets guidance and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures recommended by the Auditor shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall

be submitted and agreed with the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety and proper planning and sustainable development.

10. (a) The car parking facilities hereby permitted shall be reserved solely to serve the development on the subject site. An additional ten car-share parking spaces shall be allocated in the proposed development, replacing allocated residential car parking spaces. Car parking spaces shall not be utilised for any other purpose than those stated in the application, unless the subject of a separate grant of planning permission.
- (b) 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 car, cycle, motorcycle and car-share club parking, as well as visitor parking, shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed development.

11. Prior to the occupation of the development, a finalised Mobility Management Plan (Travel Plan) shall be submitted to and agreed in writing with the planning authority. These plans shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the extent of parking. 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.

12. Prior to the commencement of the development, a Telecommunications Report shall be submitted to and agreed in writing with the planning authority and this report shall address any implications for wireless telecommunications / microwave links arising from the proposed development and any measures to address same.

Reason: To ensure the continued availability of telecommunication services.

13. Prior to the commencement of the development, a Microclimate Impact Assessment Report shall be submitted to and agreed in writing with the planning authority and this report shall address any potential adverse wind impacts for the proposed development, as well as impacts arising from the proposed development and any measures to address same.

Reason: In the interests of residential amenity.

14. A minimum of 10% of all car parking spaces should be provided with electric vehicle charging stations/points, including all car club / car share spaces, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date.

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

15. All plant, including extract ventilation systems, shall be sited in a manner so as not to cause nuisance at sensitive locations due to emissions. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose

a nuisance at noise sensitive locations. Basement ventilation shall not be positioned adjacent to apartment terraces.

Reason: In the interests of residential amenity.

16. 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 visual amenities of the area.

17. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

18. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, including construction and maintenance plan details for green roofs.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with

the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

Reason: In the interest of public health and surface water management.

19. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open spaces, communal spaces, surface parking areas and the pedestrian / cycle routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area, as well as the requirements of a bat specialist and the Environmental Impact Assessment Report submitted with respect to bat species. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

20. 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.

21. Prior to the commencement of development on site, the following landscaping, open space and ecology details shall be submitted to and agreed in writing with the planning authority:
- a) The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, including the Landscape Design Statement, which accompanied the application, unless otherwise agreed in writing with the planning authority.

- b) Details of hard landscaping materials, including materials for the pedestrian routes and public open space.
- c) Further details of the play spaces and associated features assigned for children of all ages.
- d) Details of the public artwork feature proposed to be provided as part of the public open space.
- e) A report clarifying the status or absence of invasive species on the site and method to address same should invasive species be found.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the units are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In the interest of the environment, local and visual amenities.

- 22.** A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

- 23.** (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall

enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees to be maintained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity

24. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.

(b) A map delineating those areas to be taken in charge by the Local Authority, including the playing pitches and associated facilities and equipment, and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. The management scheme shall provide adequate measures

for the future maintenance of public open spaces, roads and communal areas.

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

25. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

26. The developer shall facilitate the preservation, recording and protection of archaeological materials or features which exist within the site. In this regard, the developer shall notify the planning authority in writing at least four weeks in advance of the commencement of development works on the site.

The developer shall also comply with the following requirements:-

- (a) The developer shall engage the services of a suitably qualified archaeologist to carry out an Archaeological Impact Assessment of the development site. The assessment will include the results of an archaeological geophysical survey. No subsurface work should be undertaken in the absence of the archaeologist without his/her express consent.
- (b) An archaeologist should carry out any relevant documentary research and inspect the site. Test trenches will be excavated at

locations chosen by the archaeologist (licensed under the National Monuments Acts 1930-2004), having consulted the site drawings.

- (c) Having completed the work, the archaeologist should submit a written report to the Planning Authority and to the Department of Housing, Local Government and Heritage in advance of the commencement of construction works. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to preserve the archaeological heritage of the site in situ or by record.

- 27. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

- 28. Prior to commencement of works, the developer shall make a record of the existing protected structure. This record shall include:
 - (a) a full set of survey drawings to a scale of not less than 1:50 to include elevations, plans and sections of the structure, and

(b) a detailed, labelled photographic survey of all internal rooms, including all important fixtures and fittings, the exterior and the curtilage of the building. This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works to the protected structure shall be submitted to the Irish Architectural Archive.

Reason: In order to establish a record of this protected structure.

29. The developer shall comply with the following requirements in relation to the proposed works to the protected structure, which shall be carried out in accordance with the document: “Architectural Heritage Protection – Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011):

- (a) where possible the remaining rainwater goods shall be repaired and reused, and any replacement rainwater goods shall match the original in terms of design and materials,
- (b) replacement capping to the gate piers to be relocated shall match the original in terms of design and materials,
- (c) replacement windows shall be modelled on historically correct windows and shall match them in dimensions, opening mechanism, profiles and materials.

Detailed elevation drawings to a scale of not less than 1:50, showing these amendments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure an appropriate standard of restoration works for this protected structure.

30. Prior to commencement of development, details of aeronautical requirements shall be submitted to, and agreed in writing with the planning authority. A minimum of 30 days prior to the commencement of any works

to erect crane operations on site, the developer shall notify the Dublin Airport Authority and the Irish Aviation Authority of the intention to undertake same.

Reason: In the interest of air traffic safety.

31. The construction of the development shall be managed in accordance with a final project Construction and Environmental 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 the construction practice for the development, including:

- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- b) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
- c) Details of on-site car parking facilities for site workers during the course of construction;
- d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- e) Measures to obviate queuing of construction traffic on the adjoining road network;
- f) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of

Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.

- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or watercourses;
- n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;

Reason: In the interest of amenities, public health and safety.

- 32.** Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

- 33.** 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.

- 34.** Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

- 35.** Prior to commencement of development, the applicant 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.

- 36.** 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.

Colm McLoughlin
Senior Planning Inspector

30th September 2022