



An
Bord
Pleanála

Inspector's Report

ABP-313679-22

Development	PROTECTED STRUCTURE: The development will consist of a 74 unit Build to Rent scheme.
Location	Turnpike Lane, at rear of 59-69, Drumcondra Road Lower, Dublin 9.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3485/22
Applicant(s)	Ginxo Trading Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Ginxo Trading Ltd
Observer(s)	By the Trees Management Company Frank McDonald Louth Environmental Group
Date of Site Inspection	17 th May 2023
Inspector	Lorraine Dockery

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of 1715 square metres, is located to the rear of a terrace of Protected Structures at 59-69 Drumcondra Road Lower, Dublin 9. The existing terrace of properties are located opposite the junction with St Alphonsus Road.
- 1.2. The site is bounded to the west by the rear of properties 57, 59, 61, 63, 65, 67 and 69, Drumcondra Road Lower and to the north by the parking area/private amenity space of 71-73 Drumcondra Road Lower. Turnpike Lane directly borders the southern and eastern boundaries and the Crosscare Hub (formerly Mater Dei Institute of Education) is located further east.

2.0 Proposed Development

- 2.1. The development will consist of a 74 unit Build-to-Rent scheme, comprising of one building 8 storeys in height over lower ground floor level, with all ancillary site development works.
- 2.2. The key figures of the proposal are as follows:

Table 1: Key Figures of Overall Development

Site Area	1715m ²
No. of residential units	74 BTR apartments
Other Uses	Communal facilities- 640m ² comprising gym area; communal social area with kitchen facility; bike storage and bike repair station; workspaces; meeting rooms; communal storage area and a parcel room
Other Works	Secant pile wall to form basement
Demolition Works	None
Density	435 units/ha
Height	8 storeys (over lower ground level)
Plot Ratio	3.52

Site Coverage	45%
Dual Aspect	36% (stated)
Public Open Space Provision	Unspecified
Communal Open Space Provision	390m ²
Part V	Unspecified
Parking	4 car spaces; 122 bicycle spaces
Access	From Turnpike Lane

Table 2: Overall Unit Mix

	Studio	1 bed	2 bed	3 bed	Total
Apartments	45	18	11	-	74
As % of total	61%	24%	15%	-	100%

2.3 In terms of drainage, a new connection to the public system for water supply is proposed, while new connections to the existing drainage system are proposed. A Pre-Connection Enquiry from Irish Water is included with the application documentation which states that proposed connection can be facilitated at this time, subject to upgrades.

2.4 A letter from the Housing Development section of Dublin City Council is included with the application documentation (dated 31/08/2021) which states that the applicant has engaged in Part V discussions with DCC and an agreement in principle to comply with their Part V requirements has been reached.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for two reasons as follows:

1. Having regard to the overall scale, bulk, height and massing of the proposed development and taking into account the established character, pattern of development and low scale nature of the immediate surrounding area, the

proposed development would constitute overdevelopment of this backland site and result in a visually discordant feature in the landscape which would be intrusive and overbearing when viewed on approach from the south along Drumcondra Road Lower. The development would detract from the visual amenities of the surrounding residential conservation area and would therefore, be contrary to the proper planning and sustainable development of the area.

2. The excessive and over-bearing height and lack of appropriate transition in scale to the Protected Structures along Drumcondra Road Lower to the west would have a significant and seriously injurious impact on the special architectural character, setting and amenity of the Protected Structures and impact adversely on the residential amenities of these properties as well as on the character of the surrounding residential conservation area. The proposed development would also result in the loss of historic fabric including historic boundary walls that form part of the historic curtilage of the Protected Structures contrary to Policies CHC2 and CHC4 of the Dublin City Council Development Plan 2016-2022 and the proper planning and sustainable development of the area

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The principle of residential development on the site has previously been established and whilst the redevelopment of a vacant site within a residentially zoned area is desirable, particularly when the site has good accessibility to a public transport corridor, the proposed development has failed to have sufficient regard to the site constraints in this instance and as such is not supported. Refusal recommended

3.2.2. Other Technical Reports

Drainage Division- no objections, subject to conditions

Transportation Planning- further information requested

Environmental Health- conditions recommended

Conservation Officer- refusal recommended

Housing Development- have engaged in Part V discussions with DCC and an agreement in principle to comply with their Part V requirements has been reached

3.3. **Prescribed Bodies**

An Taisce- considered that the proposed development would constitute gross overdevelopment to the rear of a terrace of protected structures and would fail to protect the amenities, setting and special interest of this terrace. Represents major over-development in the original rear gardens of six protected structures, and on account of its size and proximity would severely and negatively impact on the residential amenity of these properties. Proposal is incompatible with the proper planning and sustainable development of the area and should be refused permission.

Transport Infrastructure Ireland- no observations to make

3.4. **Third Party Observations**

Submissions to the planning authority on the application raised issues similar to those raised in the subsequent third party appeal and observations to the board.

4.0 **Planning History**

4044/15

Planning permission GRANTED for six, three-storey mews terraced houses at Turnpike Lane to the rear of No's 59, 61, 63, 65, 67, 69 Drumcondra Road Lower, Dublin 9 (Protected Structures). The site was originally the rear gardens of these houses.

3241/08 (PL29N.230778)

Planning permission REFUSED on appeal for the construction of 2 no. residential blocks, ranging in height from 3-4 storeys (over basement car park) and consisting of 24 no. units.

3847/07

Planning permission REFUSED for two residential buildings up to 5 storeys in height comprising 34 residential units accessed off Turnpike Lane to the rear of 59-69 Drumcondra Road Lower (a Protected Structure).

1357/04 (PL29N.212045)

Planning permission REFUSED on appeal for 26 apartments in a four-storey building over basement carpark at site to rear of Nos. 59-69 Drumcondra Road Lower, Dublin 9 (Protected Structures) .

5.0 Policy Context

5.1. National Policy

- National Planning Framework – Project Ireland 2040
 - NPO11 to favour development that can encourage more people to live or work in existing settlements; NPO13 which is that planning standards in urban areas should be based on performance criteria; NPO 27 which is to ensure the integration of safe and convenient alternatives to the car into the design of communities; NPO 35 to increase residential density in settlements, including increased building heights; NPO 54 to reduce our carbon footprint by integrating climate action into the planning system; and NPO 64 to improve air quality through supporting public transport, cycling and walking as more favourable modes of transport than the private car
- Housing for All - A New Housing Plan for Ireland
- Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)
- Urban Development and Building Height Guidelines for Planning Authorities (2020)

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December, 2022)
 - Section 2.4 describes central/accessible urban locations as including sites within easy walking distance 400m-500m of high frequency (10 minute per hour) bus services which are generally suitable for higher density development.
 - Section 4.21 says that in central/accessible locations the default policy is for car parking provision to be minimised, substantially reduced or eliminated in certain circumstances, while section 4.23 states that in intermediate urban locations a reduced overall car parking standard must be considered.
 - Section 5 refers to Build to Rent schemes, with section 5.7 stating that they have an important role in increasing housing supply and supporting compact growth in urban centres. It omits the relaxation in standards that previously applied to such schemes in the 2020 guidelines. However the minister issued a Circular Letter NRUP 07/2022 at the same time as the guidelines stating that SPPR7 and SPPR8 of the 2020 Apartment Design Guidelines would continue to apply to applications that had already been lodged which includes the current appeal. SPPR7 requires that they include proposals for resident support facilities and amenities. SPPR 8 varies requirements that would otherwise apply to such scheme, in particular section (iii) says that they shall be a default of minimal or significantly reduced car parking on the bases of them being more suitable for central/accessible locations and having a central management regime.
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)
- Urban Design Manual - A Best Practice Guide (2009)
- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BR 209 2022 Edition)
- Design Manual for Urban Roads and Streets (2019). BRE' Site Layout Planning for Daylight and Sunlight' (2nd edition)

- BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'
- BS EN 17037:2018 'Daylight in Buildings'
- Housing for All Action Plan Update and Q3 Progress Report

5.2 Development Plan

The Dublin City Development Plan 2022-2028 is the operative City Development Plan.

Zoning: Objective Z2: To protect and/or improve the amenities of residential conservation areas.

Residential is 'Permissible in Principle' under this zoning objective

Section 5.5.7 Specific Housing Typologies - Build to Rent (BTR) and Shared Accommodation

Policy QHSN40 Build To Rent Accommodation- To facilitate the provision of Build to Rent (BTR) Accommodation in the following specific locations: Within 500 metre walking distance of significant employment locations, ♣ Within 500 metres of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and ♣ Within identified Strategic Development Regenerations Areas.

There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure there are opportunities for a sustainable mix of tenure and long term sustainable communities, a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020.

There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate: ♣ that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR. ♣ how the development supports housing need, particularly with regard to tenure, unit size and accessibility

with particular reference to the Dublin City Council Housing Need and Demand Assessment

Policy QHSN41 Built to Rent Accommodation - To discourage BTR

Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided.

Policy QHSN42 Built to Rent Accommodation - To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

Policy SMT1 is to continue to promote modal shift from the private car towards more sustainable forms of transport.

Chapter 15 Development Standards

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

Appendix 3 of the Plan sets out a height strategy. Table 1 sets out a density ranges that will be supported. The indicative plot ratio and site coverage standards for this area in Table 2 are 1.5-2.0 and 45-50% respectively. The appendix identifies certain areas for increased height and density. They do not include the current site.

Drumcondra is designated as an 'Urban Village' in the operative City Development Plan. The Development Plan recognises that many of the city's urban villages are underdeveloped and have scope for greater intensification and consolidation. It is acknowledged however, that some of the urban villages have a prevailing low density character and any proposals for increased height and density will need to have regard to the existing pattern and grain of development to ensure sensitive and successful integration with the existing urban fabric.

In relation to height in the outer suburbs, the appendix states that heights of 3 to 4 storeys will be promoted as a minimum, with greater heights considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3.. Criteria for increased height are set out in Table 3.

Appendix 5 of the plan sets out requirement for car parking. The site is located within Area 2 where a maximum standard of 1 space per dwelling is set. Section 2.5 of the Appendix says that car parking ratios for new developments are dependent of a number of factors including active travel infrastructure and public transport corridors.

The subject site was originally part of the rear gardens of No.s 59, 61, 63, 65, 67 and 69 Drumcondra Road Lower which are Protected Structures and sit to the west of the subject site (RPS Ref. 2350 to 2355 inclusive, House, including railings and steps). The structures have also been identified on the NIAH.

Policy BHA2 deals with Development of Protected Structures, **Policy BHA9** deals with Conservation Areas while **Policy BHA14** deals with Mews development

5.3 Natural Heritage Designations

None

5.4 EIA Screening

- 5.4.1 The applicant does not appear to have addressed this matter within the submitted documentation. Notwithstanding this, the proposed development is not listed in Schedule 5 (Part 1 or Part 2) of the Planning and Development Regulations 2001 as amended, nor does the proposal meet the requirements for sub-threshold EIA as outlined in Section 103 of the Planning and Development Regulations 2001 as amended. No Environmental Impact Assessment (EIA) is therefore required.

5.5 Appropriate Assessment Screening

- 5.5.1 An Appropriate Assessment Screening Report was submitted with the application. 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. A description of the proposed development is given at section 2 of this report.

5.5.2 The AA Screening Report concludes that the project poses no potential for significant effects and as such requires no further appropriate assessment. The submitted report is again light on information, however the information contained therein is considered sufficient to allow me undertake an Appropriate Assessment of the proposed development. I am satisfied that the best scientific knowledge for the purpose of a screening test has been put forward in this instance.

5.5.3 The planning authority state that having regard to the information contained within the Stage 1 Screening report, the Planning Authority is satisfied that the proposed development would be unlikely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

Designated Sites and Zone of Impact

5.5.4 The appeal site is not in or immediately adjacent to any Natura 2000 site, however the following Natura 2000 sites are located within the potential zone of impact:

Table 3:

Site Name and Code	Qualifying Interests/SCI Conservation Objectives
South Dublin Bay SAC (Site Code 000210)	Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Embryonic shifting dunes <u>Conservation Objective:</u> To maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.
North Dublin Bay SAC (Site Code 000206)	Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines

	<p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Embryonic shifting dunes</p> <p>Shifting dunes along the shoreline with white dunes</p> <p>Fixed coastal dunes with grey dunes</p> <p>Humid dune slacks</p> <p>Petalwort</p> <p><u>Conservation Objective:</u></p> <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>
Baldoyle Bay SAC (Site Code 000199)	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
Howth Head SAC (Site Code 000202)	<p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p>European dry heaths</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitats for which the SAC has been selected.</p>
Rockabill to Dalkey Island SAC (Site Code 003000)	<p>Reefs</p> <p>Harbour Porpoise</p> <p><u>Conservation Objective:</u></p>

	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Malahide Estuary SAC (Site Code 000205)	<p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes)*</p> <p><u>Conservation Objective:</u></p> <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>
Ireland's Eye SAC (Site Code 002193)	<p>Perennial vegetation of stony banks</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected</p>
Glenasmole Valley SAC (Site Code 001209)	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (* important orchid sites)</p> <p>Molinia meadows on calcareous, peaty or clayey-siltladen soils</p> <p>Petrifying springs with tufa formation</p> <p><u>Conservation Objective:</u></p> <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>
Wicklow Mountains SAC (Site Code 002122)	<p>Oligotrophic waters containing very few minerals of sandy plains</p> <p>Natural dystrophic lakes and ponds</p>

	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i></p> <p>European dry heaths</p> <p>Alpine and Boreal heaths</p> <p>Calaminarian grasslands of the <i>Violetalia calaminariae</i></p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)</p> <p>Blanket bogs (* if active bog)</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>)</p> <p>Calcareous rocky slopes with chasmophytic vegetation</p> <p>Siliceous rocky slopes with chasmophytic vegetation</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p><i>Lutra lutra</i> (Otter)</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) for which the SAC has been selected</p>
Knocksink Wood SAC (Site Code 000725)	<p>Petrifying springs with tufa formation</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i></p> <p><u>Conservation Objectives</u></p> <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>
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)	<p>Light-bellied Brent Goose</p> <p>Oystercatcher</p> <p>Ringed Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p>

	<p>Bar-tailed Godwit</p> <p>Redshank</p> <p>Black-headed Gull</p> <p>Roseate Tern</p> <p>Common Tern</p> <p>Arctic Tern</p> <p>Wetlands & Waterbirds</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>
North Bull Island SPA (Site Code 004006),	<p>Light-bellied Brent Goose</p> <p>Shelduck</p> <p>Teal</p> <p>Pintail</p> <p>Shoveler</p> <p>Oystercatcher</p> <p>Golden Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Black-tailed Godwit</p> <p>Bar-tailed Godwit</p> <p>Curlew</p> <p>Redshank</p> <p>Turnstone</p> <p>Black-headed Gull</p> <p>Wetlands & Waterbirds</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>
Baldoyle Bay SPA (Site Code 004016)	<p>Ringed Plover</p> <p>Shelduck</p> <p>Golden Plover</p>

	<p>Bar-tailed Godwit</p> <p>Grey Plover</p> <p>Light-bellied Brent Goose</p> <p>Wetlands and Waterbirds</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected.</p>
Broadmeadow/Swords Estuary (Malahide Estuary) SPA (Site Code 004025)	<p>Shelduck</p> <p>Pintail</p> <p>Goldeneye</p> <p>Oystercatcher</p> <p>Redshank</p> <p>Knot</p> <p>Bar-tailed Godwit</p> <p>Black-tailed Godwit</p> <p>Golden Plover</p> <p>Light-bellied Brent Goose</p> <p>Dunlin</p> <p>Grey Plover</p> <p>Red-breasted Merganser</p> <p>Great Crested Grebe</p> <p>Wetlands</p> <p><u>Conservation Objective:</u></p> <p>To maintain the favourable conservation condition of the species and wetland habitat for which the SPA has been selected</p>
Ireland's Eye SPA (Site Code 004117)	<p>Cormorant</p> <p>Herring Gull</p>

	<p>Kittiwake</p> <p>Guillemot</p> <p>Razorbill</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
Howth Head Coast SPA (Site Code 004113)	<p>Kittiwake</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</p>
Dalkey Islands SPA (Site Code 004172)	<p>Arctic Tern</p> <p>Common Tern</p> <p>Roseate Tern</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the species for which this SPA has been selected.</p>
Wicklow Mountains SPA (Site Code 004040),	<p>Merlin</p> <p>Peregrine</p> <p><u>Conservation Objective:</u></p> <p>To maintain or restore the favourable conservation condition of the species for which the SPA has been selected.</p>

5.5.5 All sites are stated to be located within 15km of the development site, although exact distances have not been outlined in the submitted report. I estimate the nearest designated site of Dublin Bay (South Dublin Bay and River Tolka Estuary SPA) to be approximately 2km from the proposed project site.

Qualifying Interests/Features of Interest

- 5.5.6 Qualifying Interests/Special Conservation Interests for which each European Site have been designated are outlined in Table 3 above and Appendix 1 of the AA Screening Report (pages 9-30 inclusive).

Conservation Objectives

- 5.5.7 The Conservation Objectives for the above sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat for which the site has been selected.

Potential Direct/Indirect Impacts

- 5.5.8 I note that potential impacts are identified in the AA Screening Report and these are then applied to the designated sites within the zone of influence.
- 5.5.9 In terms of indirect pathways, there is a potential surface water pathway from the site of the proposed development to Dublin Bay via the local surface water drainage network. There will be indirect connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant during the operational phase.
- 5.5.10 Potential impacts on designated sites from the proposed development are restricted to discharge of surface and foul water from the site. I consider that these potential impacts could occur during the construction and operational phase. The report states that whilst there is a hydrological connection to South Dublin Bay and River Tolka Estuary SPA and South Dublin Bays SAC, the site is significantly removed and is of such a small scale within the existing urban area that it will not have an adverse direct or indirect or secondary impact on the integrity of any Natura 2000 sites.

Assessment

- 5.5.11 I note the nature and scale of the proposed works, namely 74 residential units on a site with a stated area of 0.17 square metres. There will be no loss, fragmentation, disruption, disturbance or other change to any element of any European site as a result of the construction of the proposed project, and no interference with the key relationships that define the structure or function of any European site. I note the separation distance to the designated sites within Dublin Bay. The proposed development is designed in accordance with the principles of Sustainable Urban Drainage Systems (SuDS) and this is a recommended condition of the Drainage

Division of the planning authority. This Division also recommends a condition that the management of surface water for the proposed development be designed to comply with the policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS) and with the requirements of planning authority. The submitted Flood Risk Assessment states that there is no historical flooding in the area and no risk of future flooding. This area is currently under review. Neither the planning authority nor Irish Water have expressed any objections to the proposal, in this regard. Despite the presence of pathways to designated sites, I note that these would be in common with all extant development in the area. In addition, despite the presence of these pathways, the risk of contamination of any watercourses or groundwater is extremely low.

5.5.12 In terms of connectivity to Dublin Bay via the municipal wastewater system to Ringsend Wastewater Treatment Plant, I note that the new foul drainage system for the development will connect to the Irish Water network and IW have expressed no objections to the proposal, subject to conditions. Foul wastewater discharge from the proposed project will be treated at the Irish Water Wastewater Treatment Plant at Ringsend prior to discharge to Dublin Bay. The Ringsend WWTP operates under licence from the EPA (Licence no. D0034-01) and received planning permission (ABP Reg. Ref.: 301798) in 2019 for upgrade works. Regardless of the status of the WWTP upgrade works, the peak discharge from the proposed project is not significant in the context of the existing capacity available at Ringsend. Irish Water have not expressed any objections to the proposal.

5.5.13 The proposed development is not dependent or connected to any other development. Other developments in the vicinity of the site are subject to the terms of the operative Development Plan which was itself the subject of appropriate assessment. It is therefore concluded that the proposed development would not in culmination with other plans or projects, be likely to have significant effects on any Natura 2000 site. I am of the opinion that this matter does not require further in-depth scientific examination.

Bird Strike

5.5.14 In terms of the matter of bird strike, I note the distance of the proposed project site from the nearest SPA and I consider the risk of collision to be imperceptible. I am

aware that birds tend to fly higher than the tallest obstruction in their flightpath and also to fly at a greater height between foraging sites. Only common garden birds were observed during surveys undertaken. No SCI species of any designated site were observed on the site or flying over the site. Given the habitats present on site, the project site is not an important site for any over-wintering species. I am of the opinion that this matter does not require further in-depth scientific examination.

Conclusion

5.5.15 Given all of the information outlined above, it appears evident to me from the information available in this case that the proposed development would not be likely to have a significant effect on any Natura 2000 site, whether directly or indirectly or individually or in combination with any other plan or project. It is therefore concluded that, on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not required. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

6.0 The Appeal

6.1 Grounds of Appeal

The grounds of the first party appeal by the applicant can be summarised as follows:

- Refutes reasons for refusal
- Proposal provides suitable, high quality residential accommodation in a city centre location which reflects the surrounding context that is undergoing radical change in development terms
- Mix of unit types responds to anticipated occupancies in this location
- Proposal in compliance with key national, regional and local policy framework
- Scale of proposal consider appropriate given its accessibility to public transport including location 250m from Drumcondra rail station and its location

in a well-established residential district- presumption in favour of increased densities and height in such locations- evolving nature of environment noted including grant of permission for BTR development at Holy Cross lands

- Building is not a visually discordant feature in the streetscape nor is it intrusive or overbearing
- Derelict, brownfield site that has clear potential to provide residential development of significant scale, particularly given its broader context
- In terms of loss of rear gardens associated with Protected Structures, notes that these have not been of practical or aesthetic benefit for some time- associated impacts of proposal on Protected Structures classified as slight and neutral- boundary walls have already collapsed, prior to acquiring the lands; loss of original fabric is historic and does not occur as a result of the proposed development
- Proposal will not give rise to unacceptable impact upon neighbouring amenity; considers that the proposal does not represent overdevelopment of the site; updated Daylight Analysis and Overshadowing Report submitted
- Proposal complies in full with BRE Guidelines and therefore Building Height Guidelines from a daylight access and overshadowing perspective

6.2 Planning Authority Response

None

6.3 Observations

Three observations were received, which may be broadly summarised as follows:

Build-To Rent

- Nature of proposed development

Height, Density, Scale

- Materially contravenes the density, height and visual impact requirements/provisions provided in the operative City Development Plan and

LAP. Proposal does not comply with requirements of Building Height Guidelines

- Density considered to be far in excess of which is envisioned by the development standards of operative City Development Plan
- Inappropriate height and bulk; scale, massing and local precedent is such that the scheme should be refused permission
- Plot ratio vastly in excess of standards for the site
- Not comparable to Holy Cross development on adjoining site and should not be used as precedent

Built Heritage/Visual Impacts

- Proximity to Protected Structures; inadequate separation distances
- Inappropriate intrusive element into this historic streetscape

Residential Amenity

- Impacts on residential amenity; Daylight Analysis severely deficient due its selectivity

Development Standards

- Materially contravenes the housing mix requirements/provisions provided in the operative City Development Plan and LAP
- Materially contravenes the public open space requirements/provisions provided in the operative City Development Plan and LAP
- Materially contravenes the car parking and provision of child care and Architectural Conservation Area requirements/provisions provided in the operative City Development Plan and LAP
- Materially contravenes Development Plan and/or LAP in terms of Policy Objectives SS02a and PM17; contrary to Policy CHC2 of Plan

Other matters

- Does not comply with Planning and Development Regulations 2001 (as amended) and requirements of 2016 Act and associated Regulations in

relation to requirements for detailed plans and particulars; errors in submitted documentation including description of location of site

- Not demonstrated that there is sufficient infrastructure capacity to support proposed development by reference to public transport, drainage, water services and flood risk
- Insufficient information in relation to impact of proposal (during construction and operational phases) on impacts on bird and bat flight lines/collision risk
- Insufficient surveys to assess potential impacts arising from bird collision/slight risks insofar as the proposed development may impact bird flight paths
- No/inadequate regard given to cumulative effects of proposed development, in combination with other developments in the vicinity, on protected sites and relating to Z2 zoning conservation area

6.4 Further Responses

None

7.0 Assessment

7.0.1 I have had regard to all the documentation before me, including, *inter alia*, the report of the planning authority; the submissions received; the provisions of the Dublin City Development Plan 2022; relevant section 28 Ministerial guidelines; National Planning Framework; Dublin Metropolitan Area Strategic Plans; provisions of the Planning Acts, as amended and associated Regulations and the nearby designated sites. I have visited the site and its environs. In my mind, the main issues relating to this application are the two reasons for refusal which issued from the planning authority. Other matters to be addressed are those raised in the observations received, which includes for:

- Principle of Development/Proposed Build-to-Rent Units
- Scale, Height, Density/Plot Ratio and Site Coverage/Unit Mix/ Aspect/Open

Space Provision

- Built Heritage
- Impacts on Existing Residential Amenity
- Traffic and Transportation
- Other Matters

7.0.2 The Board should note that the application, appeals and submissions in this case were made when the 2016-2022 City Development Plan was in place. A new City Development Plan has been adopted in the interim. The zoning of the site has not changed in the new Plan. However the guidance on density and height in Appendix 3 of the current, newly adopted Plan is significantly different from that in the previous Plan (2016) which placed a general height limit of 16m in this area and did not specify a range of densities as the current Plan does.

7.1 Principle of Development/ Proposed Build-to-Rent Units

Principle of Development

7.1.1 The subject site is zoned 'Objective Z2' in the operative City Development Plan, which seeks 'To protect and/or improve the amenities of residential conservation areas'. Build-To-Rent Residential is open for consideration under this land use zoning objective. One of the observations received consistently refers to an LAP in their submission- I highlight to the Board that the site is not located within an LAP area.

7.1.2 The most recent application on this site dates back to 2015, when permission was granted by the planning authority for a development comprising of 6 no. three-storey mews dwellings (Reg. Ref. 4044/15). It may therefore be argued that the principle of residential development on this site was established under that permission.

7.1.3 The current proposal provides for 74 BTR apartments with associated residential communal facilities, within an eight storey over lower ground floor building. I am of the opinion that the principle of an appropriate form of development on this site would underpin the principles of a compact city, with good public transport options and a range of services and amenities existing within this established area of the city. In addition to the above, I have also had regard to the Council's Core Strategy with respect to housing. The core strategy states that compact growth will be promoted throughout the city through appropriate infill development and consolidation of brownfield sites and targeted growth along key transport corridors. I consider the subject site to be an infill, brownfield suitable for an appropriate level of development, local along a key transport corridor. I am also of the opinion that an appropriate level of development would accord with national policy/guidance, which seeks to secure compact growth in urban areas and deliver higher densities in suitable locations. While I have issue with the current proposal me, I am of the opinion that given its location within a central/accessible area, an appropriate form of residential development would be acceptable in principle on these lands. However, the site is not without its constraints and any development thereon must adequately take account of these.

Build-To-Rent

7.1.4 The attention of the Board is drawn to the fact that this is a build-to-rent scheme- 74 units in total with associated residential amenity space. As stated above, BTR residential is open for consideration within the 'Objective Z2' area. I highlight to the Board that some of the observations received raise concern regarding the nature of this BTR development. I note that the planning authority have not raised issue with the principle of a BTR development on this site.

7.1.5 Relevant policies with the Development Plan in relation to BTR developments include QHSN40, which allows for BTR developments within 500 metre walking distance of significant employment locations, within 500 metres of major public transport interchanges and within identified Strategic Development Regeneration Areas. The proposed site does not fall within any of these categories, although its location proximate to Dublin city centre is noted. The site is within 250m of

Drumcondra rail station, is proximate to a dedicated bus lane and is proximate to a number of established employment locations. This policy further states there will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. In this instance, the proposal falls below this threshold of 100 units.

7.1.6 In relation to relevant Section 28 Guidelines, I note that Build to Rents schemes are recognised as a distinct category within the current Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, issued in December 2022. Of note however, is that the same amenity standards as apply to Build-to-Sell would now apply to Build-to-Rent. However, the 2022 Guidelines were accompanied by a Circular Letter from the Minister stating that transitional arrangements would apply to applications for Build-to-Rent apartment developments that were already in train when the new guidelines were adopted, such as the current one (which was decided by the planning authority on 03/05/2022). Under these arrangements the standards for those schemes which applied under SPPR 7 and SPPR 8 of the previous version of the apartment design guidelines (2020) would continue to apply. The Board is therefore advised that the standards set out in the 2020 Guidelines apply to the current proposal. Furthermore, given the specificity of the Minister's circular in relation to current applications for Build to Rent schemes and the recognition in the 2022 Guidelines of their role in meeting wider objectives in relation to housing and urban form, I am of the view that the Build-to-Rent element of the proposed development on this site is justified at this time by guidelines and policies issued by the Minister.

7.1.7 Policy QHSN40 of the operative Development Plan also seeks to avoid an overconcentration of BTR developments within a 1km area, and seeks that applications for same are accompanied by evidence which demonstrates that this will not occur, as well as how the development will support housing need, with reference to the Dublin City Council Housing Need and Demand Assessment. The application was lodged when the previous Development Plan was in force, and this was not a requirement under this previous Plan. As such, no such assessment is submitted with the application.

7.1.8 Notwithstanding the lack of an assessment, which should be submitted in any future application on the site, I am of the view it cannot reasonably be asserted that the proposal would result in an overconcentration of BTR developments within a 1km radius of the site given the existing housing typology that has traditionally existed within this area. I also note that there appears to be no threshold specified in the operative City Development Plan that would define an overconcentration of such BTR developments. In relation to housing need, Section 28 Guidelines are clear in relation to the role of BTR in securing the continued delivery of residential development (Para 5.7 of the Apartment Guidelines, 2022 refers). Specifically, in relation to the Dublin City Council's Housing Need and Demand Assessment (Appendix 1 of the Plan), it is noted that rental inflation in Dublin has been driven by a number of factors, one of which is identified as housing supply levels. The interim HNDA for the Dublin City Development Plan 2022-2028, forecasts that housing need in the Dublin City administrative area will comprise 27,219 households over the Plan period, of which 4,088 will be in the private rented sector. The proposed BTR units, the subject of this current appeal, would help to deliver private rented units responding to this identified need. Having regard to all of the above, I am satisfied with the principle of BTR on this subject site.

7.1.9 SPPR 7 of the Guidelines require, inter alia, the provision of residential support facilities and residential services and amenities. I note the provisions of operative City Development Plan, namely Policy QHSN41, which seeks to discourage BTR Accommodation schemes of less than 100 units due to the need to provide a critical mass of accommodation to provide a meaningful provision of communal facilities and services. Smaller BTR accommodation schemes with less than 100 units will only be considered in exceptional circumstances and where a detailed justification is provided. In this regard, I again highlight that the current application as submitted prior to the adoption of the current City Development Plan and this was not a requirement of the previous Plan. While I acknowledge that a detailed justification has not been provided by the applicants in this instance, which should be provided in any future application on the lands, I am of the opinion that the level of communal facilities and services being provided in this instance is acceptable and would adequately meet the needs of future residents. Resident facilities are proposed

including a gym, work spaces, communal seating areas, meeting rooms- which are arranged around a central courtyard area at lower ground floor level.

- 7.1.10 To conclude, having regard to the location of the site within an established central, accessible area close to Dublin city centre and its associated employment areas; proximate to a QBC and proposed Bus Connects corridor and within 250m of Drumcondra train station on a site for which BTR residential development is permissible in principle, I am of the opinion that the principle of a BTR development on this site is acceptable in principle.

7.2 Scale, Height, Density/Plot Ratio and Site Coverage/Unit Mix/ Aspect/Open Space Provision

Scale, Height, Density

- 7.2.1 The first reason for refusal which issued from the planning authority stated that having regard to the overall scale, bulk, height and massing of the proposed development and taking into account the established character, pattern of development and low scale nature of the immediate surrounding area, the proposed development would constitute overdevelopment of this backland site and result in a visually discordant feature in the landscape which would be intrusive and overbearing when viewed on approach from the south along Drumcondra Road Lower. The development would detract from the visual amenities of the surrounding residential conservation area and would therefore, be contrary to the proper planning and sustainable development of the area.
- 7.2.2 The first party refutes this reason for refusal and state that the proposal provides suitable, high quality residential accommodation in a city centre location which reflects the surrounding context that is undergoing radical change in development terms. They further consider that the scale of proposal is appropriate given its accessibility to public transport including location 250m from Drumcondra rail station and its location in a well-established residential district. They argue that there is a presumption in favour of increased densities and height in such locations and note the evolving nature of environment including a grant of permission for BTR

development at Holy Cross lands. They further contend that the proposal is not a visually discordant feature in the streetscape nor is it intrusive or overbearing.

7.2.3 The three observations received general concur with the opinion of the planning authority and request that the refusal of permission be upheld.

7.2.4 I have examined all of the documentation before me in this regard and I have visited the site and its environs. I have had regard to the operative City Development Plan in particular section 15.5.2 in relation to infill development and section 15.13.4 in relation to backland housing. Infill development refers to lands between or to the rear of existing buildings capable of being redeveloped. Backland housing is generally defined as development of land that lies to the rear of an existing property or building line and can comprise of larger scale redevelopment with an overall site access. These sections of the Plan set out a number of criteria required for development of such sites and I refer the Board to same. I am of the opinion that the design rationale before me is not an appropriate response to this site. I welcome the amalgamation of plots, in order to allow for a more comprehensive redevelopment of this backland area, in accordance with section 15.13.4 of the operative City Development Plan. However, the response put forward in this instance is not appropriate, in my opinion. I consider that the overall height, scale and massing of the proposal in one block is excessive and represents over-development of the site. I would have anticipated that any proposal on this constrained, sensitive site would have had better regard for its context and that the design rationale would have reflected the historic plot boundaries in terms of its layout and elevational treatment.

7.2.5 While the proposal would be well screened as one travels along Drumcondra Road from the north, it would be highly visible from other vantage points in the vicinity. Given its urban location, I would not have issue with it being visible on the streetscape, if the design response put forward was an appropriate fit for the site. That is not the case in this instance. The proposal appears monolithic, owing to its scale and bulk, with overhanging balconies, little intervention to reduce its massing through meaningful setbacks or detailed articulation. Limited detail is submitted in relation to materials but the materiality is such that a wide palette is proposed, with little coherence and does not appear well considered. The cladding at the upper floors makes the building appear top heavy. I am not satisfied with the design response put forward. I consider the proposal is not in compliance with section

15.5.2 and 15.13.4 of the operative City Development Plan in that it does not respect and prevailing scale, mass and architectural design in the surrounding townscape; does not demonstrate a positive response to the existing context and does not positively interpret the existing design and architectural features of the area. In my opinion, the proposal has not appropriately considered the scale, form and massing of the existing properties along Drumcondra Road Lower and their interrelationship with the proposed backland development.

- 7.2.6 The first party appellants draw parallels between the proposed development and that permitted on the nearby Holy Cross lands, as a justification for the overall scale of development proposed. I do not agree with this assertion and consider that there is little similarity between the two sites, aside from their proximity to Protected Structures and their location within Drumcondra. I highlight to the Board that the Holy Cross decision (Ref. 310860) was quashed on judicial review and therefore I shall make no further comment in relation to that case. This current appeal is located on a restricted, backland site and any proposal thereon needs to adequately reflect this.

Height

- 7.2.7 The proposal, comprises an eight storey over lower ground floor structure, with a maximum height of 26.95m. The previous Development Plan which was in place when the decision of the planning authority issued, set a limit of 16m for residential development within this area. The current Development Plan sets no such limit for the area. I note however that the site is not located within an area in which exceptionally high buildings are contemplated within the Plan. At eight storeys in height above existing ground level, the proposal is generally higher than many existing buildings/structures within the immediate surrounding area, including the terrace of Protected Structures fronting onto Drumcondra Road Lower and the Crosscare building (formerly Mater Dei Institute) to its east. Citing heights permitted on the nearby Holy Cross SHD lands is not appropriate, in my opinion, given that the decision of ABP was quashed through the judicial review process. There are other structures of height within the vicinity, including Croke Park, and again a more detailed study of the prevailing heights within the vicinity should be submitted in any future application. A greater justification for proposed heights is required.

7.2.8 In terms of building height, I do not have issue with the principle of such heights within this general area, however taken in conjunction with the overall scale and massing of the proposal, together with the sensitivities of the site and its overall size, heights proposed are considered excessive in this instance. Appendix 3 of the Dublin City Council Development Plan 2022-2028 sets out guidance regarding density and building height in the city in order to achieve sustainable compact growth. It states that in considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated. I am of the opinion, that given the proximity of the proposed structure to the existing terrace of Protected Structures within an 'Objective Z2' area, the proposal before me has not had adequate regard to the local prevailing context. The operative City Development Plan recognises Key Areas where '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. It is raised in some of the observations received that the first party refer to the site as being located within the city centre. As it is outside of the canal ring, I consider this to be an inner suburban, centrally accessible area that is in close proximity to the city centre. Drumcondra is defined as an Urban Village' within the operative city Development Plan.

7.2.9 The operative City Development Plan states that 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/CBC's, Luas, Metrolink and DART. I note the proximity of the site to the proposed BusConnects public transport corridor on Drumcondra Road, together with its proximity to the existing DART station at Drumcondra and an existing QBC along Drumcondra Road. The operative City Development Plan recognises that 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'. In this instance, the site is adjacent to the proposed BusConnects (A Spine) and within 250m of the existing Drumcondra train station, with an existing QBC located on Drumcondra Road linking the city centre with the airport. Having regard to all of the above, I consider that in principle this is an area suitable for increased heights and densities.

- 7.2.10 I highlight to the Board that the application and appeal documentation is light on information and in my opinion, does not adequately address or provide adequate justification/rationale for many issues. I question why the first party appellants cite commercial standards in terms of building height, given that this is a purely residential development. In addition to local policy, I consider that the proposal does not comply with section 3.2 of the Urban Development and Building Height guidelines on a number of points. While it's urban location proximate to existing/proposed high quality public transport is acknowledged, its sensitive location within a residential conservation area is noted. I am of the opinion that, notwithstanding the additional information submitted as part of the appeal submission including photomontages, that there is inadequate justification for the height proposed and this matter should be further addressed on any subsequent application on this site, which should include for a more detailed landscape and visual assessment.

Density

- 7.2.11 The proposal has a stated density of 435 units/hectare. Appendix 3, Section 3.2 - Table 1 of the Dublin City Council Development Plan 2022- 2028 sets out density ranges which will be supported for locations including City Centre and Canal Belt (100-250 units per hectare), SDRA ((100-250 uph), Key Urban Village (60-150 uph) and Outer Suburbs (60-120 uph). Density ranges are not provided for locations along Public Transport Corridors. I note, however, that Section 3.2 states that 'There will be a general presumption against schemes in excess of 300 units per hectare'. I am of the opinion that the use of urban land must be optimised in terms of sustainable densities. I also acknowledge that the density of the proposed development at 435 units per hectare significantly exceeds the net density range (units per hectare) for all areas in Dublin City, as detailed in Appendix 3, Section 3.2 of the operative City Development Plan. However, I note that flexibility is allowed for in this regard and that the Development Plan allows for schemes in excess of 300 units per hectare in

exceptional circumstances where a compelling architectural and urban design rationale has been presented. In principle, I do not have issue with such densities, if proposed as part of a quality scheme. I note the locational context of the site, close to Dublin city centre, within an established area proximate to high employment bases and adjacent to a QBC, proposed BusConnects spine and within a short walk to Drumcondra train station. However, given the issues raised above, I consider the proposed density to be excessive and that an exceptional circumstance does not arise in this instance as a compelling architectural and urban design rationale has not been presented.

7.2.12 One of the observations received contended that the proposal represents a material contravention of the operative City Development Plan in relation to density. I do not agree with this assertion and consider that the Development Plan allows flexibility in this regard, in certain exceptional circumstances.

7.2.13 I note that Table 3 of Appendix 3 of the operative City Development Plan sets out performance criteria in assessing proposal for enhanced height, density and scale and this Table sets out 10 objectives to be used in assessing urban schemes of enhanced density and scale. The Plan further states that in proposing urban scale and building height, the highest standard of urban design, architectural quality and placemaking should be achieved. Having assessed Table 3, I am of the opinion that the proposed development is not in accordance with same, in particular in relation to Objective 1, 7 and 9. The proposal, in my opinion, does not promote a sense of place and character; does not ensure high quality and environmentally sustainable building and does not protect the historic environment from insensitive development. In addition, I am not convinced that the highest standard of urban design, architectural quality and placemaking is being achieved in this instance.

Plot Ratio and Site Coverage

7.2.14 The applicants state that the development conforms to the general and specific development standards for residential development as set out in the Development Plan. In terms of plot ratio, I would question this statement. The Development Plan states that plot ratio and site coverage can be used as part of a suite of measures to ensure higher density schemes are appropriately developed to a high standard. Appendix 3, Table 2 of the Development Plan sets out indicative plot ratio standards

for different areas of the city. I consider this to be a 'residential' area as per Table 2 with an indicative plot ratio of 1.0-2.5 specified. The Plan allows for flexibility in this regard and states that high plot ratio and site coverage may be permitted in certain circumstances including adjoining major public transport corridors and to facilitate comprehensive re-development in areas in need of urban renewal. I consider that a case could be made for both of these to justify the increased plot ratio in this instance, however this has not been adequately put forward in the submitted documentation. The proposed plot ratio of 3.52 is considered high, when taken in conjunction with the issues I have raised above. I consider that, in this instance, this proposed plot ratio further reflects the over-development of the subject site. The proposed complies with the Development Plan in terms of site coverage.

Aspect

- 7.2.15 Section 15.9.3 of the operative City Development Plan deals with dual aspect, which is defined as one with openable windows on two external walls, which may be either on opposite sides of a dwelling or on adjacent sides of a dwelling where the external walls of a dwelling wrap around the corner of a building. It continues by stating that achieving dual aspect in living rooms is the most preferable unit configuration, allowing for high amenity value in the predominant living space. The applicants state that 27 units (36%) are dual aspect in this current proposal. Having examined the documentation before me, I note that many of the units referred to as dual aspect, have the second aspect to a bathroom only. While this bathroom window may be openable, I would not consider this to be dual aspect in the spirit of the definition and would concur with the planning authority when they state that the figure is more in the region of 20%. The first party do not appear to specifically address this issue in their appeal documentation. SPPR4 of Sustainable Urban Housing: Design Standards for New Apartments (2020 and 2022) states that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate. I highlight to the Board that I therefore consider the proposal not to be in compliance with SPPR4.

Unit Mix

- 7.2.16 The subject site is considered to be an urban infill site on a site less than 0.25 hectares (site area stated as 0.1715ha) and therefore SPPR2 of the Sustainable Urban Housing: Design Standards for New Apartments would normally apply in relation to unit mix.
- 7.2.17 Section 15.9.1 of the operative City Development Plan applies which references SPPR1 and SPPR2 of the Apartment Guidelines in relation to unit mix. The subject site is not located within either of the two sub areas identified for sub-city level HND analysis. The Plan notes that SPPR 2 provides some flexibility in terms of unit mix for building urban infill schemes on sites up to 0.25 ha and that the planning authority will assess each application having regard to SPPR 2 on a case by case basis. As detailed above, the proposed mix is as follows: 45 x studio units; 18 x one-bed and 11 x two-bed units. However, as this is a BTR development SPPR7 and SPPR8 apply, which states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise. While the planning authority considers the number of studios proposed to be excessive, I am satisfied with the proposed unit mix and consider that it would cater to a particular cohort of the population at this urban location.
- 7.2.18 I highlight to the Board that one of the observations received considers that the proposal materially contravenes the housing mix requirements of the operative City Development Plan. I do not concur with this assertion and again note, that irrespective of the BTR nature of the development, that flexibility is provided for in this regard under section 15.9.1 of the operative City Development Plan.

Open Space Provision

- 7.2.19 Section 15.8.6 of the Dublin City Council Development Plan 2022-2028 requires a provision of 10% of site areas on land zoned Z2 as accessible public open space, or otherwise a payment in lieu of such provision. Again, it would appear that the applicants have not addressed this matter within their documentation, as to how they intend to comply with this requirement. Given the site circumstances and its proximity to existing public space, I would however be satisfied with a payment in lieu, in this instance. One of the observations received states that the proposal materially contravenes the public open space requirements of the operative City

Development Plan. I do not concur with this assertion and again highlight to the Board that the Development Plan allows for flexibility in this regard.

- 7.2.20 In terms of private open space provision, I note that private open space in the form of balconies are provided to one and two-bed units and some studios. Studios without a balcony are provided with a Juliette balcony and sliding door. I note the BTR nature of the proposal, SPPR 8 and the alternative, compensatory communal support facilities proposed and consider that the proposal is acceptable in terms of private open space provision.

Conclusion

- 7.2.21 To conclude this point, I do not have issue with the principle of heights and density such as that proposed within this general area, however taken in conjunction with the overall scale, massing and architectural treatment of the proposal, together with the sensitivities of the site and its overall size, the height and density proposed are considered excessive in this instance and represent over-development of the site. The proposed plot ratio is further considered to be indicative of over-development of the site. I have issue with the quantum of dual aspect units proposed and I do not accept the figure put forward by the applicant's in the submitted documentation. I consider the quantum of dual aspect units proposed not to be in compliance with SPPR4 of the Apartment Guidelines. I do not have issue with a payment in lieu of public open space provision, given the locational context of the site and I consider that the private open space provision complies with the Apartment Guidelines (2020). Again, given the locational context of the site, I do not have issue with the unit mix proposed. Finally, I do not consider the proposal to represent a material contravention of the operative City Development Plan in any of these respects.

7.3 Built Heritage

- 7.3.1 The six buildings which back onto the western boundary of the site are Protected Structures (No.'s 59-69) (RPS Ref. 2350 to 2355 inclusive) and all are identified on the NIAH with a regional rating of architectural and artistic interest. As stated above, the site is also located within a Z2' residential conservation area.
- 7.3.2 The second reason for refusal which issued from the planning authority stated that the excessive and over-bearing height and lack of appropriate transition in scale to

the Protected Structures along Drumcondra Road Lower to the west would have a significant and seriously injurious impact on the special architectural character, setting and amenity of the Protected Structures and impact adversely on the residential amenities of these properties as well as on the character of the surrounding residential conservation area. The proposed development would also result in the loss of historic fabric including historic boundary walls that form part of the historic curtilage of the Protected Structures contrary to Policies CHC2 and CHC4 of the Dublin City Council Development Plan 2016-2022 and the proper planning and sustainable development of the area.

- 7.3.3 The first party appeal refutes this reason for refusal. They highlight that in terms of loss of rear gardens associated with Protected Structures, these have not been of practical or aesthetic benefit for some time and that the boundary walls had already collapsed, prior to their acquiring of the lands. They further note that the associated impacts of the proposal on the Protected Structures is classified as slight and neutral, as set out in the submitted Architectural Heritage Impact Assessment. Any loss of original fabric is historic and does not occur as a result of the proposed development
- 7.3.4 The observations received raised concerns with regards proximity to Protected Structures; inadequate separation distances and the proposal comprising an inappropriate intrusive element into this historic streetscape. One of the observations received states that the proposal materially contravenes the operative City Development Plan in terms of Architectural Conservation Area requirements. I highlight to the Board that the site is located within a residential conservation area, not an architectural conservation area.
- 7.3.5 I note that the Conservation Officer of the planning authority considered that the proposal did not take into sufficient account the significance, remaining architectural fabric, nor special architectural character of the Protected Structures along Lower Drumcondra Road nor their setting, nor the significance and special architectural character of the Archbishops House and Holy Cross lands. In this regard, I consider that, given the separation distances involved and the intervening development, impacts on the Archbishop's House and Holy Cross lands would not be so great as to warrant a refusal of permission. My concern in this instance relates to impacts on

the character, setting and amenities of the terrace of properties 59-69 Drumcondra Road Lower.

- 7.3.6 Having examined the documentation before me and having visited the site and its environs, I would echo the concerns of the planning authority in this regard. While the separation distances proposed may be acceptable at another less sensitive location, I consider that in this instance, taken in conjunction with the overall scale and massing of the proposal; the lack of an appropriate transition in scale; together with its height and design rationale, that the proposed development would have an excessively overbearing impact on this terrace of Protected Structures; would seriously negatively impact on their outlook; would have a seriously injurious impact on their architectural character and setting, and that of the surrounding residential conservation area.
- 7.3.7 I note the location of the site within an area zoned 'Objective Z2 Residential Neighbourhoods (Conservation Areas) and highlight Section 14.7.2 of the operative City Development Plan in this regard, which states that 'The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area'. I am of the opinion that the proposal before me is an unsuitable new development that would have a negative impact on the amenity and architectural quality of the area. I also note section 15.5.2 of the operative City Development Plan in relation to infill development, which states that it is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent streetscape. It further states that within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area. This is not being achieved in this instance.
- 7.3.8 I further consider that any future development on these lands should strive to become a more sympathetic addition- one that puts forward a design rationale that acknowledges the sensitive setting of the area and does not detract from it. While the site may have capacity for a development of greater scale than that previously

permitted on the site, I would anticipate that any future development thereon would reflect the traditional plot widths within its design rationale and that the articulation of the development would relate more sympathetically with its historic context – by the protection of the lines of the building plots within the party walls of the new proposal and/or through the elevational treatment of the development

- 7.3.9 In terms of the loss of the historic fabric, namely the boundary walls, I note the explanation put forward in the first party appeal, namely that these boundary walls were collapsed prior to them acquiring the lands and I accept this. I also note that to the north, a 1.8m stone wall is to be constructed using the existing stone wall materials. I am of the opinion that a balance needs to be achieved between protecting these boundary walls and developing the site at an appropriate scale and density. I would accept the loss of these boundary walls, if other elements of the proposal were considered satisfactory.

7.4 Impact on Existing Residential Amenity

- 7.4.1 The second reason for refusal which issued from the planning authority stated that the excessive and over-bearing height and lack of appropriate transition in scale to the Protected Structures along Drumcondra Road Lower to the west would impact adversely on the residential amenities of these properties. Concerns are raised by the planning authority that the development would give rise to an unacceptable level of overlooking and result in a poor outlook for these buildings. The resultant loss of privacy to the properties would detrimentally impact on the residential amenities of these properties. I also highlight to the Board that some of the observations received raise concern with regards impacts on residential amenity and deficiencies in the submitted daylight/sunlight analysis.
- 7.4.2 I note the separation distances involved and have addressed this matter in the preceding section. I acknowledge that given the urban location of the site, a certain degree of overlooking is to be anticipated. In this instance, my greater concern is with regards the overbearing nature of the proposed block on these properties. If all elements of the proposal were considered satisfactory, I would not have issue with the proposed separation distances put forward in this instance.

- 7.4.3 In terms of daylight and sunlight, I note that the planning authority did not raise particular concern in this regard, but stated that a more detailed analysis of the impacts of the development would be preferable to ensure the accuracy of the statement submitted with the application documentation. I highlight to the Board that an updated Daylight Analysis and Overshadowing Report was submitted with the first party appeal submission.
- 7.4.4 I acknowledge that in designing a new development, it is important to safeguard the daylight to nearby buildings. BRE guidance given is intended for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens, and bedrooms. I am of the opinion that the terrace of properties fronting onto Drumcondra Road Lower (No.'s 59-69), together with the Crosscare Hub (formerly Mate Dei institute), which appears to be in use as residential accommodation, are the properties with greatest potential to be impacted by the proposed development.
- 7.4.5 The Building Height Guidelines refer to the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' and ask that 'appropriate and reasonable regard' is had to the BRE guidelines. However, it should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines. Of particular note is that, while numerical guidelines are given with the guidance, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design, with factors such as views, privacy, security, access, enclosure, microclimate and solar dazzle also playing a role in site layout design (Section 5 of BRE 209 refers). The standards described in the guidelines are intended only to assist my assessment of the proposed development and its potential impacts. Therefore, while demonstration of compliance, or not, of a proposed development with the recommended BRE standards can assist my conclusion as to its appropriateness or quality, this does not dictate an assumption of acceptability or unacceptability.
- 7.4.6 I note that the criteria under section 3.2 of the Building Height Guidelines at the scale of site/building include the performance of the development in relation to minimising overshadowing and loss of light.

7.4.7 As stated above, an updated Daylight Analysis and Overshadowing Report was submitted with the first party appeal documentation. The information contained therein generally appears reasonable and robust. I note that the submitted Report has been prepared in accordance BRE BR209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice', 2nd Edition 2011 and with BS 8206-2: 2008 'Lighting for Buildings – Part 2: Code of Practice for Daylight' and by proxy, BS EN 17037. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight: A guide to Good Practice (2011). The latter document is referenced in the section 28 Ministerial Guidelines on Urban Development and Building Heights (2018). While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines. I have carried out an inspection of the site and its environs.

7.4.8 In terms of daylight, paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. BRE Guidelines recommend that neighbouring properties should retain a VSC (this assesses the level of skylight received) of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will be needed more of the time. A VSC analysis was conducted on the rear windows of the properties facing the proposed development from Drumcondra Road Lower- 35 points in total. I am satisfied that all relevant points have been considered. The results confirm that access to daylight for existing surrounding dwellings, when compared with their existing baseline experience, will not be compromised as a result of the proposed development as all points assessed exceed BRE recommendations.

- 7.4.9 In terms of sunlight, the impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH). A target of 25% of total APSH and of 5% of total WPSH has been applied and is applied only to windows that face within 90 degrees of due south. The BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed.
- 7.4.10 The submitted assessment does not provide analysis in this regard; however, I note that the Building Height Guidelines do not explicitly refer to sunlight in proposed accommodation. The Building Height Guidelines state in criteria 3.2 that ‘the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light’. Therefore, while daylight and overshadowing are explicitly referenced, there is no specific reference to sunlight, and reference is only to daylight, overshadowing or more generally ‘light’.
- 7.4.11 While there is no analysis provided, I note the orientation of the site and the limited level of development located 90 degrees due south of the site. In my opinion, the results in relation to sunlight impact could be expected to have a similar effect as set out above in relation to daylight. But given the orientation of blocks and separation distances proposed, I am satisfied that the acceptable levels of sunlight will be maintained to existing development, in recognition of BRE criteria.
- 7.4.12 I am satisfied that impacts of the development on sunlight levels to surrounding property will be minor, and are on balance, acceptable.
- 7.4.13 In relation to overshadowing, BRE guidelines state that an acceptable condition is where external amenity areas retain a minimum of 2 hours of sunlight over 50% of the area on the 21st March. All amenity spaces adjoining the proposed development site boundary that could potentially be impacted, were assessed in relation to potential overshadowing. All areas examined achieved compliance with BRE guidelines. I am content that the proposed development would not unduly overshadow surrounding amenity spaces, over and above the current situation.

7.4.14 To conclude, the level of impact is considered to be acceptable. In my opinion, and based upon the analysis presented, the proposed development does not significantly alter daylight, sunlight or overshadowing impacts from those existing and this is considered acceptable. I am satisfied in this regard.

7.5 Traffic and Transportation

7.5.1 The proposal provides for 4 no. car parking spaces which includes for 1 no. accessible/mobility impaired space and 1 no. EV charging space. The Mobility Management Plan (MMP) states all parking spaces are visitor spaces. Appendix 5, Section 4.0 of the Dublin City Council Development Plan 2022-2028 sets out car parking standards, with Table 2 outlining maximum car parking standards for various land uses. As detailed in Map J of the Development Plan, the site is located in Zone 2, which is identified as occurring alongside key public transport corridors. Table 2 requires that residential development in Zone 2 provide a maximum of 1 no. car parking space per dwelling. A Mobility Management Plan has been submitted in compliance with section 2.3 of the operative City Development Plan, however clarity on a number of issues was sought by the Transportation Department of the planning authority. These matters should be dealt with in any future application on the lands.

7.5.2 Section 4.21 of the Sustainable Urban Housing: Design Standards for New Apartments (2022) refers to car parking in Central and/or Accessible Urban Locations and states that; In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. This is considered to be one such appropriate area.

7.5.3 Having regard to all of the above, I am satisfied that the level of car parking proposed is acceptable given the locational context of the site, its proximity to quality public transport links and the nature of the development proposed. I highlight to the Board that one of the observations received considered that the proposal materially contravenes the car parking requirements of the operative City Development Plan. I do not concur with this assertion and consider that both local and national policy

allows for flexibility in this regard.

7.5.4 The proposal provides for 122 no. bicycle parking spaces comprising 100 no. long term resident spaces at basement level and 22 no. short term visitor spaces at surface level. The quantum exceeds the standards for resident cycle parking in the Development Plan and the standards outlined in the Sustainable Urban Housing Guidelines. I am generally satisfied in this regard.

7.5.5 I am satisfied that any other matters raised by the planning authority in relation to transport and traffic matters could be adequately dealt with by means of condition, if the Board was disposed towards a grant of permission. I have no information before to believe the proposal would lead to the creation of a traffic hazard or obstruction of road users. I am generally satisfied in this regard.

7.6 Other Matters

7.6.1 The matter of the impact of the proposal on bird and bat strike/flight paths was raised in one of the observations received. I have dealt with the matter from an appropriate assessment viewpoint above and I refer the Board to same. The applicant has not addressed this matter in the submitted documentation. I note that birds observed on site during the survey were common species. Herring gulls, rooks and jackdaws were observed flying over the site- again common species. I highlight to the Board that none of these birds are qualifying interests for any designated sites with Dublin Bay. No SCI species of any designated site were observed on the site or flying over the site. There is no suitable habitat on site for bat roosts, although the site is a potential foraging route for bats. I am satisfied that based on the information before me, it is unlikely that the proposal will have significant effects on any bird or bat species or flight path associated with any designated sites within Dublin bay. I have no information before me to believe that the proposed development would lead to the possibility of interruption of flight lines of SCI bird species commuting to other ex situ feeding habitats within the area or on migration. The height of the building within the proposed development site is noted. The proposed development does not contain any fly-through areas or green walls. The design of the building is such that the majority of glazing is divided up by solid elements. The proposed building height are generally comparable to other existing/permitted structures in the wider area. I am

satisfied in this regard. If the Board is disposed towards a grant of permission, they may wish to attach a condition relating to the use of additional opaque areas and visual markers. I do not consider this necessary however.

- 7.6.2 One of the observations received states that the proposal materially contravenes Development Plan policy in relation to childcare provision. The City Development Plan recognises that the government's Childcare Facilities: Guidelines for Planning Authorities (2001) and Circular on Childcare Facilities (2016) provide a policy framework to guide local authorities on the provision of childcare facilities in suitable locations including residential areas, employment nodes, large educational establishments, district and neighbourhood centres and in locations convenient to public transport networks. This guidance also recommends the provision of one childcare facility per 75 no. residential units with a pro-rata increase for residential developments in excess of this size threshold. In this instance, the proposal falls below the threshold of 75 units. I also refer the Board to section 4.7 of the Sustainable Urban Housing: Design Standards for New Apartments (2022) in this regard. In addition, the submitted Social Audit lists a number of pre-schools/crèches in the vicinity, which would appear well served. I would not anticipate there to be a high demand for childcare places arising from the proposed development, given the unit mix proposed. I am satisfied in this regard and consider that the proposal does not represent a material contravention of the City Development Plan in this regard.
- 7.6.3 One of the observations received stated that the proposal has not demonstrated that there is sufficient infrastructure capacity to support proposed development by reference to public transport, drainage, water services and flood risk. I do agree with this assertion. The planning authority have not raised concern in this regard, neither have any of the statutory consultees. For instance, Irish Water, in their pre-connection enquiry, state that the proposed connections to the network can be facilitated at this time, subject to upgrades. There is no record of flooding on the site. The site is located within an established urban area and will connect into existing services and networks. The proposal is for a relatively small-scale development of 74 units, which would have only minor impacts on capacity of any such infrastructure. I am satisfied in this regard.
- 7.6.4 While the file is light on information in certain respects, I highlight to the Board that, in my opinion, there is sufficient information on file to comply with the requirements

of the Planning and Development Regulations, 2001(as amended). I am also satisfied with the description of the site location, as per the submitted public notices. The purpose of the public notices is to give an indication to the general public that a planning application has been lodged on the subject lands and a broad outline of the development proposed. It is clear that the general public have been made aware of the proposed development, given the volume of submissions received. Exact details would be available to view on both the hard copy and online on the planning authority website. I am satisfied in this regard and also note that the planning authority did not raise concern in this regard.

7.7 Conclusion

- 7.7.1 At the outset, I highlight to the Board that while the application complies with the Planning and Development Regulations, 2001 (as amended) in terms of validation and documents to be submitted, I do consider that the file is light on information in almost all aspects and that this matter should be addressed in any future application on the site.
- 7.7.2 In principle, I welcome the amalgamation of these backland, infill plots in order to allow for a comprehensive redevelopment of the lands as opposed to them being individually developed on an ad hoc basis. I also welcome the principle of residential development on the lands and I consider the principle of a BTR development to be also an appropriate tenure at this location. Given the locational context of the site, I do not have issue with the quantum of car parking being provided nor the proposed unit mix.
- 7.7.3 I consider that drawing parallels between the subject site and the nearby Holy Cross lands to be inappropriate as they have entirely different contexts, with little similarity between the two sites.
- 7.7.4 I note the level of development previously permitted on these lands in 2015, namely a 6 x three-storey mews development. Given the changing context in the interim, including the various ministerial guidelines on increasing height and density within the built-up area, I consider that a greater level of development may be appropriate on these lands than was previously permitted. Notwithstanding this, I have severe reservations in relation to the proposal before me, as detailed above. I consider the density and plot ratio to be particularly high, given the standards set out in the newly

adopted City Development Plan, although I do acknowledge that the Plan allows for flexibility in this regard, in certain circumstances. In terms of height, I do not have issue in principle with a height of eight storeys within this area, however in this instance given the site sensitivities, and taken in conjunction with the overall scale, massing and bulk of the proposed development; the lack of adequate transitioning and the density and plot ratio, I consider the current proposal to be excessive, overbearing and to represent over-development of the site. It would be visually obtrusive when viewed from adjoining properties and the adjoining streetscape. The proposal, if permitted, would negatively impact on the character and setting of Protected Structures in the vicinity and the designated residential conservation area and if permitted, could set an undesirable precedent for similar type developments in the vicinity.

8 Recommendation

8.1 I recommend that permission be REFUSED

9 Reasons and Considerations

1. Having regard to the height, scale, massing, density and architectural design, taken in conjunction with the lack of appropriate transitions on a sensitive, restricted site, it is considered that the proposed development would constitute overdevelopment of the site and would have an unreasonable overbearing and visually dominant effect on adjoining sites. The proposed development is considered to be contrary to section 15.5.2 and 15.13.4 of the Dublin City Development Plan 2022-2028 in this regard.

The proposed development fails to adequately integrate with the adjoining terrace of Protected Structures at 59-69 Drumcondra Road Lower and as a result would seriously injure the visual amenities of the streetscape and would have an adverse impact on their character and setting, and that of the adjoining residential conservation area. The proposed development is considered to be contrary to section 14.7.2 of the Dublin City Development Plan 2022-2028 in this regard.

The proposed development would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the operative City Development Plan in this regard and could be contrary to the proper planning and sustainable development of the area.

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.

Lorraine Dockery
Senior Planning Inspector

23rd May 2023