



An
Bord
Pleanála

Inspector's Report

ABP-313376-22

Development	Demolition of existing derelict warehouse structure and ancillary outbuildings and construction of a mixed use development on a vacant site
Location	Tolka Industrial Park, Ballyboggan Road, Dublin 11, D11 HF57.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3166/22
Applicant	Bartra Property (Broombridge) Limited
Type of Application	Planning Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Bartra Property (Broombridge) Limited
Observer	Porterhouse Group
Date of Site Inspection	16 th January 2024
Inspector	Margaret Commene

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1.0 Site Location and Description

- 1.1. The subject site is located in the Tolka Valley Business Park, Ballyboggan Road, Dublin 11, which sits between the Ballyboggan Road, to the north, and the Royal Canal, to the south. The subject site forms part of a 75ha landbank known as the 'Dublin Industrial Estate and surrounding lands'. The area surrounding the subject site generally features a mix of low intensity commercial and industrial land uses. The subject site is within c. 850 metres walking distance of Broombridge Train Station and Luas Depot, located to the south-east on the southern side of the Royal Canal (c. 450 metres as the crow flies/along the Royal Canal towpath); within c. 600 metres walking distance of the River Road Bus Stops (Nos. 7702 and 7703), located north-west of the subject site, which are served by Dublin Bus Route No. 40E; within c. 650 metres walking distance of the Royal Canal Centre/Glasnevin Park Bus Stops (Nos. 7028 and 7027), located west of the subject site, which are served by Dublin Bus Route No. 120.
- 1.2. The site has a stated area of 0.72ha, which comprises of a c. 0.637ha regular shaped land parcel featuring in south-eastern part of the Tolka Valley Business Park and an existing road carriageway extending between this land parcel (north-eastern corner more specifically) and Ballyboggan Road/an existing substation, comprising an area of c. 0.083 Ha. The northern part of the land parcel features a series of minor single storey structures (derelict buildings and shipping containers) which are in a state of disrepair. The southern part of the site is vacant save for an area of hard standing, former manufacturing buildings previously featuring having been removed following a fire in 2006. The site is included on Dublin City Council's Vacant Site Register (Vacant Site Register Ref. VS-0457), having been entered on 28th November 2017. It is relatively flat, with the exception of a berm located along the southern boundary adjacent to the Royal Canal; some vegetation features within the site and along the boundary; and it is enclosed by palisade/concrete fencing and hoarding. A 15.8 metre wide wayleave, associated with an Irish Water foul sewer, traverses the southern part of the subject site.
- 1.3. The subject site is located immediately north of the Royal Canal, with frontage onto the canal towpath. The site is bound to the north and west by a series of low rise warehouse buildings featuring within the Tolka Valley Business Park. To the east, the southernmost part of the site is flanked by a series of low rise warehouse buildings

featuring within the Tolka Valley Business Park (a car parking area serving these units featuring immediately adjacent to the subject site's eastern boundary) and the northernmost part of the site is flanked by a series of low rise warehouse buildings featuring within the Stag Industrial Estate. Further north, on the opposite side of Ballyboggan Road, is the Tolka Valley Regional Park.

2.0 Proposed Development

- 2.1. Planning permission was sought for: - demolition of the existing derelict warehouse structure (c. 1,084sqm) and associated outbuildings (c. 417sqm) on site; and construction of a mixed-use development (13,490sqm), comprising office accommodation; a cafe/service unit; and 71 no. apartments, with an ancillary residential amenity/work hub, provided in 2 no. blocks as follows:
- Block A (6 storeys over part basement) to the north of the site, containing 7,353sqm of office space; and
 - Block B (part 8-part 9 storeys) to the south of the site, containing a 252sqm cafe/service unit; 71 no. apartments (24 no. 1 bed units, 40 no. 2 bed units and 7 no. 3 bed units) and a 170sqm ancillary residential amenity/work hub.
- 2.2. The development is served by 40 no. car parking spaces, 2 no. motorcycle spaces, and 237 no. bicycle parking spaces, accessible off the existing roadway traversing the site's eastern boundary. A pedestrian/bicycle connection to/from the Royal Canal towpath and an area of public open space to the south of the site is provided for.
- 2.3. Wastewater and attenuated surface water will be discharged to the existing Irish Water infrastructure featuring on Ballyboggan Road, with works proposed to the existing road carriageway to facilitate this.
- 2.4. The proposed development will be contemporary in design and materials/finishes will consist of brick, render, powder coated steel balustrading, powder coated aluminium vertical screens, spandrel panelling and glazing.
- 2.5. The application is accompanied by a Natura Impact Statement (NIS).
- 2.6. A summary of the key site statistics/details of the proposed are provided in the table overleaf:

Site Area	0.72Ha (net area is 0.637ha, excluding the existing road carriageway included in redline boundary).
Demolition Works	1,501sqm
Total Gross Floor Area	13,490sqm
Office/Commercial Uses	7,353sqm of office space and a 252sqm cafe/service unit.
Residential Uses	71 no. apartments (24 no. 1 bed units, 40 no. 2 bed units and 7 no. 3 bed units) and a 170sqm ancillary residential amenity/work hub.
Open Space	717sqm of public open space, 660sqm of communal open space (comprising of 468sqm to the south of Block B and 192sqm to the west of Block B) and 455sqm of open space to the west of Block A serving the proposed offices.
Car Parking	40 no. in total, inclusive of 2 no. car share spaces (20 no. serving the apartments and 20 no. serving the office/commercial components).
Bicycle Parking	237 no. in total (125 no. serving residents of the apartments, 36 no. serving visitors to the apartments, 74 no. serving the office use and 2 no. serving the service unit/cafe component).
Motorcycle Parking	2 no. spaces
Density	111 units per hectare (based on net site area of 0.637ha).
Height	6-9 storeys (maximum height 30.425 metres)
Site Coverage	31% (based on net site area of 0.637ha)
Plot Ratio	2.1 (based on net site area of 0.637ha)
Dual Aspect Apartments	77.5% (55 no. units)
Part V	7 no. units within the scheme

3.0 Planning Authority Decision

3.1. Decision

On 24th March 2022, the Planning Authority decided to refuse the development sought under this application for the following stated reasons:

- 1. The proposed development, given the scale of residential development proposed within the mixed use development, is considered contrary to development principles set out in Section 14.8.6 Employment /Enterprise – Zone Z6 of the City Development Plan 2016-2022 where residential use is to be subsidiary to the main employment generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city. The proposed proportion of residential development is not considered to be subsidiary, and the development would lead to piecemeal haphazard development, would set an undesirable precedent for future development, and would be contrary to the proper planning and orderly sustainable development of the area.*
- 2. It is considered that the proposed development would be premature pending the completion of a review of the Z6 zoning objective as part of the ongoing review of the City Development Plan and that a grant of planning permission would set an undesirable precedent for the ad hoc and piecemeal development of Z6 employment /enterprise zoned lands that could prejudice the future regeneration of such lands in accordance with national & regional policy objectives to target significant growth (housing and employment) into brownfield lands within the M50 corridor and along public transport corridors. It is considered that the proposed development would lead to piecemeal haphazard development, would set an undesirable precedent, and would be contrary to the proper planning and orderly sustainable development of the area.*
- 3. Given the height and scale of the proposed six storey office block A at c.28m, and part seven, part eight storey residential block B at c.27m rising to c.30m within Z6 zoned lands, it is considered that the unilateral development of a backland site without main road frontage, within an area set out with low level light industrial / warehouse buildings, is not suitable for buildings of the scale and height*

proposed. The unilateral redevelopment of this relatively small site in the context of the surrounding industrial estate to provide two substantial blocks is not appropriate in the absence of a detailed masterplan for the comprehensive redevelopment of the lands to the south of Ballyboggan Road. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- Under the Z6 - Employment/Enterprise zoning objective, office use is open for consideration, as is residential use, and restaurant use is permissible. As such, development may be permitted where the Planning Authority is satisfied that the development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.
- It is noted that the proposed office and café/repair shop uses would generate employment use on this site consistent with the Z6 zoning objective and are considered appropriate having regard to the site's accessible location. However, serious concerns exist with regard to the negative impact proposed block would have, both on the adjoining sites and the immediate area as a whole. Given its scale/height, its proximity to the common boundaries, and given the lack of an overall masterplan for the subject lands immediately adjacent, it is considered that this substantial office block would have undue negative impacts on the adjoining sites in terms of overbearing impacts and limit their future development potential.
- Residential use makes up 43% of the overall floor area proposed. Pursuant to Section 4.8.6 of the Dublin City Development Plan 2016–2022, residential use on Z6 lands is required to be subsidiary to employment generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city.

- The plot ratio for the proposed development and site coverage as stated by the applicant both fall within/just above the range set out in the current Development Plan standards.
- 71 no. units equates to a proposed residential density of c. 111.45 units per hectare. However, residential density cannot be considered in isolation as the office development is in addition to the residential use and so density as a standalone figure is somewhat misleading in this regard.
- Given the site location and the proposed layout, there are some security concerns for pedestrians outside of business hours given the site is located amongst commercial units. There are presently no street lights on the access road or along the towpath, while the north towpath has limited and widely spread out access points.
- The major difference between this current application and the previous application under ABP Ref. ABP-310609-21 is that the current application includes the proposed office development and is therefore a mixed use proposal. The site layout, scale, massing, and configuration of Blocks A and B are very similar to that previously refused. While the inclusion of the office development does increase the proposed employment use, the ratio of office to residential use is cause for concern. It is considered that the proportion of residential use proposed is not subsidiary to the overall employment use of the site. The ratio of residential use to employment use is not considered to be in accordance with the zoning of the site, where residential use is stated to be open for consideration once it is subsidiary to the overall employment use of the site.
- It is considered that the current proposal remains a piecemeal development with no consideration for the adjoining sites future development, or the overall industrial estate. It is considered that any development with such a high portion of residential use on the site is premature. It is therefore considered that the applicant has not overcome the previous refusal reasons.
- In the absence of a comprehensive coherent overall outline masterplan for the immediate area, there is grave concern with regard the future development of adjoining sites in a piecemeal fashion. The current proposal in isolation within an industrial estate setting, within a zoning that permits residential only as a

subsidiary use to the main employment use is not considered to enable the creation of sustainable neighbourhoods. It remains the opinion of the Planning Authority that the proposed development is premature. It is considered that the proposed development has not been planned in the context of a meaningful masterplan of the adjoining lands. It is considered by the Planning Authority that permitting a development that fundamentally fails to comply with the zoning objective of the site would set an unsustainable and undesirable precedent for piecemeal and unilateral development of non-compatible land uses within Z6 areas.

- It is noted that, under the draft Development Plan 2022-2028, the Z6 zoning has more of an employment focus and residential use is not permissible. Therefore, the proposal would not be considered consistent with the draft plan, although the plan will not be formally adopted till late 2022.
- As previously noted, no masterplan of the adjoining sites or larger land parcel has been submitted as part of this application. This application appears to be reactive to the previous refusal on these lands and would if granted set a very poor precedent for future development in the immediate area and have a detrimental impact on the future potential development of adjoining sites.
- The height of proposed development exceeds the 24m limit for sites such as this, and so the scheme would materially contravene the policies and objectives of the Development Plan 2016-2022 on this basis. With regard to the issue of height the City Development Plan has been superseded by the Building Heights Guidelines (December 2018) with no numerical caps on height now applicable. In this instance, it is considered that the unilateral development of a backland site without main road frontage, within an area set out with low level light industrial / warehouse buildings, is not be suitable for buildings of the scale proposed.
- It is considered that the site is not of sufficient size to create its own character and the height and appearance of the buildings would be incongruous in a light industrial landscape. As such, it is considered that the exceedance of the height limit prescribed by the City Development Plan, is not acceptable in this case. Given the site context and the existing low 1-2 storey industrial and commercial buildings surrounding the site, and its proximity to the canal towpath, a

conservation area, it is considered that the proposed development will appear incongruous in the immediate context.

- With regards to materials/finishes, given the location in a light industrial landscape the Planning Authority has serious doubts as to the durability and visual appearance of extensive use of render over time.
- The provision of public open space is considered to be satisfactory. An area of communal open space is adjoining the proposed public open space to the south in proposed and is separated by hedging. It is noted that the layout of the application results in a high loss of existing trees even with the exclusion of poor condition trees. Only two no. trees are proposed to be retained, both are in the south corner of the site within the proposed public open space abutting the Canal towpath.
- In the context of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), the mix complies with SPPR1, the floor areas comply with the requirements of SPPR3 and all room sizes/storage requirements have been met or exceeded in all instances. In the context of SPPR4, the proposed scheme is stated to achieve 77.5% (55 no. Units) dual aspect units which fulfils the applicable requirement and further to this, none of the single aspect units are north facing (all face the Royal Canal to the south). SPPR5 and SPPR6, as well as the private amenity and internal storage space requirements, have also been complied with. With regards to ground level units, there is sufficient defensible space/planting around the ground floor terrace areas to maintain an acceptable level of privacy for future residents.
- The communal open space proposed complies with the numerical requirements. However, in terms of quality this area appears to be seriously compromised and conflicted by the provision of a wayleave covering the entire area – presumably for the 750mm drain running through the communal open space. It is therefore highly questionable as to whether any form of permanent features, e.g. furniture, landscaping, play equipment etc. will be provided in this communal amenity space.
- A large percentage of the units do not achieve the minimum target value of 2% for Living/Kitchen/Dining areas in terms of Daylight. The applicants lists a set of

compensatory measures that have been included in the scheme. The planning authority does not consider the compensatory measures to be well-considered and offer little in terms of improved residential amenity.

- The 153sqm residential amenity and remote working hub proposed is welcomed.
- Given the proposed heights of these blocks there is concern with regard the minimal setbacks from the site boundaries and the undue negative impacts on the future development potential of the neighbouring sites. In terms of overlooking the existing context is fully light industrial (the closest dwelling is c. 65m away) and so overlooking issues are not particularly a concern. The west edge and east edge of Block B which would overlook the adjacent sites at inadequate distances, and the north edge of Block A which would be overbearing on the neighbouring site, and would have a potentially undue negative impact on the future development potential of the sites to the north, west and east. A reduction in floor area, possibly omitting units to increase the separation distances would be conditioned if a grant of planning permission was forthcoming.
- Given the mixed-use nature of the proposed development, it is not considered that it would result in significant levels of noise, air or light pollution arising from occupancy of either the office block or the apartments, operation of the cafe or levels of traffic generated. However, there is concern with regard to the impact the existing industrial uses would have on the residential amenity of future occupants of this scheme.
- The proposed café would make a positive contribution to the social infrastructure available to the residents of the development and the wider area.
- The current proposal is for 71 no. residential units, with a relatively high level of 1 bed units, and this is therefore under the threshold regarding childcare facility provision.
- Access to the site is shown to be provided through the existing road network to the rear of Tolka Valley Industrial Estate, accessed of the Ballyboggan Road. Due to the industrial nature of the lands at present, footpaths throughout the site are limited and those provided are largely substandard in width.

- The quantum of cycle parking proposed is acceptable having regard to Development Plan standards and the Apartment Guidelines. Shower and changing facilities do not appear to have been provided for the office development. In the event of a grant of planning permission, this can be dealt with by way of condition.
- The Planning Authority, having regard to the nature and scale of the proposed development and the proximity to the nearest European site, conclude that subject to compliance with mitigation measures to be agreed and subject to submission of a CEMP, prior to any works commencing on site, and subject to further information being submitted with regard to surface water drainage, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.
- The Planning Authority note that having regard to the nature of the development and its location in an urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- The development is not considered acceptable in the context of the Z6 zoning of the site, and it is considered that given the size and scale of the residential proposal it does not comply with the objectives of the City Development Plan 2016-2022. The ongoing and piecemeal development of industrial zoned lands such as the Tolka Estate is considered premature, contrary to proper planning and sustainable development of the area, and will lead to fragmented and adhoc development in an unplanned and uncoordinated way.
- Under the core strategy the Dublin Industrial Estate is identified as a priority area where it is intended that a Local Area Plan (LAP) will be prepared over the life of the Development Plan. It is acknowledged that this area has development potential. However, it has significant constraints in terms of land ownership and infrastructure issues. In this regard, a comprehensive LAP will be required in order to ensure that development occurs in a planned and sustainable way and to avoid unsuitable piecemeal and ad hoc development. In the absence of an

LAP, it is considered that any development for residential use on the site is premature.

3.2.2. **Other Technical Reports**

Drainage Division (15/03/22): Recommended that further information be requested regarding surface water management. The extent of green roof proposed is not acceptable in this instance.

Environmental Health (18/02/22): Recommended that further information be requested in the context of adherence to Dublin City Councils Construction and Demolition Good Practice Guide for Construction Sites.

Transportation Planning (11/03/22): No objection, subject to conditions.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland - No objection subject to Section 49 Levy Condition.

Uisce Eireann – No objection subject to conditions.

3.4. **Third Party Observations**

1 no. third party observation was submitted to the Planning Authority. The main issues raised therein are as follows:

- This is not a suitable development as the lands are currently zoned Z6.
- The Dublin Industrial Estate lands are being considered for regeneration lands and it is not appropriate to develop these lands before proper consideration of the broader lands is made.
- The proper planning and development of the city is best served by these lands being left as they are until a masterplan and further consultation happens.

4.0 **Planning History**

4.1. **Subject Site**

4.1.1. There has been 1 no. recent previous application pertaining to the subject site of relevance.

ABP Ref. ABP-310609-21

This application involved a proposal for a strategic housing development involving: - demolition of the existing derelict warehouse structure (c. 1,084sqm) and associated outbuildings (c. 417sqm) and the construction of 142 no. apartments (64 no. 1 bed units, 71 no. 2 bed units and 7 no. 3 bed units), with 170sqm ancillary residents' amenity/work hub and a 262sqm café/service unit, across 2 no. blocks (Block A an 8 storey block to the north of the site and Block B a part 8 – part 9 storey block to the south of the site).

The development was refused by the Board on 6th October 2021 for the following reasons:

- 1. The proposed development materially contravenes the policy considerations set out in Section 14.8.6 of the Dublin City Development Plan 2016-2022, in particular having regard to the context of the site and its environs, which are zoned in use as Z6 'Employment /Enterprise', the primary objective of which is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'. The policy context for the area requires that other uses, such as residential, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land –use zoning objective. The proposed development fails to satisfy this policy requirement. The Board is not satisfied that the provisions of Section 37(2)(b) of the Planning and Development Act 2000, as amended, apply, and in that context, consider that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the Dublin City Development Plan 2016-2022 vision for the wider area as a place of enterprise and employment.*
- 2. It is considered that the proposed development would be premature pending the completion of a review of the Z6 zoning objective as part of the ongoing review of the City Development Plan & that a grant of permission would set an undesirable precedent for the ad hoc and piecemeal development of Z6 employment/enterprise zoned lands that could prejudice the future regeneration of such lands in accordance with national & regional policy objectives to target significant growth (housing and employment) into brownfield lands within the M50*

corridor and along public transport corridors. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4.2. Adjacent Sites

4.2.1. There have been no recent applications on sites immediately adjacent to the subject site that are pertinent to the current proposal.

4.3. Sites in the Vicinity

4.3.1. There have been 2 no. recent applications in the vicinity of the subject site that are pertinent to the current proposal. This is summarised below.

Lands at Broombridge Industrial Estate and Dublin Industrial Estate bounded by Broombridge Road, Royal Canal and Royal Canal Way, Dublin 11 (further east of the subject site)

PA Reg. Ref. 4865/22 (ABP Ref. ABP-315286-22)

This application involved a proposal for a development involving (in summary): - (i) demolition of existing warehouse/factory/office buildings and removal of the existing vehicular entrance via Broombridge Road; (ii) construction of a mixed-use development, comprising 14 no. retail /commercial units, a hotel, a creche, office/remote working/co-working space and 304 no. residential apartments (71 no. one-bedroom, 130 no. two bedroom & 103 no. three bedroom) within 4 no. principle blocks (Blocks A-D) ranging in height from 2-16 storeys over basement level parking/plant area. The development will be served by a total of 296 no. carparking spaces, 44 no. motorcycle parking spaces, 848 no. bicycle parking spaces and 30 no. cargo bicycle parking spaces; and (iii) provision of a new undercroft vehicular/pedestrian/cycle access from Broombridge Road, new pedestrian and cycle connections onto Broombridge Road through the western site boundary, new pedestrian connection onto the Royal Canal through the southern site boundary, a covered street providing an east-west connection through the site and continued use of the existing vehicular/pedestrian/cycle access from Boyne Road to the east.

Permission was refused by Dublin City Council on 10th November 2022. The Planning Authority's decision was appealed by the applicant (ABP Ref. ABP-315286-22). The development was refused by the Board on 9th January 2024 for the following reasons:

1. *Having regard to the Preferred Route for the extension to the Luas Green Line, it is considered that the development would be premature pending the finalisation of the design for the Luas extension and bridge/viaduct alignment. In the absence sufficient and appropriate information regarding the interaction between the Luas extension, route alignment and the proposal, it is considered that the development would fail to safeguard the delivery of the extension of the Luas Green Line (Broombridge – Finglas) and would be contrary to SMT22 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development is considered to be premature pending the preparation of a feasibility study and a local statutory plan for the Dublin Industrial Estate as required by objective CSO1 (Feasibility Study and Local Statutory Plan for Z6 Zoned Lands at Glasnevin) of the Dublin City Development Plan 2022-2028. The proposed development would, if granted, lead to piecemeal and fragmented development, lacking coherent integration with and impeding the future development potential of the surrounding area and adjacent sites and would be contrary to the proper planning and orderly sustainable development of the area.*
3. *The proposed development, by reason of a combination of the excessive height, bulk, massing and length of the proposed buildings, would lead to the overdevelopment of the site and an overly dominant, overbearing, incongruous, and monolithic form of development that would have a significant detrimental impact on visual amenity and would fail to successfully integrate into the existing surrounding area and public realm. The proposal would result in an illegible form of development that would have significant implications for the successful future redevelopment of adjacent sites in terms of integration, connectivity and providing a coherent urban form. The development would therefore fail to comply with the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and would be contrary to the proper planning and sustainable development of the area.*

Site at Ratoath Road and Hamilton View, Pelletstown, Dublin 11 - formally known as the Former Ormond Printworks Site (further west of the subject site)

ABP Ref. ABP-306167-19

The Board granted permission in May 2020 for a strategic housing development involving: - construction of a mixed-use (residential and commercial) scheme, including 435 no. dwellings (218 no. 1-bed and 217 no. 2-bed apartments) and employment uses (c. 4,162sq.m), accommodated in 5 no. buildings (Blocks A to E inclusive) ranging in height from 4 to 13 storeys and incorporating an undercroft level and served by 258 no. car parking spaces and 942 no. bicycle parking spaces.

5.0 Policy Context

5.1. Local Policy

5.1.1. Dublin City Development Plan 2016-2022

The subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired.

5.1.2. Dublin City Development Plan 2022-2028

In the intervening period since the subject application was determined, the Dublin City Development Plan 2022-2028 has been adopted by the elected members on 2nd November 2022 and came into effect on 14th December 2022. The relevant provisions are discussed in turn overleaf.

Land Use Zoning

Uses earmarked for these areas will include innovation, creativity, research and development, science and technology, social enterprise, creative industry and the development of emerging industries such as green/clean technologies and the marine sector. A range of other uses including local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as recreation/leisure and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby Urban Villages.

The appeal site and adjoining lands are zoned 'Z6 - Employment/Enterprise', with a stated objective '*provide for the creation and protection of enterprise and facilitate opportunities for employment creation.*' Section 14.7.6 of the Development Plan identifies Z6 lands as '*an important land bank for employment use in the city, which is strategically important to protect*' and states that '*the primary objective for this zone is to facilitate long-term economic development in the city. It is important that these remaining Z6 zoned lands provide for intensive employment and accommodate a wide range of local services*'.

The subject site forms part of the 75ha landbank known as the 'Dublin Industrial Estate and surrounding lands'. Section 2.4.5 of the current Development Plan states that this area, as well as the Kylemore Road/Naas Road lands, are 2 no. significant areas identified (in the Z6 and Z7 zoned lands study carried out during the lifetime of the 2016-2022 Dublin City Development Plan) which remain mostly zoned Z6. It is the intention of Dublin City Council, following the completion of feasibility studies for these industrial lands, to seek government approval for the appropriate statutory designation of these lands and to bring forward the early regeneration of these strategic lands. The scale and extent of both areas is significant and has great potential to provide high quality new housing and commercial development within the city and to progress the NPF targets for housing delivery on brownfield lands within urban areas. However, there are significant challenges in delivering such lands including provision of physical and social infrastructure, fragmented land ownership and the challenges of implementation. It is likely that the regeneration of these lands will be over a long time frame and the overall impact on the core strategy for this development plan will be limited to the first phases.

Other Relevant Sections/Policies

The Royal Canal basin and towpaths abutting the subject site's southern boundary is a designated Conservation Area.

The following policies are considered relevant to the consideration of the subject proposal:

Section 2.7.1 Plan Making

Table 2-13, included in Section 2.7.1, outlines a schedule of Statutory Local Plans to be commenced over the plan period. This schedule includes 'Glasnevin (Dublin Industrial Estate and environs)', which the subject site forms part of. The following objective (CSO1) is outlined in this regard:

To prepare a feasibility study and a local statutory plan for the Z6 zoned lands at Glasnevin (Dublin Industrial Estate and environs) in consultation with the relevant stakeholders, including an infrastructural audit with costings and implementation strategy to enable sustainable regeneration and development.

Section 4.5.3 – Policy SC11: Compact Growth

In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- *enhance the urban form and spatial structure of the city;*
- *be appropriate to their context and respect the established character of the area;*
- *include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents;*
- *be supported by a full range of social and community infrastructure such as schools, shops and recreational areas;*
- *and have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.*

Section 5.5.2 – Policy QHSN6: Urban Consolidation

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

Section 5.5.2 – Policy QHSN10: Urban Density

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

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

Section 5.5.7 – Policy QHSN36: High Quality Apartment Development

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

Section 11.5.3 – Policy BHA9: Conservation Areas

To protect the special interest and character of all Dublin’s Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- 2. Re-instatement of missing architectural detail or important features.*
- 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
- 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
- 5. The repair and retention of shop and pub fronts of architectural interest.*
- 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*
- 7. The return of buildings to residential use.*

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of

existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.

Section 15.5.5 Density

Dublin City Council will support higher density development in appropriate urban locations in accordance with the NPF, RSES and the Section 28 guidelines which seek to consolidate development within existing urban areas. Higher density development allows land to be used more efficiently, assists in regeneration and minimises urban expansion. Higher densities maintain the vitality and viability of local services and provide for the critical mass for successful functionality of public transport facilities.

New development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future amenity.

Section 15.8.6 Public Open Space

Section 15.8.6 requires that where land zoned Z6 is to be developed, a minimum of 10% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site.

Section 15.15.2.2 - Conservation Areas

Conservation Areas include Z8 (Georgian Conservation Area) and Z2 (Residential Conservation Area) zones, as well as areas identified in a red hatching on the zoning maps which form part of the development plan. These red-hatch areas do not have a specific statutory protection but contain areas of extensive groupings of buildings, streetscapes, features such as rivers and canals and associated open spaces of historic merit which all add to the special historic character of the city. All planning applications for development in Conservation Areas shall:

- Respect the existing setting and character of the surrounding area.
- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.

- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape Retain historic trees also as these all add to the special character of an ACA, where they exist.

Appendix 3 – Section 3.2 Plot Ratio and Site Coverage

The development plan sets indicative requirements of 1.0-2.5 for plot ratio and 45-60% for site coverage for Outer Employment and Residential Area. Higher plot ratio and site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of institutions such as hospitals.

Appendix 3 – Sections 3.2 and 4.0 Density

A density range of 60-120 units per ha will be supported in outer suburbs.

The general principle is to support increased height and higher density schemes in the city centre, Strategic Development Regeneration Areas, Key Urban Villages, areas close to high frequency public transport and some other areas (as identified) considered as suitable for increased intensity of development.

Appendix 3 – Section 4.0 Height

There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including:

- *Bus connects/Core Bus Corridors (CBC's)*
- *Luas*
- *Metrolink*

- *DART*

Development proposals will primarily be determined by reference to the proximity of new public transport infrastructure and to the area character. Locations for intensification must have reasonable access to the nearest public transport stop. In line with national guidance, higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes.

Greater heights may be considered in certain circumstances depending on the site's location and context and subject to assessment against the performance based criteria set out in Table 3.

Key criteria which all proposals for increased urban scale and height must demonstrate include:

- The potential contribution to the development of new homes, economic growth and regeneration in line with the compact urban growth principles set out in the NPF and Project Ireland 2040.
- Proximity to high quality public transport connectivity, including key public transport interchanges or nodes.
- Proximity to a range of employment, services and facilities.
- Provision of adequate social and community infrastructure.
- The availability of good walking, cycling and public transport infrastructure.
- Appropriate mix of uses, housing typologies and tenures.
- The provision of high quality public open space and public amenities.
- The resilience of the location from a public access and egress perspective in the event of a major weather or emergency or other incidents.
- That the ecological and environmental sensitivities of the receiving environments have been adequately assessed and addressed.
- Appropriate design response that considers the characteristics of the site, any development constraints and prevailing character.
- Adequate infrastructural capacity

Appendix 5 - Section 3.1 Bicycle Parking Standards for Various Land Uses

A minimum bicycle parking rate of 1 long term space per bedroom and 1 short stay space per 2 apartments is specified for residential apartment developments and 1 long term space per 75 sq. m. GFA is specified for offices, with short stay spaces to be determined by the planning authority on case by case basis.

Appendix 5 - Section 4 Car Parking Standards

A car parking rate of 1 space per apartment is specified for houses/apartments/duplexes and 1 space per 200sqm GFA of office space located within Zone 2 as identified within Map J of the Dublin City Development Plan 2022-2028.

5.1.3. DRAFT Local Area Plan for lands at Dublin Industrial Estate and Environs/Ballyboggan

The subject site forms part of a 75ha landbank known as the 'Dublin Industrial Estate and surrounding lands'. Pre-Draft Public Consultation (the first stage in the preparation of a Local Area Plan) on the Dublin Industrial Estate and Environs/Ballyboggan took place during the period of 28th of April to 9th June 2023. At the time of writing this report, a DRAFT Local Area Plan had not been prepared/made available for public consultation.

5.2. Regional Policy

5.2.1. The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Area, 2019 – 2031

The RSES provides a framework for development at regional level. It encourages the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint. The site is located within the identified 'Dublin City and Suburbs' area. The following Regional Policy objectives are noted in particular:

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

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

A Metropolitan Strategic Area Plan (MASP) has also been prepared for Dublin and guiding principles for the area include compact sustainable growth and accelerated housing delivery; Integrated Transport and Land use; and the alignment of growth with enabling infrastructure.

5.3. National Policy

5.3.1. Project Ireland 2040 - National Planning Framework

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note in this instance:

NPO 3(a) - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO11 - In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

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

NPO 33 - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

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

5.3.2. **Housing for All – A New Housing Plan for Ireland to 2030 (2021)**

A multi-annual, multi-billion euro plan which will improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

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

5.3.3. **Climate Action Plan 2023**

The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.3.4. **Section 28 - Ministerial Guidelines**

The following Section 28 - Ministerial Guidelines are considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Urban Development and Building Heights - Guidelines for Planning Authorities (2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023).
- Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (2024).
- Development Management - Guidelines for Planning Authorities (2007).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.

- The Planning System and Flood Risk Management, including the associated Technical Appendices (2009).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Childcare Facilities, Guidelines for Planning Authorities (2001).

Other Relevant Policy Documents include:

- Cycle Design Manual (2023).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- In the context of the first refusal reason, whilst the Dublin City Development Plan 2016-2022 states that a range of other uses including residential are open for consideration, provided they are at a ratio where they are subsidiary to the main employment generating uses, on land zoned 'Z6 - Enterprise and Employment it does not define what 'subsidiary' is. The planning officer's assertion that the proposed mixed-use development is contrary to Section 14.8.6 of the development plan, in relation to uses on land zoned Z6, is refuted. The residential use is notably subsidiary to the employment generating uses i.e. the quantum of residential floor space proposed (43%) is less than the quantum of commercial floor space (57%) proposed. In addition to the residential use being subsidiary in terms of GFA, it is also subsidiary in terms of associated population - having regard to average household sizes detailed in 2016 census data, a marginal population increase of 185 no. residents is likely to occur as a result of the proposed development. Whereas the commercial component has the potential to employ approximately 793 no. staff. If Dublin City Council intended 'subsidiary' to be solely based on floor area, it should have specifically stated as such in the development plan. It is argued that the proposed mixed-use development is not contrary to Section 14.8.6 of the Dublin City Development Plan 2016-2022.
- Reg. Ref. D19A/0181/ABP Ref. PL06.305629, relating to Clonkeen Park, 'the Highline' & 'Mentec House', Dún Laoghaire Industrial Estate, Pottery Road, Dún

Laoghaire, Co. Dublin, is a pertinent example of mixed-use development comprising residential have been permitted on lands zoned for economic development and employment by the Board (the majority of this site being similarly zoned for Economic Development and Employment (Objective E) under the Dun Laoghaire Rathdown County Development Plan 2016-2022). This application involved a proposal for the construction of an additional 2 floors of office accommodation over the existing 'The Highline' building, demolition of the existing 'Mentec House' and construction of 78 no. 'Build-to-Rent' apartments and 2 no. commercial/retail units, as well as a pedestrian footbridge to Clonkeen Park. Both the Planning Authority and the Board saw fit to grant permission. This decision illustrates that the Board have been favourably disposed to the construction of mixed-use developments comprising residential on lands zoned for Economic Development and Employment.

- The Planning Officer's comment that Block B reads as the dominant block is strongly disagree with. The design of the proposed development was carefully considered so that both buildings have been designed optimally for their end users and to ensure the residential element has a slender profile. In the context of the residential block, this also allows a huge proportion of the units to be dual aspect, with any single aspect units all facing south towards the Canal, thus providing an exceptional living environment.
- In the context of refusal reason No. 2, regard to the provisions of the draft Dublin city development plan 2022 to 2028 should not have been had by the Planning Officer in considering the subject proposal which fully complies with its current Z6 zoning objective. We refer the Board to the case of *Element Power Ireland Limited -v- An Bord Pleanála [2017] IEHC 550* and *Ebonwood Ltd -v- Meath County Council [2004] IR 34*, which definitively confirm that regard should not be had to the provisions of any forthcoming Frameworks, Guidelines, Development Plans and/or Strategies in considering applications for permission. The proposed uses are either 'permissible' or 'open for consideration' under zoning objective Z6 of the Dublin City Development Plan 2016-2022 and the proposed residential use is clearly subsidiary to the proposed employment generating uses. The proposed development is therefore fully compliant with the current zoning objective and is compatible to the current development plans vision for the area.

- Dublin City Council, by not achieving the objectives of the Dublin City Development Plan 2016-2022, is unreasonably precluding the redevelopment of the subject site. Recognising the redevelopment potential of lands zoned for enterprise and employment uses (Z6 and Z7), the current Dublin City Development Plan 2016-2022 contains an objective (Objective CEE04) to undertake a study of all such lands and set out how their redevelopment potential might be best achieved. However, only c. 20 no. infill sites zoned for enterprise and employment uses (56.7Ha of the 860Ha Z6 and Z7 zoned lands) were rezoned during the lifetime of the Development Plan. The failure of Dublin City Council to complete this study as prescribed in the current Dublin City Development Plan 2016-2022 cannot fairly or reasonably be utilised as part of a reason to Refuse Permission for the proposed development.
- A similar policy to prepare a review of Z6 and Z7 zoned lands is currently proposed in the Draft Dublin City Development Plan 2022-2028. It is completely unreasonable of a Local Authority to carry an objective of a Development Plan through two Development Plan cycles. If Local Authorities are committed to 'plan led development' there is an onus on them to plan in a timely manner which Dublin City Council have failed to do which is completely unfair to landowners. The subject site is ready to be developed now with a scheme that fully complies with the site's Z6 Zoning Objective and notably responds to the changing character of the area, which is transitioning from a light industrial character to a more mixed-use character. The proposed mixed-use development, will also act as a catalyst and indeed an exemplar for the inevitable development of the Dublin Industrial Estate and surrounding lands.
- The proposed development responds to the National Planning Framework - Ireland 2040, the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 and the Dublin City Development Plan 2016-2022 which promote compact growth and the densification of accessible, brownfield, infill sites close to public transport, services and facilities. We strongly refute the Planning Officer's assertion that the proposed mixed-use development would set an undesirable precedent.

- In the context of Refusal Reason No. 3, the appellant contends that the proposed mixed-use development can be successfully assimilated into its surrounding mixed-use context and will not impact upon the development potential of adjoining sites.
- With reference to the scheme being prepared in the absence of a Masterplan, we note that an indicative Masterplan accompanied the previous SHD Application made in respect of the subject site. An indicative Masterplan was not submitted with this Planning Application as the scheme fully complies with the site's zoning objective. However, further to the Planning Authority's comments, EML Architects have prepared an indicative Masterplan (please refer to Drawing No. 3501-EML-ZZ-ZZDR-A-015 enclosed) which demonstrates that the proposed development can sit comfortably amongst residential and commercial uses and provides an indication of how neighbouring sites could be developed in the context of the subject development.
- There are numerous examples of the co-location of residential and employment generating uses, where employment generating uses (such as industrial and business campuses) very successfully sit side-by-side with residential development, including in the Cookstown Industrial Estate and the Sandyford Business District. In the context of the Cookstown Industrial Estate, the following 3 no. planning applications raised no concerns from either South Dublin County Council or the Board regarding the co-location of residential and employment generating uses: - ABP Ref. ABP-303803-19 relating to Unit 5A-C Second Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24; ABP Ref. ABP-308398-20, relating to Units 66 and 67 Fourth Avenue, Cookstown Industrial Estate, Tallaght, Dublin 24; and ABP Ref. ABP-309916-21 relating to Glen Abbey Complex, Belgard Road, Cookstown Industrial Estate, Dublin 24. In the context of the Sandyford Business District, the following 2 no. planning applications raised no concerns from either Dun Laoghaire Rathdown County Council or the Board regarding the co-location of residential and employment generating uses: - ABP Ref. ABP-304405-19 relating to Rockbrook, Carmanhall Road, Sandyford Business District, Sandyford, Dublin 18; and ABP Ref. ABP-305940-19 relating to the Former Aldi Site, Carmanhall Road, Sandyford Business District, Dublin 18.

- It is evident, having regard to the subject site's entry on Dublin City Council's Vacant Site Register (DCC Reg. Ref. VS- VS-0457) and the vacancy of the existing industrial/commercial buildings since 2006, that there is no demand for industrial use at the subject site.

6.2. Planning Authority Response

- It is requested that if permission is granted a condition be attached requiring payment of a Section 48 contribution.

6.3. Observations

An observation on the first-party appeal was lodged by the Porterhouse Group. The main points raised therein can be summarised as follows:

- Disappointment is expressed at Dublin City Council's refusal to grant planning permission for the proposed mixed-use development, particularly given the site has been on the Vacant Site Register for some time.
- It is considered that the proposed development, which is of appropriate scale and quality, will act as an exemplar and precedent for future development within this area, which is suffering from considerable obsolescence and degradation.
- I support the concept of the suggested masterplan and am content that nothing contained therein will interfere with the development potential of my own lands and will improve the redevelopment of my site by improving access to the Broombridge Rail/Luas Interchange and the Royal Canal Greenway.
- The proposed development will increase activity/passive surveillance in the area, thus reducing vandalism/anti-social behaviour currently occurring.

6.4. Further Responses

- None.

7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Zoning Objectives and Prematurity.
- Development Height, Form & Scale
- Residential Amenity.
- Access, Traffic and Parking.
- Open Space Provision.

As previously discussed, the subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired and in the intervening period, the Dublin City Development Plan 2022-2028 has been adopted by the elected members and came into effect. In light of this, the subject application will be assessed having regard to the Dublin City Development Plan 2022-2028.

7.1. Zoning Objectives and Prematurity

- 7.1.1. The subject proposal involves demolition of the existing derelict warehouse structure/associated outbuildings on site and construction of a 13,490sqm mixed-use development, comprising 7,353sqm of office accommodation; a cafe/service unit; and 71 no. apartments, with an ancillary residential amenity/work hub. In its first refusal reason, the Planning Authority's considered the proposed development to be contrary to development principles set out in relation to the 'Z6 -Employment/Enterprise' zoning objective having regard to the scale of residential development proposed within the mixed-use development. They contend that the proportion of residential development is not subsidiary to the proposed employment/enterprise use and the development would lead to piecemeal haphazard development, set an undesirable precedent for future development, and be contrary to the proper planning and orderly sustainable development of the area. The appellant refutes the Planning Authority's contention that the proposed mixed-use development is contrary to Section 14.8.6 of the development plan, arguing that the residential use is notably subsidiary to the

employment generating uses in terms of floor space, associated population and building design.

- 7.1.2. Before considering the appropriateness of the proposed development in the context of the zoning objective, I must first discuss the changes that have occurred at local policy level in the intervening period since the planning application was considered which have implications for the subject proposal. The Planning Authority's decision was made under the provisions of the previous Dublin City Development Plan 2016-2022. As previously discussed, the Dublin City Development Plan 2022-2028 came into effect in December 2022 following the consideration of the application having taken place. In both the 2016-2022 and 2022-2028 Development Plans, the appeal site is zoned 'Z6 - Employment/Enterprise'. However, one considerable change the adoption of the new development plan has brought about in the context of the 'Z6' zoning objective is in relation to the 'Open for Consideration Uses'. Under the 2016-2022 Development Plan, 'residential' use was open for consideration, with Section 14.8.6 outlining the following principle (in summary) which also applies: - residential and retail, shall be subsidiary to employment-generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city. Under the current 2022-2028 Development Plan 'residential' does not feature in the open for consideration or permissible uses listed in Section 14.7.6. In the context of uses not listed as such, Section 14.3.1 of the current development plan states that '*there will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1, Z2, Z6, Z8, Z9, Z11, Z12 and Z15*'. It is presumed that residential use has been omitted by the Planning Authority to discourage lodgement of applications for residential developments prior to a Local Area Plan for the wider Industrial Estate/area being prepared and adopted.
- 7.1.3. Based on the current provisions of the Dublin City Development Plan 2022-2028, which I am required to assess the subject proposal against, I consider the proposed residential development component to be a material contravention of the 'Z6 - Employment/Enterprise' zoning objective. Although the Planning Authority's decision found the proposed development to be contrary to the Z6 zoning objective, it did not consider it to have materially contravened it. Section 37(2)(a) of the Planning and Development Act, 2000 (as amended), states that: - *the Board may in determining an*

appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates. In this instance, I do not consider there to be sufficient justification for granting permission for such a material contravention of the zoning objective in this instance. If the proposed development was permitted, it would represent an unacceptable conflict with the policy considerations set out in Section 14.7.6 of the Dublin City Development Plan 2022-2028, having particular regard to the context of the site and its environs which are zoned for and in use as employment and enterprise lands and with a zoning objective “*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*”. Therefore, it is recommended that the application be refused permission in this instance.

7.1.4. The Planning Authority’s second refusal reason pertained to the proposed development’s prematurity pending completion of the ongoing review of the Z6 zoning objective. They contended that an undesirable precedent for the ad hoc and piecemeal development of Z6 employment /enterprise zoned lands would be set if permission was granted that could prejudice the future regeneration of such lands. The appellant argues that Dublin City Council, in failing to undertake a study of the Z6 and Z7 zoned lands (as set out in Objective CEE04 of the Dublin City Development Plan 2016-2022), is unreasonably precluding the redevelopment of the subject site and that it is unfair/unreasonable to include the absence of this study as part of a reason to Refuse Permission for the proposed development. They contend that the proposed scheme fully complies with the site’s Z6 Zoning Objective, responds to the changing character of the area (which is transitioning from a light industrial character to a more mixed-use character) and will act as a catalyst/an exemplar for the inevitable development of the Dublin Industrial Estate and surrounding lands.

7.1.5. The Development Management - Guidelines for Planning Authorities (2007), in Paragraph 7.16.1, specifically deals with the issue of premature development. It states that ‘*development which is premature because of a commitment in a development plan to prepare a strategy, Local Area Plan or framework plan not yet completed should only be used as a reason for refusal if there is a realistic prospect of the strategy or plan being completed within a specific stated time frame*’. The Dublin City Development Plan 2022-2028, at Section 2.7.1, outlines a schedule of Statutory Local

Plans to be commenced over the plan period, which includes 'Glasnevin (Dublin Industrial Estate and environs)'. Since the adoption of the current Development Plan, progress has been made in the context of the Dublin Industrial Estate landbank. More specifically, Pre-Draft Public Consultation on the Dublin Industrial Estate and Environs/Ballyboggan has taken place and it is anticipated that a DRAFT Local Area Plan will be prepared/made available for public consultation shortly. While I acknowledge that the subject site is currently underutilised and is suitable for redevelopment, I consider that this application in isolation, would facilitate the piecemeal redevelopment of these Z6 zoned, would set an undesirable precedent for the same and would be premature pending the adoption of the Local Area Plan for the area. Were permission to be granted for the proposed development, it would undermine the introduction of this statutory, integrated sustainable planning framework which I consider essential for the redevelopment of the overall Dublin Industrial Estate and environs landbank. Therefore, having regard to the Development Management Guidelines, I recommend that planning permission be refused on this basis.

7.2. Development Height, Form & Scale

- 7.2.1. The subject site comprises of a c. 0.637ha regular shaped land parcel featuring in the south-eastern part of the Tolka Valley Business Park which is connected to Ballyboggan Road by an existing access road. The land parcel comprises a backland site, having no direct frontage on to and being setback c. 65 metres from Ballyboggan Road. The proposed development comprises of 2 no. blocks. Block A, occupying the northern part of the site, which is 6 storeys over part basement (extending to a maximum of 28.3 metres in the context of the roof plant enclosure, 25.4 metres to the top of the parapet) and Block B, occupying the southern part of the site, which is part 8-part 9 storeys (extending to a maximum of 30.4 metres). In terms of setbacks, Block A adopts setbacks of c. 11.3 metres from the western boundary, between 2.8 and 7.7 metres from its northern boundary and c. 7 metres from the edge of the internal access road featuring along its eastern boundary. Block B adopts setbacks of c. 26.6 metres from the southern boundary, between 1.4 and 25.7 metres from its western boundary and between 1.1 and 15.5 metres from the edge of the internal access road featuring along its eastern boundary. A separation distance of 3.7 metres is provided between the two blocks.

- 7.2.2. The Planning Authority's third refusal reason contends that the unilateral redevelopment of this relatively small site in the context of the surrounding industrial estate is not appropriate in the absence of a detailed masterplan for the surrounding lands. More specifically, they consider that two substantial buildings of the scale and height proposed would not be appropriate in a backland site without main road frontage, within an area set out with low level light industrial / warehouse buildings. The appellant submits that the proposed mixed-use development can be successfully assimilated into its surrounding mixed-use context and will not impact upon the development potential of adjoining sites. The applicant argues that there are numerous examples where employment generating uses (such as industrial and business campuses) very successfully sit side-by-side with residential development.
- 7.2.3. Upon review of the precedents detailed, it would appear that the context/sites involved in Cookstown and Sandyford differ greatly from that involved in the subject application. In the context of Unit 5A-C Second Avenue (considered in application ABP Ref. ABP-303803-19) this site was positioned on the edge of the Cookstown Industrial Estate and was a highly visible site, fronting onto Cookstown Way and Second Avenue and located immediately adjacent to the Cookstown Luas Stop. With regards to Units 66 and 67 Fourth Avenue (considered in application ABP Ref. ABP-308398-20) and the Glen Abbey Complex (considered in application ABP Ref. ABP-309916-21), these sites were located immediately north of existing/permitted residential developments (being The Exchange Hall Apartment complex/a Part VIII development of 133 no. affordable rental apartments permitted under Reg. Ref. SD208/0007 and the housing estate known as Colbert's Ft Cottages, respectively). Across all 3 no. Cookstown Industrial Estate sites, 'REGEN' zoning applied which seeks to '*facilitate enterprise and/or residential-led regeneration*'/includes residential in the 'permitted in principle' uses. Both of the Sandyford Industrial Estate sites (the Rockbrook site considered in application ABP Ref. ABP-304405-19 and the Former Aldi Site considered in application ABP Ref. ABP-305940-19) were located immediately opposite the Stillorgan Luas Stop and park and ride facility and the Sandyford Urban Framework Plan 2016-2022 was in place when they were being considered. Irrespective of this, each planning application is considered on its individual merits and the Planning Authority/Board are not bound by previous decisions pertaining to neighbouring or

similar sites/situations. The subject application requires consideration on its individual merits.

7.2.4. At present, the subject site is generally vacant, with only a series of minor single storey structures (derelict buildings and shipping containers), which are in a state of disrepair, featuring in the northernmost part of the site. The question that arises is whether the proposed development can be comfortably integrated with the development currently featuring on adjoining sites. The area surrounding the subject site currently features a mix of low intensity commercial and industrial land uses. The site is bound to the north and west by a series of low rise warehouse buildings featuring within the Tolka Valley Business Park which extend to c. 7-8 metres. The subject site's eastern boundary is flanked by/comprises in part of an access road. On the opposite side of this access road, the southernmost part of the site is flanked by a series of low rise warehouse buildings featuring within the Tolka Valley Business Park (which extend to c. 8.8 metres) and the northernmost part of the site is flanked by a series of low rise warehouse buildings featuring within the Stag Industrial Estate.

7.2.5. The proposed buildings would be considerably taller than the existing buildings in the immediate area. This is clearly illustrated by the Verified Views and CGI's, prepared by 3D Design Bureau, which accompany the application. In particular, the photomontages generated in the context of viewpoints 1, 2, 6 and 11, which illustrate the proposed development as viewed in the context of Tolka Valley Regional Park to the north, the Royal Canal/industrial units to the east, the Royal Canal/industrial units to the west and Ballyboggan Road, respectively. In my opinion, the proposed 6 and 8-9 storey blocks would represent an abrupt transition in height/scale from the existing buildings featuring in the immediate area, given the sharp contrast in scale between them and the adjacent 1-2 storey industrial/commercial units. The proposed development's scale/massing is exacerbated by the limited separation distance provided between the 2 no. blocks proposed, which means that the proposed development reads as one large volume when viewed from certain vantage points.

7.2.6. While I consider that the proposed building height range could be considered in principle at this location in the interests of the efficient redevelopment of a brownfield site, I further consider that the development of the subject site in isolation from the

remainder of the industrial park/wider landbank and the resulting building height, form and scale, would have an unacceptable negative impact on the development potential of adjoining lands. In particular, the setbacks provided from the side boundaries in the context of Block B's southern component are entirely insufficient and would have a negative impact on the future development potential of the immediately adjoining lands to the east and west. As such, I agree with the Planning Authority's assessment that the proposed development of two substantial blocks on this relatively small backland site in the context of the surrounding industrial estate is inappropriate in the absence of a detailed masterplan for the comprehensive redevelopment of the wider landbank. I consider that planning permission should be refused for the proposed development on this basis.

- 7.2.7. With reference to the Planning Authority's comments regarding the scheme being prepared in the absence of a Masterplan, the first party appeal is accompanied by an indicative Masterplan, prepared by EML Architects, which provides an indication of how neighbouring sites could be developed in the context of the subject development if approved. Upon review of the indicative masterplan submitted, it would appear to be limited to splitting the wider estate into development parcels with indications for new routes and does not provide any detail on potential development capacities or prospective building heights. Whilst I accept that many of these issues were beyond the scope of the applicant's individual project, it does emphasise that a plan led approach is required and that preparation of the Local Area Plan for lands at Dublin Industrial Estate and Environs/ Ballyboggan is important in the context of the redevelopment of the estate/wider landbank.

7.3. **Residential Amenity**

Proposed Development

The appropriateness of residential amenity afforded the future residents of the proposed development is considered overleaf. In doing so, regard is had to the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) and the requirements of the Dublin City Development Plan 2022-2028.

Unit Mix

7.3.1. The proposal would entail the provision of 71 no. apartments (24 no. 1 bed apartments, 1 no. 2-bed (3P) apartments, 39 no. 2-bed (4P) apartments and 7 no. 3 bed apartments). This complies with the 50% one bed/studio units specified in relation to unit mix in Specific Planning Policy Requirement 1 contained in the Apartment Guidelines and adopted in Section 15.9.1 of the current Development Plan.

Floor Areas

As detailed in the housing quality assessment/apartment plans accompanying the application, the 1-bed units would have a floor area of 50sqm, the 2-bed (3P) unit of 72sqm, the 2-bed (4P) units of between 74sqm and 81sqm and the 3-bed units of 99sqm. With respect to minimum floor areas, the proposed apartments exceed the minimum overall apartment floor areas specified in the Apartment Guidelines as well as complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, there is a requirement under Section 3.8 for *'the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)'*. In this case this standard is also met.

Dual Aspect/Floor to Ceiling Heights/ Apartments per Core

7.3.2. Specific Planning Policy Requirement 4 requires that a minimum of 50% of apartments proposed are dual aspect units in suburban or intermediate locations, Specific Planning Policy Requirement 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres and Specific Planning Policy Requirement 6 specifies a maximum of 12 apartments per core. With regards to dual aspect, upon review of the plans submitted with the application, 55 apartments constitute dual or triple aspect units (with no single aspect north-facing apartments proposed). At 77.5%, the proposed development complies with the requirements of SPPR 4. The floor ceiling height at ground floor level would be 2.7 metres and a maximum of 9

apartments per core is proposed, thus complying with the applicable numerical requirements of these two standards.

Storage

7.3.3. As detailed in the housing quality assessment/apartment plans accompanying the application, the 1-bed units would be provided with 3.7sqm of storage, the 2-bed (3P) unit by 5sqm, the 2-bed (4P) units by 6sqm and the 3-bed units by 9.7sqm which complies with the numerical storage requirements specified in Appendix 1 of the Apartment Guidelines, 2023.

Private Amenity Space

Turning to private amenity space. As detailed in the housing quality assessment/apartment plans accompanying the application, the 1-bed units would be served by 5.8sqm or 10.6sqm balconies, the 2-bed (3P) unit by an 11.2sqm balcony, the 2-bed (4P) units by balconies of between 7sqm and 16.3sqm in size and the 3-bed units by a 9.2sqm balcony, which have a minimum depth exceeding 1.5 metres, thus complying with the quantitative requirements set out in relation to private amenity space. I am satisfied that the proposed private amenity areas also satisfy the qualitative requirements of the Apartment Guidelines given their orientation, the separation distance provided between the blocks and their positioning relative to each other/proposed windows.

Communal Amenity Space

7.3.4. In accordance with Appendix 1/paragraph 4.13 of the Apartment Guidelines, a minimum of 462sqm of communal amenity space would be needed to serve the proposed apartments and in light of the no. of 2+ bedroom apartments proposed, this is required to contain a small play space (about 85–100 sq. metres) to serve the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. The proposed development complies with the broad numerical communal amenity space requirements, providing 660sqm, inclusive of a 240sqm play area. With regards to the quality of the communal amenity space proposed to serve the development, the Planning Authority has raised concerns about the quality of the area provided to the south of site. They contend that it is seriously compromised by the presence of a wayleave (associated with an Irish Water foul sewer) which covers the entire area and

limits the potential for any form of permanent features, e.g. furniture, landscaping, play equipment etc. to be provided therein. I note that Irish Water were consulted about this application by the Planning Authority. They did not object to the proposed open space areas being positioned over the applicable wayleave, or the proposed development more broadly, but rather asked that any proposals by the applicant to divert or build over existing water or wastewater services shall be submitted to Irish Water for written approval prior to works commencing. Supplementary to the southerly communal amenity area featuring to the south of Block B, residents of the development will have access to an additional area of communal open space adjacent to the eastern boundary. In the unlikely event that Irish Water have issues with the location of the proposed play equipment in the context of the wayleave, they could be repositioned here. In light of the referral response received from Irish Water and the alternative location available in the context of play equipment, I consider the proposed communal open space appropriate from a qualitative perspective in this instance. Residents of the proposed apartments will also have the benefit of access to a 170sqm ancillary residential amenity/work hub provided at ground floor level of Block B.

Daylight/Sunlight

7.3.5. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. In this regard, the application is accompanied by a Daylight & Sunlight Report, prepared by J.V. Tierney & Co., which among other things includes an assessment of the proposed apartments in terms of daylighting to habitable rooms (more specifically Average Daylight Factor (ADF)). It states that 87.8% of all habitable rooms meet the BRE guidelines requirement of 2.0% ADF in Kitchen/Living/Dining rooms, and 100% of all habitable rooms meet the BRE guidelines requirement of 1.5% ADF in Kitchen/Living/Dining rooms and 1% in bedrooms. In the context of the 12.2% of Kitchen/Living/Dining rooms falling below the 2.0% ADF requirement, the applicants lists a set of compensatory measures (2.9m ground floor level floor to ceiling height, direct access from apartments to the open spaces, the offsetting of balconies from the living areas and larger window inclusion) to justify the same. The Planning Authority does not consider these compensatory measures to be well-considered and offer little in terms of improved residential amenity.

7.3.6. Upon review of the report, it would appear that Units No. 03, 04 and 09 (across levels 1 to 9) comprise the majority of the apartments falling short of the 2% requirement. Units No. 03 and 04 comprise the apartments located immediately south of the lift/stair core and Unit 09 the northernmost apartments. Upon review of the plans, I think there are amendments that could be adopted to improve daylight to the applicable units. In the context of Units No. 03 and 04, the layout could be flipped thus providing the kitchen with an outlook across a much narrower section of deck/outside the building. In the context of Unit 09, additional windows serving the proposed Kitchen/Living/Dining rooms could be introduced along the northern elevation, thus making the room dual aspect. Therefore, it is recommended that if the Board are inclined to grant permission that a condition requiring these amendments be attached. Subject to this condition, I am generally satisfied that the proposed apartments will receive an appropriate level of daylight and sunlight, having regard to the proposed layout/design in terms of separation distances, scale, window sizing and the aspect of units.

Conclusion

7.3.7. Having regard to the standards within the Apartment Guidelines/Dublin City Development Plan, and subject to the aforementioned conditions, I am satisfied that the proposed development would provide for a suitable and acceptable form of accommodation for future occupants of the proposed apartments.

Adjoining Properties

7.3.8. The subject site's northern, eastern and western boundaries are flanked by commercial and industrial land uses. The closest residential properties are Nos. 73, 74, 78, 79, 80, 81, 82, 83, 84, 85 and 86 Rathoath Estate, which are located to the south of the subject site on the opposite side of the Royal Canal. Given the separation distances that exist between the proposed development and these properties, the existing trees/vegetation featuring in the intervening space and the subject sites orientation relative to these properties, I do not consider the proposed development would result in any unreasonable impacts on the residential amenity of these properties to the south by way of overlooking, overbearing and overshadowing.

7.4. Access, Traffic and Parking

- 7.4.1. The proposed development will be served by 40 no. car parking spaces and 237 no. bicycle parking spaces accessed via an existing road carriageway which extends between this land parcel and Ballyboggan Road. More specifically, two vehicular accesses are proposed along the site's eastern boundary, with the second access (southernmost) stated as being for emergency access only (removable bollards utilised as control measures in this regard). A pedestrian / cycle connection is also proposed onto the Royal Canal towpath to the south. Having regard to the standard of the road network in the area, the availability of public transport services, the relatively modest scale of the proposed car parking provision, the material submitted with the application, and the Planning Authority reports, it is my view that the proposed development will not endanger public safety by reason of traffic hazard or cause increased congestion.
- 7.4.2. In terms of car parking provision, the proposed apartments will be served by 20 no. car parking spaces, thus achieving a car parking rate of 0.28 car parking spaces per apartment, which falls short of the development plan requirements set out in Table 2 included at Appendix 5 of the current Development Plan. The Apartments Guidelines state that, in central and/or accessible urban locations, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The subject site is deemed to be in a central and/or accessible urban location as it is proximate to the Broombridge Train Station and Luas Depot and Bus Stops No. 7702, 7703, 7028 and 7027, which are served by Bus Routes No. 40E and 120. Moving forward, Bus Connects Routes L62 and N2 will operate along Ballyboggan Road proximate to the subject site. In addition to this, the proposed development. Further to this, it is highly accessible by bicycle and foot with the Grand Canal to the immediate south comprising a primary cycling route and subject to considerable upgrade works moving forward as part of the Royal Canal Greenway Project. In addition to providing multiple options for sustainable travel (via public transport, walking and cycling), the proposed development also features 2 no. dedicated car club parking spaces. It is considered that 1 no. car sharing vehicle could replace up to 15 no. private cars.

7.4.3. A Parking Strategy & Traffic Assessment and Mobility Management Plan, both prepared by O'Connor Sutton Cronin & Associates, were submitted with the application which note that the Mobility Manager appointed for the proposed development will encourage sustainable transport modes among residents by informing them of site accessibility in terms of local public transport options and cycle/pedestrian infrastructure. Further to this, the Management Company will retain the ownership of all private car parking spaces associated with the development, providing flexibility in terms of how parking spaces are allocated. It is my view that having regard to the managed nature of the proposed car parking spaces and the sites proximity to public transport/green transport routes, I am satisfied that sufficient car parking has been provided to serve the proposed residents in this instance and complies with the provisions of the development plan and the Apartments Guidelines and would not result in overspill onto the adjacent industrial estate, particularly having regard to the clamping system in operation by the existing management company, as detailed in the Parking Strategy & Traffic Assessment.

7.4.4. In terms of non-residential car parking provision, the proposed offices will be served by 20 no. car parking spaces, which slightly exceeds the development plan requirements set out in Table 2 included at Appendix 5 of the current Development Plan.

7.4.5. With regards to bicycle parking provision, the Parking Strategy & Traffic Assessment accompanying the application outlines that the development is served by 237 no. bicycle parking spaces in total, comprising of 125 no. resident parking spaces, 36 no. visitor parking spaces, 74 no. parking spaces serving the office use and 2 no. serving the service unit/cafe component. In terms of residential bicycle parking provision, the quantum of bicycle parking is complies with the Apartment Guidelines requirements and the standards set out in Section 3.1 of Appendix 5 of the current Development Plan and the proposed bicycle parking spaces are also considered to be appropriate in terms of shelter, accessibility and passive surveillance. In the context of the office use, the cycle parking provision falls short of the standards set out in Section 3.1 of Appendix 5 of the current Development Plan which require 98 no. long term spaces. I note that the subject application was prepared/determined by the Planning Authority in the context of the Dublin City Development Plan 2016-2022 which required 1 space per 100sqm GFA for enterprise and employment uses. I consider ample opportunity

exists for additional bicycle parking spaces, as well as shower and changing facilities, to be introduced to the ground floor of Block A. In the event of the Board granting planning permission this can be dealt with by way of condition. In terms of amendments to plans, I also note that some discrepancies exist between the bicycle parking provision outlined in the aforementioned Parking Strategy & Traffic Assessment, which was prepared by O'Connor Sutton Cronin & Associates, and those detailed on the plans, prepared by EML Architects. If the Board was inclined to grant permission, consistency could be achieved in this regard, by way of condition.

7.5. Open Space Provision

7.5.1. Section 15.8.6 of the Development Plan requires that, in the context of new residential developments, 10% of the site area shall be reserved for public open space provision. The proposed development provides 717sqm of public open space which equates to approximately 11% of the net site area of 0.637ha. It comprises of an area located adjacent to the southern boundary, immediately south of proposed Block B and north of the Royal Canal basin and towpaths. This is generally compliant with the quantitative development plan requirements. From a qualitative perspective, the public open space proposed is to the south of the site, thus having good solar access, and would be passively surveilled by south-facing apartments featuring in Block B, as well as persons frequenting the adjacent canal. I am also satisfied that the proposed public open space appropriately responds to the adjacent canal.

7.5.2. Having regard to the foregoing/the Development Plan requirements, public open space provision is considered appropriate in this instance. The appropriateness of communal amenity space provided as part of the proposed development has been considered previously in Section 7.3 of this report.

8.0 Appropriate Assessment Screening

8.1. Introduction

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

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- Appropriate assessment of implications of the proposed development on the integrity of each European site.

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

The application is accompanied by an Appropriate Assessment Screening & Natura Impact Statement, prepared by the Moore Group. I have had regard to the contents of same. The Appropriate Assessment Screening component of this assessment concluded that *'in the absence of construction management and pollution control measures, the potential impact on downstream European sites is uncertain. Thus in line with Departmental Guidance and having regard to ECJ case law and the 'precautionary principle' Stage 2 Appropriate Assessment is required'* in respect of 3 no. European sites. Therefore, a NIS (Stage 2 Appropriate Assessment) was prepared and submitted. This assessment is informed by the other environmental reports accompanying the application, including the Outline Construction Waste Management Plan. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used.

The Planner's Report includes an AA Screening which concludes (in summary): - having regard to the nature and scale of the proposed development and the proximity to the nearest European site, conclude that subject to compliance with mitigation measures to be agreed and subject to submission of a CEMP, prior to any works commencing on site, and subject to further information being submitted with regard to surface water drainage, it is not considered that the proposed development would be

likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.2. Stage 1 AA Screening

The subject site is in an industrial area to the south of the River Tolka and north of the Royal Canal. The closest water feature is the Royal Canal, located c. 5 metres to the immediate south of the site (I note there is no hydrological connection to the Royal Canal). The site drains to the River Tolka located c. 100 metres north, which in turn drains to Dublin Bay via the Tolka Estuary c. 5.4 km to the east of the site. The subject site is described in more detail in Section 1.0 of this report.

The proposed development comprises the development of a mixed-use development, comprising of office accommodation; a cafe/service unit; and 71 no. apartments, with an ancillary residential amenity/work hub, provided in 2 no. blocks. The subject development also includes demolition of an existing derelict warehouse structure/associated outbuildings on site. Please refer to Section 2.0 of this report for further details regarding the proposed development.

The site is not located within any Natura 2000 site. It does not contain any habitats listed under Annex I of the Habitats Directive. The site is not immediately connected to any habitats within European sites. There are 4 no. European sites located within 15km of the site (as outlined in the following table), however, there is no prescribed radius to determine which Natura 2000 sites should be studied and this depends upon the zone of influence of the project.

European Site (site code)	Distance to Development Site	Conservation Objectives & List of Qualifying Interest/Special Conservation Interest
South Dublin Bay and River Tolka Estuary SPA (004024)	c. 5.2km	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. <i>Light-bellied Brent Goose (Branta bernicla hrota)</i> [A046] <i>Oystercatcher (Haematopus ostralegus)</i> [A130] <i>Ringed Plover (Charadrius hiaticula)</i> [A137] <i>Grey Plover (Pluvialis squatarola)</i> [A141]

		<p><i>Knot (Calidris canutus) [A143]</i> <i>Sanderling (Calidris alba) [A144]</i> <i>Dunlin (Calidris alpina) [A149]</i> <i>Bar-tailed Godwit (Limosa lapponica) [A157]</i> <i>Redshank (Tringa totanus) [A162]</i> <i>Black-headed Gull (Chroicocephalus ridibundus) [A179]</i> <i>Roseate Tern (Sterna dougallii) [A192]</i> <i>Common Tern (Sterna hirundo) [A193]</i> <i>Arctic Tern (Sterna paradisaea) [A194]</i> <i>Wetland and Waterbirds [A999]</i></p>
South Dublin Bay SAC (000210)	c. 7.4km	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p><i>Mudflats and sandflats not covered by seawater at low tide [1140]</i> <i>Annual vegetation of drift lines [1210]</i> <i>Salicornia and other annuals colonising mud and sand [1310]</i> <i>Embryonic shifting dunes [2110]</i></p>
North Dublin Bay SAC (000206)	c. 8.2km	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p> <p><i>Mudflats and sandflats not covered by seawater at low tide [1140]</i> <i>Annual vegetation of drift lines [1210]</i> <i>Salicornia and other annuals colonising mud and sand [1310]</i> <i>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</i> <i>Mediterranean salt meadows (Juncetalia maritimi) [1410]</i> <i>Embryonic shifting dunes [2110]</i> <i>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</i> <i>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</i> <i>Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]</i></p>

North Bull Island SPA (004006)	c. 8.2km	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. <i>Light-bellied Brent Goose (Branta bernicla hrota)</i> [A046] <i>Shelduck (Tadorna tadorna)</i> [A048] <i>Teal (Anas crecca)</i> [A052] <i>Pintail (Anas acuta)</i> [A054] <i>Shoveler (Anas clypeata)</i> [A056] <i>Oystercatcher (Haematopus ostralegus)</i> [A130] <i>Golden Plover (Pluvialis apricaria)</i> [A140] <i>Grey Plover (Pluvialis squatarola)</i> [A141] <i>Knot (Calidris canutus)</i> [A143] <i>Sanderling (Calidris alba)</i> [A144] <i>Dunlin (Calidris alpina)</i> [A149] <i>Black-tailed Godwit (Limosa limosa)</i> [A156] <i>Bar-tailed Godwit (Limosa lapponica)</i> [A157] <i>Curlew (Numenius arquata)</i> [A160] <i>Redshank (Tringa totanus)</i> [A162] <i>Turnstone (Arenaria interpres)</i> [A169] <i>Black-headed Gull (Chroicocephalus ridibundus)</i> [A179] <i>Wetland and Waterbirds</i> [A999]
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Having screened the 4 no. Natura 2000 sites within a 15km radius, the AA Screening Assessment carried out by the applicant considered the subject site to be within the Zone of Influence of 3 no. Natura 2000 sites (South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC and North Bull Island SPA) given the hydrological connection that exists via the Tolka River which flows through the Tolka Valley Regional Park further north of the subject site, on the opposite side of Ballyboggan Road. The South Dublin Bay SAC was not deemed to fall within the zone of influence of this development, given its distance from the development site and the dilution in the Greater Dublin Bay Area. I am satisfied with the conclusion reached in this regard.

8.3. Potential Effects on Designated Sites

As previously discussed, the application site does not fall within the boundary of any Natura 2000 site, therefore there are no Natura 2000 sites at risk of direct habitat loss impacts as a result of the proposed development. There is an indirect link from the

subject site to the North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA via the Tolka River, which flows through the Tolka Valley Regional Park further north of the subject site on the opposite side of Ballyboggan Road, as well as through foul sewers via the Ringsend Waste Water Treatment Plant.

There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase. During the construction phase, standard pollution control measures would be adopted. These measures are standard practices for redevelopment sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. Should a pollution event occur during the construction phase, due to the accidental spillage or release of contaminants, this would not be of such magnitude so as to have a significant adverse effect on downstream water quality in Dublin Bay due to the level of separation and the dilution arising from the volume of water between the sites.

During the operational phase, the development will be supplied with fresh water via a mains supply. The foul effluent associated with the proposed development will be discharged via the existing public wastewater network located at the junction with Ballyboggan Road to the Ringsend Wastewater Treatment Plant for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the foul water pathway. It is my view that the discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend Wastewater Treatment Plant, and thus its impact on the overall discharge would be negligible. This Wastewater Treatment Plant is currently being upgraded, having received planning permission in 2019 to increase treatment capacity. I note Irish Water have not raised any objection to the proposed development.

The proposed surface water drainage system would introduce a variety of sustainable urban drainage system (SuDS) measures to the subject site. Surface water would eventually be discharged via the existing surface water sewer network located at the junction with Ballyboggan Road, which outfalls to the River Tolka. The inclusion of SuDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GSDSDS). It is standard practice that SuDS are included in all projects and they

are not specifically included to reduce or avoid any effect on a designated Natura 2000 site. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the surface water pathway. Attenuated surface water will discharge from the site to the public sewer in small and controlled volumes. In the event that the surface water treatment measures were not implemented or failed, I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water arising during operation can be excluded given the distant and interrupted hydrological connection, the nature/scale of the development and the dilution occurring as a result of the distance/volume of water separating the application site from the applicable Natura 2000 sites.

There is no potential for impacts on the qualifying interests due to noise and other disturbance impacts during construction and operational phases given the level of separation between the sites. While there is a potential risk of noise and disturbance during construction to ex-situ qualifying species, no significant effects are predicted as it is unlikely that the qualifying species will use habitats within the subject lands and in any case the proposed development is not likely to result in a significant increase in noise and disturbance over the existing levels.

Having regard to the foregoing, I am satisfied the potential for significant effects, as a result of surface and foul waters generated during the construction and operational stages, on the qualifying interests of the applicable Natura 2000 sites (North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA) can be excluded.

As previously discussed, the Appropriate Assessment Screening carried out by the applicant concluded (in summary) that in the absence of construction management and pollution control measures, the potential impact on downstream European sites is uncertain. Adopting a precautionary approach, a Stage 2 Appropriate Assessment was deemed to be required in respect of the effects of the project on the same. Therefore, a Natura Impact Statement was prepared and submitted.

I have examined the 'mitigation measures' outlined, in Section 3.6 of the NIS, to prevent impacts on Natura 2000 sites. They generally comprise of construction best practice/control measures detailed in the Outline Construction Management Plan and

Construction Demolition and Waste Management Plan accompanying the application. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site and that those outlined constitute the standard established approach to construction works on greenfield/brownfield lands. The adoption of such measures would be standard practice for an urban development of this scale on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site.

8.4. Cumulative/In-Combination Effects

The proposed development would involve a mixed-use development on lands identified for such in the land use policies of the Dublin City Development Plan 2022-2028. This development plan was adopted in 2022, the Planning Authority having carried out Appropriate Assessment, as well as Strategic Environmental Assessment, during its preparation which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 sites.

The applicants AA Screening Assessment, in Table 4, identifies 14 no. recent grants of planning permission in the vicinity of the proposed development. It concludes that no significant effects on Natura 2000 sites will be seen as a result of the proposed development in combination with other projects in close proximity. I am satisfied with the conclusion reached in this regard.

8.5. AA Screening Conclusion

I have considered the material submitted by the applicant, including the Appropriate Assessment Screening, Natura Impact Statement, Outline Construction Management Plan and Construction Demolition and Waste Management Plan, and the information regarding Natura 2000 sites contained on the NPWS website. Having considered this, and having regard to the nature/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, it is my opinion that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, or any Natura 2000 Site. The risk of watercourse

contamination is extremely low and in the event that a significant pollution incident occurs in the context of surface water locally, it is reasonable to assume that this would be imperceptible to Natura 2000 sites given the applicable separation distances and the dilution that would have occurred as the surface water moved downstream. Therefore, contrary to the view of the applicant, I do not consider a Stage 2 Appropriate Assessment necessary in this instance and am satisfied that Stage 1 Appropriate Assessment is appropriate for this site.

I note that the application included a NIS. In deciding to prepare and submit this, the applicant states that the precautionary principle was being applied. It is my opinion that the adoption of the precautionary approach is over cautious and unwarranted in this instance. Upon review, the mitigation measures outlined to prevent impacts on Natura 2000 sites generally comprise of construction best practice/control measures detailed in the Outline Construction Management Plan and Construction Demolition and Waste Management Plan accompanying the application. The adoption of such measures would be standard practice for such a development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. I am satisfied that no mitigation measures pertaining specifically to potential impact to a Natura 2000 site have been proposed.

If the Board does not adopt the screening recommendation set out above, I deem sufficient information to have been included in the submitted NIS to allow a Stage 2 Appropriate Assessment to be completed.

9.0 Environmental Impact Assessment Screening

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units; and
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

It is proposed to provide 71 apartments on the subject site which is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.72Ha which is also well below the applicable threshold of 10ha. The site to which this appeal pertains is currently vacant, featuring only minor single storey structures/areas of hardstanding/car parking and is surrounded by industrial/commercial uses.

Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination in line with the requirements of Article 109(2B)(a)(b) of the Planning and Development Regulations, therefore, it cannot screen out the need for EIA at preliminary examination. The application addresses the issue of EIA within an Environmental Impact Assessment Screening Report, prepared by Enviroguide Consulting, that contains information provided in line with Schedule 7A of the Planning Regulations. The information provided in the application EIA Screening Report identifies and describes adequately the effects of the proposed development on the environment. It concludes that: - *'based in the assessment carried out in the appropriate sections of this Screening Report, it can be concluded that the proposed development will not have significant effects on the environment during both the construction and operational phases'*. I have had regard to the contents of this report in preparing this screening assessment. I have also had regard to the reports submitted with the application, including the following which address a variety of environmental issues and the environmental impacts of the proposed development:

- Appropriate Assessment Screening Report;
- Natura Impact Statement;
- Statement in Accordance with Article 103(1A)a of the Planning and Development Regulations, 2001 (as amended);
- Ecological Impact Assessment Report;
- Hydrological Risk Assessment;
- Microclimate Assessment;
- Planning Report;
- Landscape and Visual Impact Assessment;

- Architectural Design Statement;
- Engineering Services Report;
- Outline Construction Management Plan;
- Construction and Demolition Waster Management Plan;
- Operational Waste Management Plan; and
- Parking Strategy & Traffic Assessment.

The nature and the size of the proposed development is well below the applicable thresholds for EIA. The uses proposed are urban in nature and while the site and lands in the immediate vicinity are in industrial / warehousing use there are similar uses in the wider area. The proposed development will not increase the risk of flooding within the site. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. It is noted that the site is not designated for the protection of the landscape and the proposed development is not likely to have a significant effect on any European Site (as previously concluded in Section 8.0 of this report). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other office/housing developments in the area. It would not give rise to a risk of major accidents or risks to human health.

The subject site's southern boundary flanks the Royal Canal basin and towpaths, which is a designated Conservation Area. Given the setback provided between the proposed development and this conservation area, I am satisfied that the proposed development will not negatively impact upon built/cultural heritage.

I have completed an EIA screening assessment, as set out in Appendix 2 of this report. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended);
- The location of the site within the existing built-up urban area, which is served by public infrastructure, the site's limited ecological value and the existing pattern of development in the vicinity;

- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended);
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003); and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended);

I have concluded that, by reason of the nature and scale of the proposed development and its location in a serviced urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. I recommend that a screening determination be issued to reflect this conclusion.

10.0 Recommendation

10.1. Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reasons and considerations set out below.

11.0 Reasons and Considerations

1. The proposed development materially contravenes the ‘Z6 - Employment/Enterprise’ zoning objective and is contrary to development principles set out in Section 14.7.6 of the Dublin City Development Plan 2022-2028, in particular having regard to the residential units proposed. It is considered that the proposed development would be contrary to the proper planning and sustainable development of the area, and to the Development Plan’s vision for this wider area as a place of enterprise and employment.
2. It is considered that the proposed development would be premature pending the completion of the Local Area Plan for lands at Dublin Industrial Estate and

Environs/Ballyboggan, the preparation of which is a specific objective during the lifetime of the Dublin City Development Plan 2022-2028, and that a grant of permission in this instance would set an undesirable precedent for the ad hoc and piecemeal development of 'Z6 - Employment / Enterprise' zoned lands that could prejudice the future regeneration of such lands in accordance with national and regional policy objectives to target significant future growth (housing and employment) into brownfield lands within the M50 corridor and along public transport corridors. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its height, form & scale, would constitute overdevelopment of the subject site, have a significant detrimental impact on visual amenity of the area and have significant implications for the successful future redevelopment of the wider industrial estate/landbank. Such redevelopment of this site would be inappropriate in the context of the surrounding industrial estate in the absence of a detailed masterplan for the comprehensive redevelopment of the lands to the south of Ballyboggan Road having particular regard to the size and isolated/back land nature of the subject site.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Margaret Commane
Planning Inspector

31st January 2024

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-313367-22			
Proposed Development Summary	Demolition of existing buildings/structures on site and construction of a mixed-use development, comprising of 7,353sqm of office accommodation; a cafe/service unit; and 71 no. apartments.			
Development Address	Tolka Industrial Park, Ballyboggan Road, Dublin 1			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	✓		
	No	No further action required		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	10(b)(i)(iv) - Infrastructure Projects. Thresholds:	Sub-threshold	Proceed to Q.4

		> 500 homes > 10 hectares		
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes	✓	Screening Determination required

Inspector: _____ Date: _____

Appendix 2 - Form 2

EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-313376-22	
Development Summary	Demolition of existing buildings/structures on site and construction of a mixed-use development, comprising of 7,353sqm of office accommodation; a cafe/service unit; and 71 no. apartments.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	The PA was satisfied that the proposed development is not likely to have significant effects on the environment and it considered that EIA and the preparation of an EIAR was not required for this project.
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	Both an Appropriate Assessment Screening Report or Natura Impact Statement have been submitted.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken by the planning authority in respect of the Dublin City Development Plan 2022-2028. The application is accompanied by a Statement in Accordance with Article 103(1A)a of the Planning and Development Regulations, 2001 (as amended) which includes an assessment of relevant Directives.

B. EXAMINATION	<p>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>		
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>The development comprises the construction a mixed-use development on zoned/serviced lands. From an environmental perspective the nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development. While the proposed building heights associated with the proposed blocks is taller than surrounding heights, the proposed development is not regarded as being of a scale or character significantly at odds with the emerging pattern of development.</p>	<p>No</p>
<p>1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?</p>	<p>The proposed development will change some land which is currently vacant/previously in commercial/industrial use to an office/residential development. The Royal Canal flanks the subject site's southern boundary. There are limited excavation works proposed and the proposed development adopts a generous separation distance from the Canal so it is not anticipated that any negative impacts will result.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources</p>	<p>Construction materials will be typical of such urban development. The loss of natural resources as a result of the redevelopment of the site are not regarded as significant in nature.</p>	<p>No</p>

which are non-renewable or in short supply?		
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard measures outlined in a CEMP and a CDWMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances, and will give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and with the implementation of standard measures outlined in a CEMP and a CDWMP would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No significant risks are identified. Operation of standard measures outlined in a CEMP and a CDWMP will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for the construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts would be suitably mitigated by the operation of standard measures listed in a CEMP and a CDWMP.	No
1.8 Will there be any risks to human health, for example	Construction activity is likely to give rise to dust emissions. Such construction impacts	No

due to water contamination or air pollution?	would be temporary and localised in nature and the application of standard measures within a CEMP and a CDWMP would satisfactorily address potential risks on human health. No significant operational impacts are anticipated, with water supplies in the area provided via piped services.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding.	No
1.10 Will the project affect the social environment (population, employment)	Population of this urban area would increase. Housing would be provided to meet existing demand in the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	This is a brownfield development located in an established urban area. The lands are zoned for mixed uses, the development of which has been foreseen by the Dublin City Development Plan 2022-2028, which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a	Sensitive ecological sites are not located on site. The nearest European sites are listed in Section 9.0 of this report. The proposed development would not result in significant impacts on these sites. Annex II habitats or habitat suitable for protected species, including plants, were not found on site during ecological surveys.	No

development plan/ LAP/ draft plan or variation of a plan		
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	Existing habitats have been surveyed in the submitted Ecological Impact Assessment. The submitted Ecological Impact Assessment did not raise any issues of concern. Mitigation measures are outlined therein with respect to dust control, noise control, bats, nesting birds and surface water to be adopted during construction. Biodiversity measures in the form of additional tree planting is anticipated to be of benefit to nesting and foraging birds.	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	The site and surrounding area does not have a specific conservation status or landscape of particular importance and there are no Protected Structures on site or in its immediate vicinity. The subject site's southern boundary flanks the Royal Canal basin and towpaths, which is a designated Conservation Area in the Dublin City Development Plan 2022-2028. Given the setback provided between the proposed development and this conservation area, I am satisfied that the proposed development will not negatively impact upon the same.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such features arise in this urban location.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwater which could be affected by the project, particularly in terms of their volume and flood risk?	The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding, as detailed in the Strategic Flood Risk Assessment prepared in the context of the Dublin City Development Plan 2022-2028 and the flood risk assessment included in the Engineering Services Report accompanying the application. Potential impacts arising from the discharge of	No

	surface waters to receiving waters are considered, however, no likely -significant effects are anticipated.	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No risks are identified in this regard.	No
2.7 Are there any key transport routes (eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by an existing urban road network. There are sustainable transport options available to future residents/employees. No significant contribution to traffic congestion is anticipated.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	There are no sensitive land uses adjacent to the subject site.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects Could this project together with existing and/or approved development result in cumulative effects during the construction/operation phase?	No approved development within the immediate vicinity developments have been identified that would give rise to significant cumulative environmental effects with the subject project. Any cumulative traffic impacts that may arise during construction would be subject to a project construction traffic management plan.	No
3.2 Transboundary Effects Is the project likely to lead to transboundary effects?	No transboundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No
C. CONCLUSION		
No real likelihood of significant effects on the environment.	✓	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended);
- The location of the site within the existing built-up urban area, which is served by public infrastructure, the site's limited ecological value and the existing pattern of development in the vicinity;
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended);
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003); and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended);

It is considered that the proposed development would not have the potential to have likely significant effects on the environment and that an environmental impact assessment report would not, therefore, be required.

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)