



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314103-22

#### Development

Demolition of two storey building .  
Construction of 42 apartments, 3 retail units, public house.  
Telecommunications infrastructure at roof level and associated site works.

#### Location

Kestrel House, 157 Walkinstown Road, Dublin 12, D12 NN8A with frontage to Cromwellsfort Road and Bunting Road

#### Planning Authority

Dublin City Council South

#### Planning Authority Reg. Ref.

3193/22

#### Applicant(s)

Double E Investments

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant(s)

Eoin Duff and Others

#### Observer(s)

None

#### Date of Site Inspection

24<sup>th</sup> January 2024.

#### Inspector

Joe Bonner

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## 1.0 Site Location and Description

- 1.1. In 2021, this site was the subject of an application for 52 apartments under P.A. Ref. 2782/21, that was appealed to the board under ABP Ref.311065-21. Some of the description of the site from the Board Inspectors report on that appeal, continues to apply, and the general site location and description from that inspector's report have been adopted in this report and updated where appropriate to reflect changes that have occurred in intervening period.
- 1.2. The site is located in the suburb of Walkinstown at a distance of c.5km southwest of Dublin city centre, c.2km east of the M50 and c.1.3km southeast of the Kylemore Luas stop. It has a stated area of 0.1549Ha and adjoins the north-eastern edge of the six-arm Walkinstown roundabout. The roundabout also coincides with the administrative boundary between Dublin City Council (DCC) and South Dublin County Council, with the northern side (including the appeal site) being within the DCC area. The wider surrounding area to the north west, northeast, and southeast is mainly comprised of low-density suburban housing, while the area to the west and southwest of the roundabout comprises mostly of warehousing and industrial uses, including in Ballymount Industrial Estate and the Greenhills commercial area although a new residential development is under construction on Lower Ballymount Road in the functional area of South Dublin County Council, immediately adjacent two storey houses on Walkinstown Crescent. It consists of 171 apartments in two buildings up to 8 storey in height.
- 1.3. Roads bound the site on three sides, with Walkinstown Road to the west and Cromwellsfort Road and the Walkinstown Roundabout to the south. Bunting Road to the east has lower traffic volumes and mainly serves a residential area. A two storey flat roofed building with rooftop antennae abuts the northern site boundary, with a single storey veterinary centre and single and two storey housing located further north. The sites adjoining the roundabout mainly accommodate small-scale commercial/retail businesses in a variety of styles, along with a limited number of dwellings. Many of the existing businesses are housed in former dwellings. There is little in the form of purpose-built modern development in the immediate vicinity, apart from a 3-storey commercial building c47m to the west, between Walkinstown Road and Walkinstown Avenue.
- 1.4. The site is occupied by a two-storey over basement building containing a large public house and restaurant (the Kestrel), off-license and separate betting office. It has a stated

floor area of 1,612m<sup>2</sup>. A poorly defined vehicular entrance is located at the southeast corner of the site on Bunting Road, immediately adjacent to the junction Cromwellsfort Road, which provides access to the premises' car park at the south and southwest of the site. There is additional perpendicular off-street public parking and a taxi rank adjoining the eastern site boundary on Bunting Road which, while owned by Dublin City Council forms part of the application site. There are continuous footpaths of varying width around the south, east and west site perimeter, which is delineated by a mixture of bollards, planting and kerbing.

- 1.5. There is a separate small private car park area to the immediate west of the site adjoining Walkinstown Road with access available adjacent to a set of pedestrian lights in front of the adjacent Eir building, and while it would appear to form part of the site as a number of parking space are provided directly in front of the Kestrel, this parking area lies outside of the red lined site area.

## 2.0 Proposed Development

- 2.1. In summary, planning permission is sought for a mixed-use development of 42 apartments, 3 no. retail units and a 384sqm public house. The proposed development is comprised of the following:

- Demolition of the existing two-storey public house and off licence (1,612m<sup>2</sup>)
- Construction of a part 4, 5 and 6 storey (over basement) development comprising:
  - 42 no. apartments, comprising of 19 no. one-bed apartments and 23 no. two-bed apartments (accessed from Bunting Road), each with access to private amenity space in the form of a balcony/terrace and 381.6 sqm of external communal amenity space provided at 4th and 5th floor levels.
  - 3 no. retail units at ground floor level totalling 146sqm (accessed from Walkinstown Road and Bunting Road).
  - A 384sqm public house at ground floor level (accessed from Walkinstown Road, Cromwellsfort Road and Bunting Road).
  - Refuse storage, a plant room and an ESB substation.

- 99 no. bicycle parking spaces, including 1 no. accessible space and 2 no. cargo bicycle spaces located internally at ground floor level and 39 no. visitor bicycle parking spaces located externally.
- Extended excavation of existing basement to provide for 16 no. car parking spaces (including 1 no. limited mobility parking space). Vehicular access to the basement will be provided via a vehicle lift accessible via Bunting Road.
- Provision of telecommunications infrastructure at roof level comprising (a) 6 no. 5G antennas and 6 no. hexaband antennas. Each antenna will be enclosed within shrouds (2.8m in height above parapet). A total of 6 no. shrouds will be provided, each containing 1 no. 5G antenna, 1 no hexaband (2G/3G/4G) antenna; (b) 6 no. 0.3m microwave link dishes on 3 no. steel support poles (2m in height above the lift shaft overrun); (c) all associated equipment.
- Landscaping and site development works.

2.2. Foul water is to be connected to the existing foul sewer running in a westerly direction along Cromwellsfort Road via a foul pumping station pump located beneath the basement floor and 150mm pipe. The surface water system has been designed as a sustainable urban drainage system, using permeable paving at ground level and a blue / green roof stormwater attenuation system at each of the three roof levels. Surface water would be discharged through 225mm pipes via gravity to the existing surface water sewer system to the south of the site. Irish Water has confirmed that water and wastewater connections are available, with a 150mm diameter waste main located to the south east of the site, while Irish Water also stated that fire flow requirements could not be guaranteed. The watermain will be connected to the existing 150mm watermain on Cromwellsfort Road. The external areas of the development will be served by external fire hydrants.

2.3. Along with the standard drawings and information, the application included the following reports:

- Planning Report
- Utilities and Energy Sustainability Report
- Presentation and Verified Views
- Architectural Design Statement

- Daylight, Sunlight and Overshadowing Study
- Acoustic Design Statement
- Traffic & Transportation Statement
- Landscape and Visual Impact Assessment (LVIA)
- Construction & Demolition Waste Management Plan
- Engineering Services Report - addressing Surface Water Drainage, Foul Drainage, Water Supply and Flood Risk Assessment.
- Air Quality Assessment
- Proposed Utilities and Energy Sustainability report
- Site Lighting Report
- Telecommunications Report
- Part V Validation Letter
- Letters of consent from the landowner and Dublin City Council
- Minutes of a pre planning consultation

2.4. The following reports were submitted as part of the further information response:

- Planning Report; Daylight, Sunlight and Overshadowing Study; Landscape and Visual Impact Assessment; Traffic and Transport issues and Landscape Masterplan.

The key figures for the proposed development can be summarised as follows:

**Table 1 – Housing Mix**

Apartment Type	Original Application	Further Information
	No. of Units (%)	No. of Units (%)
1-bed	19 (45%)	19 (45%)
2-bed (3-person)	0 (0%)	3 (7%)
2-bed (4-person)	23 (55%)	20 (48%)
<b>Total Units</b>	<b>42 (100)</b>	<b>42 (100)</b>

2.4.1. The key figures relating to the proposed development are summarised in the following table (including subsequent revisions where applicable).

**Table 2 - Key Figures for the Proposed Development**

	<b>Original Application</b>	<b>Further Information</b>
<b>Site Area</b>	0.1549 ha (gross)	No change
<b>No. of apartments</b>	42 apartments	No change
<b>Non-residential Uses</b>	Pub (383.8sqm) 3 retail units (c.146.3 sqm)	Pub (368.2sq.m) a 15.6sqm reduction 3 retail units (c.111.5 sq.m) a 34.8sqm reduction
<b>Gross Floor Area</b>	1,612sqm (existing building) 4,502sqm (proposed, excluding basement)	4,277sq (proposed, excluding basement) (a 225sqm reduction)
<b>Residential Density</b>	42 / 0.1549ha = 271 units per hectare	No change
<b>Plot Ratio</b>	4,502sqm / 1549sqm = 2.9	4,277sqm / 1549sqm = 2.76
<b>Site Coverage</b>	59%	54%
<b>Height</b>	4 to 6 storeys (over basement) (21m at eastern side of 6 storey element)	No change
<b>Dual Aspect</b>	52.3%	No change
<b>Car Parking</b>	16 no. basement level car parking spaces.	14
<b>Bicycle parking</b>	96 no. secure cycle parking spaces and 18.3sqm for cargo bikes	72 no. secure cycle parking spaces and 20.27sqm for cargo bikes
<b>Communal Amenity Space</b>	380sqm proposed (253sqm required) 167sqm - 4 <sup>th</sup> floor & 213sqm - 5 <sup>th</sup> Floor	356.05sqm (a 23.95sqm reduction)  123.2sqm - 4 <sup>th</sup> floor & 232.85sqm - 5 <sup>th</sup> Floor
<b>Public Open Space</b>	None	None
<b>Part V</b>	9 units (21.42%)	No change



## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 21<sup>st</sup> of June 2022, Dublin City Council (DCC) issued notification of a decision to grant permission subject to the attachment of 28 No. conditions, including:

- No 4 – Development Contribution in lieu of public open space.
- No 5 – The location of an existing public surface water sewer on site must be determined and a minimum distance of 3 metres to be maintained between this sewer and all structures on site. No additional loading shall be placed on this sewer.
- No 7 - No advertising signs or structures to be displayed or erected on the building, windows or curtilage, without a prior grant of permission.
- No 11 – Real time dust and noise monitoring required during demolition and construction.
- No 15 - Wind mitigation screening to the roof terraces, including position, height and appearance to be submitted to and agreed in writing with the planning authority.
- No 17 - Telecommunication structures on the roof shall be removed if redundant.
- No 22 – The car lift shall prioritise incoming traffic, to avoid queueing.
- No 23 – Parking spaces not to be sold with apartments, but managed via leasing or permits.
- No 26 – Liaise with the National Transport Authority with regards any future requirements for BusConnects and cycle parking shall be in situ prior to the occupation.

### 3.2. Planning Authority Reports

#### 3.2.1. First Planning Officer's Report

The planning officer's first report dated the 28<sup>th</sup> of March 2022 can be summarised as:

- Preplanning addressed a reduced height and scale from the previous application, massing, visual impact, traffic, servicing, car parking, pedestrian circulation, plot ratio and site coverage, air pollution, private and communal amenity spaces.

- The development would contribute to the provision of neighborhood facilities and introduce apartments into an area predominantly consisting of houses.
- Existing character and public transport capacity are key considerations in determining density. The plot ratio of 2.9 is above the indicative standard of 1.5 – 2.0. Site coverage at 59% is just below the development plan standard of 60%. High densities can be supported where a proposal relates successfully to its surroundings, provides good quality accommodation, protects neighbouring amenities, and is acceptable with regard to transport and environmental impacts.
- The maximum height at 21m exceeds the general 16m height limit for residential development in the 'outer city'. An assessment against the Urban Development and Building Height Guidelines 2018 outlined the following:
  - The site has good access to public transport services and capacity to accommodate increased building height subject to sensitive design. The two storeys reduction (to 4-6 storeys) from the previous application is welcomed but concerns remain regarding bulk, scale, and proximity to the roundabout, as the building appears dominant and overbearing in its context.
  - The four storey element at the northern end is acceptable in height.
  - Proximity to the roundabout raises issues about the quality of the public realm and circulation space between the building and roundabout having regard to the 'neighbourhood centre' zoning, BusConnects proposals, and the desirability to facilitate walking and cycling.
  - Would be compliant with section 3.2 of the building height guidelines, and the building height can be accommodated, subject to a further reduction in the footprint and improvements to the public realm and circulation area that would improve legibility in the area.
  - Elevations are well articulated except the blank northern elevation.
  - No concerns raised Drainage division regarding services and flood risk.
  - The telecommunications report appears to demonstrate that the development would not have an unacceptable impact in terms of interference with telecommunications.

- An assessment of micro-climate effects or wind impacts is not required.
- The apartments meet the 'Apartment Guidelines' standards for unit mix, size, storage and private amenity space, while floor to ceiling heights at 2.4m are acceptable and 52.4% of apartment are dual aspect.
- The Daylight and Sunlight Assessment indicates only 43% of the combined living/kitchen/dining areas achieve a 2% ADF target which is a serious concern and contrary to the judgement of *Atlantic Diamond Ltd v An Bord Pleanála*.
- The apartment guidelines require 256sqm of communal amenity space, while 381.6sqm is proposed, while 58% of the space would receive 2 hours of sunlight on the 21<sup>st</sup> of March.
- The air quality assessment concludes that the impact of existing ambient air quality on any receptors at the site are insignificant.
- The Acoustic Design Statement outlines that with design mitigation the residential units will achieve adequate sound insulation. Private amenity spaces would not achieve the relevant standards due to the proximity to the public road. The communal roof terraces could achieve the relevant standards with the incorporation of perimeter walls of 2 – 2.3m height.
- Would not have an overbearing impact as building stepped down towards the northern boundary and the presence of non-residential uses adjacent.
- Acceptable with regard to privacy as no overlooking as roads located to the east, west and south, while the nearest residential window is 28m away at an angle.
- Given the presence of the existing public house there would be unusual or excessive noise or light impacts to neighbouring properties.
- The Transportation Planning report is reproduced (see section 3.3.2 below).
- A financial contribution in lieu would be required in lieu of public open space.
- While submissions have raised concerns regarding pressure on water and sewage, Irish Water have confirmed the availability of connections and given the relative scale of this scheme, it would not unduly impact infrastructure capacity.

- A Utilities and Stainability/Energy report notes that a number of sources of sustainable energy sources are viable and are under consideration.
- Nine units are to be allocated as Part V units.
- The applicant has addressed many of the six refusal reason from the previous application and the reduction in height and removal of two floors has resulted in a much less visually dominant and overbearing form of development that the planning authority are generally supportive of.

3.2.2. The following further information was sought in accordance with the planning officer's recommendation, including those issues raised by the Transport Planning Division:

- Concerns regarding scale, massing and footprint require a greater setback at streetscape level at the southern end, to facilitate adequate pedestrian circulation and public realm improvements, and to facilitate Bus Connects. Include a revised visual impact assessment.
- Revise the layout to comply with the ADF of 2%, with compensatory design solution for any units not meeting all of the daylight provision requirements.
- The use of a rendered finish on the elevations is not acceptable.
- Consider relocating the proposed antennae away from the edge of the roof to reduce visual impact.
- Clarify that plant will be located in the basement or ground floor level and not on the roof.
- Provide autotrack analysis for the surface level carpark adjacent to the site on Walkinstown Avenue and details of how the public house would be serviced.
- Balconies are not permitted to overhang the public footpath.
- Provide a detailed car parking management plan and strategy for the management and assignment of car parking spaces.
- Investigate the feasibility of providing dedicated car share spaces and provide details of how electric vehicle charging requirements will be met.
- Clarify how the car lift will be managed so as to prioritise incoming vehicles in order to minimise queuing on the public road.

### 3.2.3. Other Technical Reports on initial application

- Drainage Division – 11<sup>th</sup> of February 2022 – Indicates no objections subject to conditions and the recommendation was restated on the 13<sup>th</sup> of June 2022, following the submission of the response to further information.
- EHO – 2<sup>nd</sup> of March 2022 – No objection subject to conditions.
- Transport Planning Division – 16<sup>th</sup> of March 2022 – The report addresses access to basement parking, works to the public road and Bus connects, the residential travel plan including public transport and cycle parking, servicing and emergency vehicle access, the transport assessment and the preliminary Construction Management Plan. Further information was sought (see 3.2.2).

### 3.2.4. Planning Officer's Report on Further Information

The Planning Officer's second report dated the 21<sup>st</sup> of June 2022, lists the information that was received, and makes the following comments:

- The revised building setback is considered sufficient to allow for a suitable footpath with an adequate pedestrian circulation around the development and the visual appearance of the amended design would be acceptable.
- The daylight sunlight and overshadowing study confirms daylight to apartments will exceed the required 2% ADF in 100% of the tested rooms for combined living/ kitchen/ dining rooms.
- The external finishes will include different types of brick and stone with no render finish proposed.
- Roof top antennas have been moved back from the edge of the building.
- All plant will be located in the basement or at ground floor level.
- The applicant has addressed the further information request. The development will not detract from the residential visual amenities of the area and is acceptable subject to conditions.

### 3.2.5. Other Technical Reports on response to Further Information

- Transport Planning Division – 9<sup>th</sup> June 2022 – No objection subject to the attachment of conditions.

### 3.3. Prescribed Bodies

- A submission was invited but not received from Irish Water.

### 3.4. Third Party Observations

3.4.1. A total of five observations were received in respect of the application, including from the two appellants, one of which later withdrew their appeal. The key issues in the observations can be summarised as:

- Overdevelopment and unacceptable design, scale, and visual impact.
- Excessive building height, dominant of surrounding properties.
- Loss of privacy by overlooking from roof gardens and apartments.
- Lacks amenities for the future residents and will be detrimental to the existing community as it does not contribute in a positive way to neighborhood facilities.
- Lack of - parking will lead to illegal parking on local roads; detail regarding deliveries to pub/retail units; clarity regarding vehicular access to basement and vehicular access off Bunting Road which is tight turn only is not practical.
- Roads infrastructure is not capable of accommodating the traffic volumes while proximity of the building to the roundabout would affect sightlines and could restrict the ability to alter the roundabout.
- Negative noise impacts and poor air quality including for future residents beside bust roundabout.
- Reduction of property values.
- Excessive demands on infrastructure, water pressure and schools.
- Irish water stated water pressure could not be guaranteed for firefighting and storage tanks would be required, but they are not displayed on the plans.
- Combined blue/green roof not sustainable, as it may be waterlogged during rain.
- A smaller development would not interfere with the line of sight of the masts.
- The visual and noise impact of 12 antennae on the roof is unacceptable and almost constitutes another storey and should constitute a separate application.

- The adjacent Eir site currently provides essential 2G, 3G and 4G mobile network coverage for the surrounding area, roads, residents and local businesses and the proposal would block existing and potential communication installations orientated to the south and has the potential to block the operators line of site from one telecommunications site to another.
- Government policy places emphasis on co-location with preference for locations already developed for utilities, such as the Eir building, which has been a suitable rooftop location for many years, and a more suitable location than the rooftop of the proposed mixed-use building.

## 4.0 Planning History

### 4.1. Appeal Site

#### Current live appeal on the site

- **ABP 318355-23 (P.A. Reg. Ref. 4280/23)** on the 2<sup>nd</sup> of October 2023 DCC issued a decision to refuse permission to Double E Investments for the demolition of the existing building and construction of a part 4, 6, 7 and 8-storey mixed use development to comprise of 52 apartments, 3 retail units, a public house, bicycle parking and telecommunications equipment.

A first party appeal was received by the Board on the 31<sup>st</sup> of October 2023.

#### Decided Cases

- **ABP 311065-21 (P.A. Reg. Ref. 3193/22):** Permission refused by the Board on the 20<sup>th</sup> of May 2022 for demolition of the existing public house and construction of a part 4, 6, 7 and 8-storey mixed-use development comprising 52 apartments, and 3 retail units and a public house at ground floor level for a single reason which stated:

It is considered that the proposed development would materially contravene the building height provisions of the Dublin City Development Plan 2016-2022, wherein a residential height limit of 16 metres applies to the 'Outer City'.

Furthermore, the site adjoins an important telecommunications exchange site, and the application does not include adequate information to demonstrate that the proposal allows for the retention of important telecommunications channels. Accordingly, the Board is not satisfied that a material contravention of the

development plan is justified in this instance, in that the proposed development fails to meet the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 (A) of the Urban Development and building Height Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- The Planning Officer's report refers to four other planning applications granted permission for partial changes of use and extensions on the appeal site dating from 1995 to 2015

#### Other relevant sites

**ABP Ref 309658-21:** On Ballymount Road Lower (c. 300m to the west of the appeal site) the Board granted a SHD application on the 23<sup>rd</sup> of June 2021 for the demolition of existing buildings and the construction of 171 no. apartments and a creche in 2 blocks and a maximum height of 8 storeys.

## 5.0 Policy Context

### 5.1. National & Regional Policy / Guidance

#### National Planning Framework (NPF) 2018

- 5.1.1. A key element of the NPF is a commitment towards 'compact growth', with a focus on a more efficient use of land by using previously developed or under-utilised land and buildings. National Policy Objectives (NPOs) include NPO2(a) that targets 50% of future population and employment growth in existing cities and their suburbs, including Dublin, while NPO3(b) seeks to deliver at least half (50%) of all new homes targeted for Dublin are built within its existing built-up footprint.
- 5.1.2. The NPF also contains other relevant NPO's, being:
- NPO 4 – Create of attractive, liveable, well designed and liveable communities.
  - NPO 6 – Regenerate cities by increasing population and employment.
  - NPO 13 – Building height and car parking standards to be based on performance criteria with a range of tolerances to enable alternative solutions.



- NPO 27 – Integration of safe and convenient alternatives to the car into the design of communities, by prioritising walking and cycling.
  - NPO 33 – Prioritises the provision of new homes at locations that support sustainable development at an appropriate scale relative to location .
  - NPO 35 – Encourages increased residential density through a range of measures, including site-based regeneration and increased height.
  - NPO 54 – Reduce carbon footprint by integrating climate action into planning.
- The NPF recommends that there should generally be no car parking requirement for new development in or near the centres of the five cities including Dublin, and a significantly reduced requirement in the inner suburbs of all five.

### Regional Spatial and Economic Strategy

5.1.3. The RSES for the Eastern and Midlands area provides the framework through which the policies and objectives of the NPF will be delivered the region, including in Dublin, through employment creation and increases in urban populations supported by compact development and sustainable transport.

5.1.4. The site is located within the Dublin Metropolitan Area (MASP) and is part of the area identified for ‘consolidation of Dublin City and suburbs’.

5.1.5. The following RPO’s are of relevance:

- RPO 3.2 – In promoting compact growth, a target of at least 50% of all new homes should be built within or contiguous to the built up area of Dublin city and suburbs.
- RPO 3.3 – Core strategies to provide for increased densities;
- RPO 4.3 – High density development of infill/brownfield sites in Dublin City and suburbs and ensure development areas and infrastructure are co-ordinated.

### Section 28 Guidelines

5.1.6. Having considered of the nature and scale of the proposed development, the receiving environment and site context, as well as the documentation on file, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, are:

- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). (Compact Settlement Guidelines).

- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (Apartment Guidelines).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December (2018) (Building Height Guidelines).
- The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) (Telecommunications Guidelines)
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government (17th of January 2018)

5.1.7. Where relevant, sections from the above Guidelines are included in the Assessment Section of this report.

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

- Housing for All (2021).
- Climate Action Plan (2023) (2024 draft plan subject to public consultation to the 5<sup>th</sup> of April 2024)
- European Union (Energy Performance of Buildings) Regulations 2021
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (3rd Edition, 2022).
- Cycle Design Manual (2023)
- Transport Strategy for the Greater Dublin Area 2022-2042
- Traffic and Transport Assessment Guidelines (TII 2014)
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009)
- EIA Guidance for Consent Authorities regarding Sub-threshold Development (2003)
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018.

5.2. **Dublin City Development Plan 2016-2022 (superceded)**

- 5.2.1. During the period when the application was under consideration by the Planning Authority and the decision to grant permission was issued on the 21<sup>st</sup> of June 2022, the relevant Development Plan was the Dublin City Development Plan 2016-2022, which has now been superseded by the Dublin City Development Plan 2022-2028.
- 5.2.2. In the 2016-2022 Development Plan, the site was zoned 'Z3 – Neighbourhood Centres' in Map G, the objective of which was to 'provide for and improve neighbourhood facilities'. 'Permissible' uses in Z3 zoned areas included 'residential', 'shop (neighbourhood)', 'restaurant' and 'betting office' while 'public house' was 'open for consideration'.

### 5.3. **Dublin City Development Plan 2022-2028**

- 5.3.1. The Dublin City Development Plan 2022-2028, came into effect on the 14<sup>th</sup> of December 2022. The site remains zoned 'Z3 – Neighbourhood Centres', the objective for which is 'To provide for and improve neighbourhood facilities'.
- 5.3.2. The categories of permissible and open for consideration uses have changed so that 'permissible' uses now include 'residential', 'shop (local)', 'shop (neighbourhood)', and 'restaurant' while 'betting office' that was previous 'permissible' is now 'open for consideration' along with 'public house'.
- 5.3.3. The following description of the Z3 zoning is provided:
- Neighbourhood Centres provide local facilities such as convenience shops, hairdressers, post offices etc. within a residential neighbourhood and range from the traditional parade of shops to larger neighbourhood centres. ...They can form a focal point for a neighbourhood and provide a range of services to the local population. Neighbourhood centres provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened, where appropriate. Neighbourhood centres may include an element of housing, particularly at higher densities, and above ground floor level.
- 5.3.4. Chapter 4 'Shape and Structure of the City' includes policy SC9 – Key Urban Villages, Urban Villages and Neighbourhood Centres, which seeks:
- To develop and support the hierarchy of the suburban centres, including Key Urban Villages, Urban Villages and Neighbourhood Centres, in order to; support the sustainable consolidation of the city and align with the principles of the 15 minute

city; provide for the essential economic and community support for local neighbourhoods; and promote and enhance the distinctive character and sense of place of these areas by ensuring an appropriate mix of retail and retail services.

5.3.5. Section 4.5.3. addresses 'Urban Density', promotes sustainable density, compact development, and the efficient use of urban land. Relevant policies can be summarised as:

- **SC10** – Ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof.
- **SC11** – Promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area and being supported by a full range of social and community infrastructure such as schools, shops and recreational areas;
- **SC12** – Promote a variety of housing and apartment types to create a distinctive sense of place.

5.2.3 SC14 and SC15 of Section 4.5.4 contain policies relating to 'Building Height Strategy', and 'Building Height Use', which should be consistent with SPPR's 1 to 4 of the 'Urban Development and Building Height Guidelines for Planning Authorities (2018)', while SC16 'Building Height Locations' recognising the potential and need for increased height in appropriate locations, which are identified in Appendix 3 'Achieving Sustainable Compact Growth Policy for Density and Building Height in the City'.

5.3.6. Objective CSO7 seeks 'To promote the delivery of residential development and compact growth through ...a co-ordinated approach to developing appropriately zoned lands aligned with key public transport infrastructure, ...and underutilised areas'.

5.3.7. Policy QHSN10 'Urban Density' seeks 'To promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area'.

- 5.3.8. Policies QHSN36-39 inclusive address and promote apartment developments, while Section 15 sets out the development standards that apply to developments
- 5.3.9. Section 15.2.3 Planning Application Documentation – provides ‘Planning Thresholds’ above which different types of reports are required to be submitted with applications.
- 5.3.10. Table 1 of Appendix 5 sets out cycle parking requirements and Table 2 sets out maximum standards for car parking provision
- 5.3.11. Section 15.18.5 states that ‘The provision and siting of telecommunications antennae shall take account of the Telecommunications Guidelines for Planning Authorities, (1996) and that ‘possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations’ and that ‘In assessing proposals for telecommunication antennae...factors such ...the position of the object with respect to the skyline will be closely examined’.

#### **5.4. Natural Heritage Designations**

- 5.4.1. The nearest Natura 2000 site is the Glenasmole Valley SAC (Site Code 001209), c. 6.8km southwest of the site. Natura 2000 sites in Dublin Bay area including South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC c8.3km east, North Bull Island SPA and North Dublin Bay SAC are c11.2km north east

#### **5.5. Screening for Environmental Impact Assessment**

- 5.5.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. Class (10)(b) of Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

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

- 5.5.2. Class 14 of Part 2 of Schedule 5 to the Planning Regulations 2001 (as amended) provides that mandatory EIA is required for:

- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule, where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 5.5.3. At 42, the number of dwellings proposed is well below the 500 unit threshold in Class (10)(b), while the site has a stated area of 0.1549ha, and is located within an existing built-up area, but does not constitute a business district with surrounding sites including retail, commercial and residential properties. The site is also well below the 10ha threshold.
- 5.5.4. The site currently consists of an existing public house, restaurant and bookmakers office and hard surfaced areas and is surrounded by suburban housing and commercial/industrial developments of varying scale. The provision of residential development above new ground-floor retail and hospitality used would not have an adverse impact in environmental terms on the surrounding land uses and i note that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).
- 5.5.5. The proposed development would not give rise to waste, pollution or nuisances that differ from those arising from other mixed-use developments in the area. The building on site does not have any conservation or protected status and its removal could be undertaken in safe manner subject to compliance with a construction and environmental management plan (CEMP) for the project. In order to safeguard risks to human health, an asbestos survey should be undertaken as part of the CEMP. The project, including compliance with the requirements of the CEMP, would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Uisce Éireann and Dublin City Council, upon which its effects would be minimal.
- 5.5.6. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed

development is subthreshold in terms of the mandatory submission of an EIA based on class 14 of Part 2 to Schedule 5 of the Planning Regulations

5.5.7. Having regard to: -

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of classes 10 and 14 of the Planning and Development Regulations 2001, as revised;
  - the location of the proposed development on lands that are zoned ‘Z3 Neighbourhood Centres’ in the Dublin City Development Plan 2022- 2028 with a stated objective ‘to provide for and improve neighbourhood facilities’, and the results of the strategic environmental assessment of the Dublin City Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC);
  - the location of this site within an existing built-up area that is served by public infrastructure, and the existing pattern of development in the vicinity;
  - The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended);
  - The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
  - The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

5.5.8. I have concluded that, by reason of the nature, scale and location of the appeal site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination the need for environmental impact assessment can be excluded and a screening determination is not required.

5.5.9. See completed Form 1 (EIA Pre-Screening) and Form 2 in Appendix 1 (EIA Preliminary Examination).

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1. A third party appeal has been received on behalf of Mr Eoin Duff with an address at 143 Walkinstown Road, Dublin 12, D12 TH9A, and 56 other named persons resident at 42 different addresses local to the site.

6.1.2. The grounds of appeal state that irrespective of the response to further information, the fundamentals of the original observation Dublin City Council remain valid and form an integral part of the appeal. The grounds of the appeal are set out below, followed by grounds of the observation not addressed in the appeal.

- The established commercial use and Neighbourhood Centre zoning are set within low density streets with two-storey buildings, including streets where the objectors live.
- The height, scale, mass, overbearing nature, location and composition will negatively impact residential amenities, contrary to the land use zoning and the poor design means the height cannot be justified.
- The residential component is excessive relative to commercial and would be subservient to it. Such an imbalance cannot be considered consistent with the Z3 objective and should be refused, as it represents overdevelopment of the site.
- The development will materially overlook the appellant's properties, diminishing their privacy and will have a significant negative impact on their residential amenity.
- The development will have a negative visual impact, be highly incongruous and significantly overbearing and will tower over adjoining buildings and residential streets.
- A lack of parking will lead residents and visitors to park on nearby streets, negatively impacting existing residents and will result in serious traffic hazards and public safety concerns.
- The acoustic design statement acknowledges the balconies are outside the desirable external noise criteria and as a result all are not fit for purpose or usable even after mitigation in the form of specific glazing, windows and external doors.
- The failure to meet noise standards for balconies calls into question the suitability of the site to accommodate a residential scheme.
- Substantial external amenity areas could facilitate large groups and noise impacts would compromise residential amenity of future occupants with terraces located close to living spaces in the proposed apartments when combined with traffic and pub noise.



- This heavily trafficked area is unsuitable for large scale residential, with poor air quality and a risk to health to future occupants.

6.1.3. In addition to the grounds stated above, the original observation on the application, which forms part of the appeal addressed the following matters not addressed above:

- The cumulative impact of the proposal with other local developments including nearby SHD have not been considered.
- The Building Height Guidelines 2018 require buildings that are higher than the prevailing context to be examined against the scale of the relevant city/town, district/ neighbourhood/street and this criterion has not been met in this case.
- The proposal will not integrate into, nor will it enhance the character of the public realm of the area.
- The core argument is that high frequency bus and other transport services make up for the lack of parking, but no reference is made to capacity, while the site is not a city center location, as referenced in the planning report.
- Lack of clarity regarding basement and how vehicular lift will be operated.
- The acoustic design statement is not based on traffic data from the busy local road network.
- Noise walls of 2 to 2.2m proposed around the external amenity areas are included to mitigate traffic noise arising rather than to mitigate any impact on adjoining residential amenity.
- The development would cause a material and significant reduction in the value of the observer's property.
- The air quality report fails to adequately respond to refusal reason No 5 attached to the previous decision of Dublin City Council to refuse permission
- No justification has been provided for the proposed telecommunications infrastructure and the visual and health impacts have not been considered.
- Concerns exist regarding the capacity of the water and wastewater networks.

## 6.2. Applicant Response

6.2.1. The applicant's response is set out under a number of headings:

## Introduction

- 6.2.2. The development has being designed having regard to the previous refusal, feedback from DCC, the character of the area and the amenity of adjoining properties.

## Planning History

- The board's previous refusal reason did not reflect the six reasons issued by DCC, nevertheless the applicant has addressed each of those reasons by reducing the height of the building and increasing the setback from the public road, while basement car parking is provided. Balconies do not over-sail the public footpath, the air quality assessment found that the impact of the existing air quality and will not result in any dis-amenity for future occupants of the development. The private and communal open space will provide a good level of amenity for residents, who will also have access to public open space in the vicinity and this was all deemed acceptable to the planning authority.

## Bord Pleanála's assessment of previous application

The applicant makes reference to extracts from board inspector's report on the previous application ABP.311065, who:

- Did not object to the demolition of the existing building.
- Considered that the commercial offering would increase activity and vibrancy on adjoining roads and the overall proposal would retain and strengthen the value of the existing neighbourhood centre consistent with the objectives of the Z3 zoning.
- Stated the site was within a central and or accessible urban location based on criteria in the apartment guidelines and can sustainably support higher density apartment development.
- Was satisfied the unit mix complies with SPPR1.
- Did not consider it reasonable to refuse permission on the basis of substandard air quality for prospective residents.
- Stated significant separation distance and obscure angles of vision between the development and existing residents would ensure no unacceptable overlooking or privacy impacts for existing properties and they would not experience an overbearing impact.

- Stated noise and light levels would be acceptable having regard to the sites zoning, the established activity and development in the area.
- Considered it inappropriate to encourage further car usage.
- Was satisfied with the proposed building height of up to 8 floors and did not consider it necessary to reduce the building height.

6.2.3. The applicant addressed the grounds of appeal, under the following headings:

#### Impact on Existing Telecommunications Structures

- The telecommunications report and further information submission confirm that the development will be carried out without interfering with telecommunication channels. The applicant has satisfied the requirements of section 3.2 of the building height guidelines, such that permission may be granted.

#### Height of the Proposed Development

- It is refuted that the height is inappropriate and would give rise to negative impacts on the residential amenity of surrounding properties and the streetscape.
- The planning officer concluded that a maximum of six storeys is acceptable.
- The development improves the visual quality of the streetscape.
- Increasing prevailing building height is critical to addressing the delivery of more compact growth in urban areas enhancing both the scale and density of development.
- It complies with Section 3.2 of the Building Height Guidelines, being located at a prominent location adjacent to numerous bus-stops and the future Bus Connects.
- At the scale of the site, the building has been carefully designed to ensure it does not have a negative impact on the residential amenity of surrounding dwellings.

#### Impact on Existing Residential Amenity

- There's no potential for overlooking to the east, west or south, which are bound by public roads, and the nearest properties to the north are located 28m away on Bunting Road, and 30+m on Walkinstown Road. Windows have been omitted from the first three floors on the northern elevation and set back on the remaining floors to reduce any potential for overlooking.

- As a result of stepping down the height of the building, neither the planning officer nor the previous board inspector considered the development would be overbearing, as most nearby dwellings do not face the site, or are sited at an angle to it, facing towards or across public roads. As this scheme is generally the same as the previous one, albeit slightly lower, the previous inspectors commentary is applicable.
- The appellant's comments regarding potential for mass gatherings and noise generation and communal areas is merely speculation and unfounded. A condition imposed by DCC addressed and restricted noise, and a similar condition is welcomed.

#### Proposed Mix of Uses

- Neighbourhood centers provide an essential and sustainable amenity for residential areas and should be maintained and strengthened where necessary.
- Residential and shop (neighbourhood) are permissible uses, while public house is open for consideration and in accordance with the provisions of both the zoning objective and proper planning and sustainable development.
- The occupants of the retail units will be established after their completion.
- The planning officer and the previous board inspector considered the proposal acceptable with respect to ground floor commercial and residential on upper floors.

#### Quantum of Car Parking

- While the appellants claimed parking provision is inadequate and have concerns with regard to overspill parking, the quantum has been deemed acceptable by Dublin City Council's planning and transport planning departments. A detailed car parking management strategy report was submitted with the response to further information detailing how the spaces will be managed.
- The national planning framework supports a reduction in car parking in certain circumstances including at the confluence of public transport systems such as bus.
- The board previously considered that the site could accommodate a zero car parking development.

#### Amenity of Future Occupants

6.2.4. This is addressed under the headings of air quality and noise.

## Air Quality

- The appellant's concerns regarding air quality are unfounded as the planning application included an air quality assessment that concluded the impact of existing ambient air quality and any receptors likely to be introduced at the site are insignificant.
- The appellant disregarded the report without a reasonable basis for demonstrating otherwise and it is noted that the board inspector's assessment of the previous application did not consider air quality to be a reasonable basis for refusal.

## Noise

- The appellant also disregarded the acoustics assessment. The planning officer noted that adequate sound insulation would be provided through the built fabric.
- The private amenity spaces fall short of the relevant recommendation due to proximity to the road. The communal roof terraces should achieve the standard with the recommended mitigation of concrete perimeter walls of 2 to 2.3m in height in places.
- The previous board inspector's report noted that wall heights should be retained notwithstanding the noise level slightly exceeding recommendations and the site is within reasonable walking distance of other public external amenity areas, which is a relevant noise mitigation factor. The board did not consider noise levels to be a reason to refuse permission in the previous application (ABP-311065)

### **6.3. Planning Authority Response**

- None

### **6.4. Observations**

- None

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. I consider the main issues arising from the grounds of appeal and the assessment of the application and appeal can be assessed under the following headings: -

- Principle of Development
- Compliance with Apartment Guidelines
- Public Open Space
- Noise Impact on Future Occupants
- Air Quality Impact on Future Occupants
- Quantum of Development, Density and Building Height
- Design and Layout
- Impact on Surrounding Properties
- Daylight and Sunlight
- Traffic, Parking and Access
- Public Realm & Circulation
- Piped Infrastructure
- Telecommunications
- Appropriate Assessment

7.1.2. I highlight to the Board that a new Dublin City Development Plan has been adopted since the decision of the planning authority was issued and I have assessed this appeal based on the Dublin City Development Plan 2022-2028.

7.1.3. The development was amended in response to the request for further information by way of a reduction in the footprint of the building and consequent reduction in the overall floor area of the building and some of the apartments. It is this revised development that was subject to the decision to grant permission Dublin City Council and is also the subject matter of this appeal.

## 7.2. **Principle of Development**

The proposed development includes elements of demolition and construction, which I have considered separately.

## Demolition

- 7.2.1. It is proposed to demolish the existing building that consists of a large public house and restaurant and an adjacent bookmakers office/betting shop. The building is of relatively modern construction, is not a protected structure, and is not located in a conservation area, while the development plan does not indicate that there are any protected landscapes or views in a vicinity. Section 15.7.1 of the Development Plan encourages the reuse and repurposing of buildings for integration within a scheme, and states that an applicant must submit a demolition justification report to set out the rationale for the demolition, which they have done in the Construction and Demolition Waste Management Plan, while Policy CA6 Retrofitting and Reuse of Existing Buildings seeks to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible.
- 7.2.2. I am satisfied that the building has no features that are worthy of retaining and I am further satisfied that it would not be possible or feasible to incorporate the existing building into the proposed development. I have no objection to the demolition of the existing building.

## Zoning

- 7.2.3. The site is zoned 'Z3 – Neighbourhood Centres', the objective for which is 'to provide for and improve neighbourhood facilities'. As well as acting as a focal point for a neighbourhood and provide a range of services to the local population, the development plan states that neighbourhood centres may include an element of housing, particularly at higher densities, above ground floor level.
- 7.2.4. 'Permissible' uses in Z3 include 'residential', 'shop (local)', 'shop (neighbourhood)', and 'restaurant' while 'betting office' and 'public house' which are the existing used on the site are 'open for consideration'.
- 7.2.5. The proposed development would retain and enhance the existing ground floor commercial uses in a smaller public house and three retail units, while the 42 apartments would bring added vitality to the site. The applicant has stated that the future occupants of the retail units will not be determined until the development is complete and I am satisfied that this could be addressed by way of condition if the board was minded to grant permission.

7.2.6. I am satisfied that the proposed development would maintain and strengthen the neighbourhood centre and would be consistent with the Z3 zoning objective, and I have no objection to the demolition of the existing building or the construction of a mixed-use commercial and residential development in its place.

### 7.3. **Compliance with Apartment Guidelines**

7.3.1. The updated Apartments Guidelines 2023, which were published after the decision of the planning authority was issued, did not affect floor area requirements for apartments, and they are set out in a Housing Quality Assessment (HQA), submitted with the response to further information, that moved the building further from the Walkinstown Roundabout than originally proposed, resulting in a reduced floor area of 4,277sqm from the original 4,502sqm (excluding basement). The revised HQA provides details of unit sizes, floor to ceiling heights, private open space, room sizes, aggregate living floor areas, storage areas, orientation and aspect.

7.3.2. Paragraph 1.18 of the guidelines states that the Board are required to apply any specific planning policy requirements (SPPRs) of the guidelines.

#### SPPR 1 and Mix of Units

7.3.3. Specific Planning Policy Requirement 1 (SPPR) stipulates that housing developments may include up to 50% one-bedroom or studio type apartments. The development would have 19 one bedroom apartments, which equates to 45% of the proposed apartments, so the development would be compliant with the requirements of SPPR 1.

7.3.4. The amended development that was subject to the decision to grant permission would have 3 no. two-bedroom 3-person apartments and 20 no. 2-bedroom four person apartments. The dominant type of residence in the wider area is three and four bedroom bungalows and two storey houses so I have no objection to the proposed mix of units, which would provide for the needs of smaller households in the area.

#### SPPR 3

7.3.5. All 42 apartments would exceed all of the minimum floor space requirements set out in SPPR3 of the guidelines, with the exception of three no. two bedroom apartments, which would have floor areas of 70.2sqm and are designed to accommodate three persons. Paragraph 3.6 of the Apartment Guidelines states that planning authorities



may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres and this type of apartment is listed in Appendix 1 to the guidelines addressing 'Required Minimum Floor Areas and Standards' where it states that units of 63sqm are permissible in limited circumstances, and no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. The three no 3 person apartments constitute 7% of the total number of apartments.

7.3.6. I am satisfied that the requirements of SPPR 3 have been complied with .

#### Minimum floor area

7.3.7. It is a requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. 26, or 61.9% of the 42 apartments exceed the minimum floor area by more than 10%.

#### SPPR 4 - Dual Aspect Ratios

7.3.8. SPPR 4 states that in suburban or intermediate locations, it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. 22 or 52.38% of the 42 apartments would be dual aspect, meaning that the proposed development would be compliant with SPPR4.

#### Floor to Ceiling Heights

7.3.9. All apartments meet the suggested minimum floor to ceiling heights of 2.4m.

#### SPPR 6

7.3.10. SPPR 6 provides that apartment schemes may have a maximum of 12 apartments per floor per core. No floor has more than 10 apartments and I am satisfied that the development would be complaint with SPPR6.

#### Private Open Space

7.3.11. Each of the apartments would be provided with the required quantity of private open space in the form of balconies or terraces complaint with Appendix 1. however, I will examine this matter further in Section 7.5 below, with respect to noise impacts on future occupants.

### Communal Open Space

7.3.12. As per Appendix 1 the communal open space requirement is 253sqm and following the submission of further information, it is proposed to provide 356.05sqm in two roof gardens at fourth and fifth floor levels. Section 4.11 of the guidelines stated that roof gardens may be provided but must be accessible to residents, subject to requirements such as safe access by children. The proposed roof gardens would have the additional benefit of passive surveillance from the apartments abutting the southern side of the roof gardens and I am satisfied that the quantity of open space will provide an adequate level of amenity for future residents.

### Communal Facilities

7.3.13. The basement carpark will have two access stairs, and a lift while access to the apartments would be via a 2.4m wide corridor from Bunting Road on the eastern side of the building, with adequate circulation space available on each floor.

7.3.14. Appendix 7 to the Development Plan - Guidelines for Waste Storage Facilities and states that provision shall be made for the storage and collection of waste materials in apartment schemes in accordance with Apartments Guidelines. Sections 4.8 and 4.9 of the Guidelines refer to Refuse Storage and that state refuse facilities shall be accessible to each apartment stair/lift core and designed with regard to the projected level of waste generation and types and quantities of receptacles required.

7.3.15. The bins store for the apartments with an area of 27.2sqm is accessible internally from the ground floor corridor and would open onto the street on the eastern side of the building, facing Walkinstown Road, while access to the public house bin store of 18sqm would be from the Bunting Road side of the building. I am satisfied that the bin storage area would provide adequate capacity and has been designed in accordance with the criteria of Sections 4.8 and 4.9 of the guidelines.

### Conclusion on Apartment Guidelines

7.3.16. I am satisfied that the proposed development would comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines - December 2022 (2023).

#### **7.4. Public Open Space**

7.4.1. The Development Plan provides that a minimum of 10% of public open space must be provided for residential developments in Z3 zoned areas, while section 15.8.7 provides that in some instances, for schemes of more than nine apartments, it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity in cases where it would not be feasible, due to site constraints or other factors, to locate the open space on site. Taking into consideration the size of the site at 0.1549ha, that the site is surrounded on three sides by roads and parking and by a telecoms building to the north, I consider that it is not possible or feasible to provide functional on-site public open space, while I also note that there are several large areas of public open space within a 5-10 minute walk from the site. If the board is minded to grant permission, I am satisfied that it would be appropriate to attach a condition requiring the payment of a financial contribution in lieu of open space and provision is made for same in the sum of €5,000 per apartment in accordance with the current Dublin City Development Contribution Scheme 2023-2026.

#### **7.5. Noise Impact on Future Occupants**

7.5.1. The original application included an Acoustic Design Statement to assess noise intrusion from road noise on the proposed development and I note that the existing traffic noise measurements refer to the same dates in February 2021 as is recorded in the Acoustic Design Statement prepared and submitted in respect of application (appeal ref ABP 311065-21). Permission was refused for that development, but not for reasons of excessive noise either within the proposed apartments or in the external amenity spaces being private balconies or communal rooftop open spaces.

7.5.2. While the footprint of the building was reduced on foot of the request for further information, a revised Acoustic Design Statement was not submitted by the applicant.

7.5.3. I note the contents of the previous inspector's assessment in respect of noise impacts on the future occupants and I note that the acoustic criteria upon which that assessment was carried out has not changed in the interim for both internal areas and external amenity areas and are based on the criteria set out in BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'; ProPG: Planning and Noise, Professional Practice Guidance on Planning & Noise, New Residential

Development (May 2017); and Dublin Agglomeration Environmental Noise Action Plan December 2018 – July 2023.

- 7.5.4. A noise model was developed, based on traffic volumes measured during Covid-19 restrictions, and a correction factor was applied when predicting future traffic growth, to account for the estimated Covid effect of a 40% reduction in traffic volumes.
- 7.5.5. The Risk Assessment indicates that traffic noise levels are Low to High risk across the site during the day and Medium to High risk at night time, while the  $L_{AFmax}$  level during the night time indicate that the site is at High risk during the night time period. This all means that measures would be required to ensure internal and external noise levels comply with the guidance of PROPG 2017 and BS8233.
- 7.5.6. While the entire site experiences high levels of noise both day and night, the results indicate that the southern and western facades of the proposed building would experience the highest levels of noise by reason of proximity to the heavily trafficked Walkinstown roundabout and Walkinstown Road.

#### Internal Noise

- 7.5.7. The report includes  $L_{AFmax}$  noise levels measured during the night, for the purpose of assessing the potential for sleep disturbance and it notes that bedrooms noise events should not exceed 45dB  $L_{AFmax}$  more than 10 times per night.
- 7.5.8. The measurements indicate no more than 10 events per night typically exceed  $L_{AFmax}$  86dB, with is the external noise level required to produce an internal level of level of 45dB  $L_{AFmax}$  on least exposed facades. The assessment indicates typically less than one event per night exceeding the 93dB threshold, which is the external level required to produce an internal level of 45dB  $L_{AFmax}$  on the most exposed facades. It concludes that internal noise levels are predicted to be within the stated criteria meaning that sleep disturbance due to maximum noise levels is unlikely to occur.
- 7.5.9. Internal noise levels will be achieved through the specific acoustic performance requirements of glazing, windows, doors, external walls, the roof, mechanical ventilation, and by ensuring the walls of the plant room and pub do not permit noise to exceed background noise in the apartments, and subject to implementation of these measures, that report predicted that the internal noise levels for the development will achieve the recommendations internal noise level set out in BS 8233 and ProPG.

7.5.10. Subject to implementation of these measures, by way of a condition, I am satisfied that the proposed development would provide for an acceptable level of internal amenity for residents.

#### External Noise

7.5.11. Based on the noise data and road traffic levels, the external noise levels at the balconies are predicted to be in the range of 55dBA-75dBA  $L_{day}$  which would exceed the desirable noise level of 50dBA-55dBA  $L_{day}$  ( $L_{Aeq, 16hr.}$ ) for external amenity areas set out in the Dublin Agglomeration Noise Action Plan 2018-2023. ProPG 2017 states that these guideline values may not be achievable in all circumstances where development might be desirable. In such a situation, development should be designed to achieve the lowest practicable noise levels in these external amenity spaces but should not be prohibited and that to comply with policy guidance any amenity space must have an acoustic environment so that it can be enjoyed as intended.

7.5.12. The report continues at Section 5.4 by stating that it is difficult to reduce the noise levels at the balconies due to proximity to the road, but that the proposed rooftop terraces at fourth and fifth floor levels offer a suitable alternative external amenity space to offset for the lack of amenity on the balconies. The report also indicates that noise levels at both of the external rooftop amenity spaces will be slightly above the recommended noise levels, and recommends that noise walls 2.2m high are constructed of a dense material around the entire perimeter of each terrace to ensure compliance with recommended noise levels.

7.5.13. The applicant proposed three alternative solutions to addressing noise at the rooftop terraces being a 125mm thick concrete block wall (solid), a Mutivario (transparent) noise barrier or Hoesch Isorock Akustik (solid panels).

7.5.14. The proposed perimeter walls to the roof terraces are already proposed to be 1.5m in height, and I would not recommend that a solid wall or panelling up to 2.2m in height should be built around the perimeter. However, while noise levels are predicted to only slightly exceed the recommended levels and the noise assessment states that noise levels are predicted to rise by 1-2dB over a 10 year period, which would be imperceptible and compliance with BS8233 and ProPG is not mandatory, if the board is minded to grant permission, I would recommend that a condition be attached requiring that provision be made for a noise assessment to be carried out on the

rooftop terraces prior to the first occupation of the residential units and if the noise level are found to be excessive, then provision should be made to install transparent noise barriers around all or some of the perimeter walls, to ensure that the amenity space functions as intended. A transparent noise barrier would continue to permit light to through to nearby properties which would otherwise be affected by a potential loss of sunlight or daylight if a solid wall or barrier were erected.

7.5.15. I also note that mitigation may take the form of a relatively quiet, protected, publicly accessible, external amenity spaces located within a 5 minute walk from a development and I make the above recommendation notwithstanding that the proposed development would be within a reasonable walking distance of public amenity areas at Beechfield Park, Walkinstown Avenue Park, and Walkinstown Green.

7.5.16. Returning to the issue of the private balconies for each apartment, it is common that apartment development are constructed adjacent to heavily trafficked roads, and I note that the proposed development will in itself not generate significant traffic volumes, with a limited number of car parking spaces proposed and that improvements are planned to the local public bus network in the form of Bus Connects that will improve the already well connected area to the city centre and other parts of the wider transport network. I also consider that excessive noise levels should not prevent the sustainable use of well sited urban land such as this site, but that it is not sufficient to meet the private open space standards, if its functionality is limited and I note that section 3.3.6 of the Apartment Guidelines state that in certain circumstances, glass-screened 'winter gardens' may be provided. Notwithstanding that it would change the appearance of the proposed development, I consider that the proposed perforated metal balcony system should be replaced with winter gardens to all balconies, and this could be addressed by way of a condition, if the board is minded to grant permission.

## 7.6. **Air Quality Impact on Future Occupants**

7.6.1. An Air Quality Assessment has been submitted that assesses baseline air conditions in respect of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>, based on an existing verified national measuring station at Davitt Road c2.6km from the site. It also assesses potential air quality

impacts during the operational phase, potential exposure of future residents to air pollution and sets out recommended mitigation measures to ensure any adverse effects on air quality would be minimised.

- 7.6.2. The report follows the framework set out in 'Land-use Planning development control: planning for air quality [2017) Guidance prepared by the Environmental Protection UK and the Institute of Air Quality Management for the consideration of air quality within the land-use planning and development control processes.
- 7.6.3. The main source of emissions has been identified as road traffic.
- 7.6.4. The baseline monitoring data presented refers to the years 2018 (part), 2019 and 2020, where the results were greatly impacted by Covid-19 restrictions on traffic movements. In the case of each of the three parameters, the results at Davitt Road were well below the Air Quality Objective limits (annual mean limit value) of  $40\mu\text{g}/\text{m}^3$  for NO<sub>2</sub>,  $40\mu\text{g}/\text{m}^3$  for PM<sub>10</sub> and  $25\mu\text{g}/\text{m}^3$  for PM<sub>2.5</sub>. I have also reviewed the 2022 results from the Davitt Road monitoring station from the EPA website and note that the results for Davitt Road were all within the air quality objective limits being  $16.5\mu\text{g}/\text{m}^3$  for NO<sub>2</sub>,  $13.4\mu\text{g}/\text{m}^3$  for PM<sub>10</sub> and  $8.6\mu\text{g}/\text{m}^3$  for PM<sub>2.5</sub>.
- 7.6.5. The assessment concluded, based on traffic projections, that road pollution from the development is unlikely to have a significant impact on local air quality and based on background and modelled concentrations that the impact on future residents would be insignificant.
- 7.6.6. While the site adjoins the heavily trafficked Walkinstown roundabout, I consider that the site has the capacity to accommodate the proposed development and on the basis of the verified air quality assessment results for the nearest monitoring station, I do not consider that the proposed development would have a negative impact on the amenities of future occupants of the development by reasons of poor air quality.

## 7.7. **Quantum of Development, Density and Building Height**

### Quantum of Development

- 7.7.1. The proposed development would consist of single block, which would be stepped from 4 storey at the north, rising to 5 storey in the centre and 6 storeys at its southern end closest to the Walkinstown Roundabout. It would contain a public house and 3

retail units at ground floor level and 42 no. apartments at a density of 271 units per hectare. In assessing the height and density of development proposed, it is necessary to first examine the plot ratio and site coverage followed by the nature/classification of the subject area in the context of national and local policies.

- 7.7.2. The proposal subject to the decision to grant permission would have a plot ratio of 2.76 and site coverage of 54%, compared to 2.9 and 59% in the original application. The ground floor footprint would be 838sqm, compared to 908sqm originally proposed.
- 7.7.3. The plot ratio of 2.76 would be slightly higher than the range of 1.0-2.5 set out in Table 2 of Appendix 3 to the development plan, while site coverage at 54% is within the recommended 45%-60% range. The plan also notes that higher plot ratio and site coverage may be permitted in certain circumstances such as adjoining major public transport corridors, where an appropriate mix of residential and commercial uses is proposed. In that aspect, I note that several existing high frequency bus routes pass the site with 10 minutes frequencies, and when proposed bus connects routes are in place the frequency will be 5 minutes, with a resulting increase in the capacity. The reduction in plot ratio from 2.9 to 2.76, was achieved by setting the building line further from the southern boundary, and while it would be possible to reduce the plot ratio to 2.5 by way of a further setback in the footprint of the building at its southern end, close to the Walkinstown Roundabout, or by removing a number of the apartments, I am satisfied that this would not serve any beneficial purpose, as the southern part of the building does not overlook any sensitive structures, and to do so would reduce the quality of the residential accommodation by reducing the size of apartments. The northern end of the building has been stepped down to an appropriate height of 4 storeys.

#### Policy

- 7.7.4. The Compact Settlement Guidelines (2024) replace the now revoked 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- 7.7.5. Section 3.3 sets out a series of settlement and area types and recommends density ranges that should be applied to them. Table 3.1 states that 'City - Urban Neighbourhoods' in Dublin include lands around existing or planned high-capacity public transport nodes or interchanges all within the city and suburbs area, and that it is a policy and objective that residential densities in the range 50 dph to 250 dph (net)



shall generally be applied in urban neighbourhoods of Dublin and Cork. Table 3.8 defines 'High Capacity Public Transport Node or Interchange' to included locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop and I note that two of the proposed Bus Connects routes will pass through the Walkinstown Roundabout adjacent to the site. The site would therefore also constitute an accessible location being lands within 500 metres (i.e. up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services, which will improve to a 5 minute frequency with bus connects in place. I am satisfied that the site is located within a 'City - Urban Neighbourhood'.

- 7.7.6. Section 3.3.6 states that In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter.
- 7.7.7. The Apartments Guidelines (2023) note at paragraph 2.23 that the NPF signalled a move away from general blanket restrictions on building height in development plans, and that this should be replaced by performance criteria, appropriate to a sites location. The guidelines also state that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and that this addressed in the Building Heights Guidelines.
- 7.7.8. The Building Heights Guidelines note that some development and local area plans have set generic maximum height limits which if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the NPF.
- 7.7.9. Paragraph 1.10 considers that it is appropriate to support building heights of at least 6 storeys at street level as the default objective, with scope to consider even greater building heights and paragraph 1.20 notes that a key objective of the NPF is to see that greatly increased levels of residential development in urban centres and significant increases in building heights and overall density of development.
- 7.7.10. A key contributor to increased density and height is the provision of complementary transport infrastructure such as bus connects, walking and cycling infrastructure, all of

which are currently available or planned to pass the site, while the Luas is c1.3km to the north. Paragraph 2.4 of the Guidelines states that development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks.

- 7.7.11. The Guidelines also state note that setting height limits effectively displaces development and represent a lost opportunity in locations where demand for accommodation is high.
- 7.7.12. Section 3.2 of the Guidelines states that development should satisfy the following criteria:
- At the scale of the relevant city/town, high capacity, frequent public transport should be available, and the development should successfully integrate into/ enhance the character and public realm of the area,
  - At the scale of district/ neighbourhood/ street, the proposal should not be monolithic and should avoid long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered and should positively contribute to the mix of uses and/ or building/ dwelling typologies available in the neighbourhood.
  - At the scale of the site/building, 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, regards should be given to daylight and include compensation where necessary, for a lack of daylight.
- 7.7.13. Appendix 3 to the Development Plan sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted via performance criteria for the assessment of such development. Key locations include public transport corridors including BusConnects corridors.
- 7.7.14. The plan notes that the public transport capacity will be factored into considering appropriate densities. The site is currently served by bus routes 27 and 77a (Walkinstown Road), the 77N on Friday and Saturday nights, the 56 (Walkinstown Avenue) and the No.9 (Cromwellsfort Road). The 27 has a peak weekday frequency of 10 minutes from 7am to 7:30pm to Dublin city and from 6:20am towards Tallaght. The routes interact with Luas, Dart and commuter rail at various locations.

7.7.15. Policy QHSN10 Urban Density seeks to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

#### Height

7.7.16. The proposed development would have a mix of 4, 5 and 6 storey elements with four storey element located at the northern end, where the closest residence is 28m away on Bunting Road. The northern section would be 14.55 metres high to the parapet, the middle section 17.55m, and the southern section 19.95 metres along its western side rising to 21m at its eastern side.

7.7.17. The palate of different brick and stone finishes, varying building heights, stepped building lines along both the eastern and western façades break up the mass and bulk of the buildings and I am satisfied that the proposed building heights are appropriate and are not excessive in the context of existing for this site or surrounding character as the 6 storey element would be located adjacent to roads with commercial uses or parking spaces sites opposite.

7.7.18. The building would not constitute a tall building, which refers in Appendix 3, to buildings typically greater than 50 metres in height and which are substantially taller than their surroundings and cause a significant change to the skyline.

7.7.19. Following from the above, the Apartment Guidelines state that minimum floor to ceiling heights are 2.4m, while ground floors are required to be 2.7m. Paragraph 3.22 states that from a planning and amenity perspective, applicants and their designers may consider the potential for increasing the minimum apartment floor to-ceiling height to 2.7 metres where height restrictions would not otherwise necessitate a reduction in the number of floors.

7.7.20. The proposed development would have a ground floor height of 4.05m, which is 1.305m in excess of the minimum requirement and this height would be provided in the pub while false ceilings would be installed in all other parts of the ground floor giving floor to ceiling heights of 2.7m, but can be changed in the future if required. Each of the residential floors would have heights of 2.4m as recommended in the guidelines with 0.3m space above ceiling level, through which services may be laid,

part of which could be used to increase the floor to ceiling heights that would increase the amount of sunlight and daylight entering the apartments. Over the four lower residential floors, the increase in height over the minimum requirement would be 1.2m. I am satisfied that it would not be appropriate to reduce the floor to ceiling heights of the apartments simply to reduce the overall height of the building.

7.7.21. Appendix 3 to the Development Plan identifies that public transport corridors including BusConnects corridors are appropriate locations where increased height will be promoted and I am satisfied that a building of six storeys at this location is an acceptable and is consistent with the recommendations of the Building Height Guidelines, taking into consideration the characteristics of the site the prevailing pattern of development in the area.

#### Density

7.7.22. Appendix 3 to the Development Plan also identifies that public transport corridors including BusConnects corridors are appropriate locations where enhanced density and scale will be promoted, while the Compact Settlement Guidelines recommend that densities in the range 50 dph to 250 dph apply to sites such as the application site.

7.7.23. I stated earlier that I do not consider it appropriate to reduce the plot ratio to 2.5, by reducing the footprint of the building, and likewise, following from my conclusions that the building height is acceptable, I am satisfied that the proposed density of 271 units per hectare would be acceptable, given the location of the subject site, adjacent to existing and planned high capacity and high frequency bus corridors, and I do not consider it appropriate or necessary to reduce the density of the building to 250 units per hectare by reducing the number of apartments by way of amalgamation of or removal of apartments.

7.7.24. I also note that the appellants consider that the apartment should be subservient to the commercial element but restrictions on the appropriate number of units are addressed through metrics such as site coverage, plot ratio and density and I am satisfied that the proposed number of apartments is acceptable.

## 7.8. **Design and Layout**

7.8.1. The appellants state that the existing character of the area is low density, low rise housing and that the design and scale and mass are overbearing in nature and

negatively impact residential amenity. The proposed development was amended in response to the request for further information, with the footprint reduced from 908sqm to 838sqm, in order to enhance the public realm around the footprint of the building. The site has limited space due to the presence of publicly owned land to the east on Bunting Road, the Walkinstown roundabout to the south, and a privately owned car park to the immediate west, between the building line and Walkinstown Road, while telecommunications building with rooftop antenna is located to the immediate north.

7.8.2. Two communal open spaces are located at rooftop level on the fourth and fifth floors and I am satisfied that an adequate amount of open space has been provided for the future residents of the development, while the absence of public open space can be addressed by condition. Sunlight and daylight are addressed separately.

7.8.3. The application is accompanied by a Design Report prepared by the applicants Architects that provides a significant level of detail regarding the overall design and layout and how it responds to its location. Considering the site constraints, and subject to conditions regarding noise referenced in section 7.4 above, I am of the view that the overall site layout is of sufficient quality to protect the amenities of future occupants as well having regard to the existing uses and potential future uses of adjacent property.

7.8.4. I am satisfied that the design and layout of the building is appropriate, and I consider that the material finishes proposed by the applicant are appropriate, with the exception of the proposed metal balustrades on the balconies, which is addressed in Section 7.5.

## 7.9. **Impacts on Surrounding Properties**

7.9.1. The appellants state that the existing character of the area is low density, low rise housing and that the design, scale and mass are overbearing in nature and negatively impact residential amenity and it would to adverse impacts on surrounding properties by reason of traffic congestion, overlooking, overshadowing, visual impact and other impacts. Overshadowing and traffic/access are be dealt with separately in other sections of this report.

### Overlooking

7.9.2. I have previously addressed overlooking in section 7.7.3 above in relation to the quantum of proposed development, where I concluded that I did not consider that it

would be necessary to reduce the height of the building for reasons of overlooking of neighbouring properties. I note that the site is surrounded on three side by roads across with separation distances of at least 25 meters between the proposed building and existing buildings. I am satisfied that no overlooking issues arise to the east west or south of the site.

7.9.3. The Eir telecoms building with rooftop antennae is located immediately abutting the northern boundary of the site and no windows are proposed on the first three floors of that elevation and a single storey veterinary clinic is located immediately north of the Eir building. The nearest residential properties are located c28m north east on Bunting Road and more than 30m away on Walkinstown Road at acute angles to the eastern and western facades of the proposed building. Those separation distances significantly exceeded the 16m separation distance recommended in the Compact Settlement Guidelines for opposing windows.

7.9.4. I am satisfied that the separation distances and obscured angles of vision between the proposed development and existing residences in the vicinity would ensure that no unacceptable overlooking or privacy impacts would occur for existing properties.

#### Overbearing

7.9.5. Overbearing impacts are impacts that a development would have on neighbouring properties by reason of the height, mass and scale which is a function of the separation distance between the buildings or properties. In this regard, I am satisfied that none of the residential properties on the adjoining roads directly overlook the proposed development. The houses on Bunting Road face north west or south east toward the road, the houses on Walkinstown Road face east or west and I am satisfied that none of those properties would experience an overbearing impact.

7.9.6. The end house on the terrace of houses to the south at No. 6 to 16 Cromwellsfort Road is commercial in use, and while the other houses will face towards the site, they will do so at an angle as they face directly north across at the junction of Cromwellsfort Road and Bunting Road with a separation distance to the proposed building of c.40m at the closest point across four lanes of traffic on the busy Cromwellsfort Road. In these circumstances I am satisfied that the proposed development would not have any unacceptable overbearing impacts. I note only one of the appellants has an address on Cromwellsfort Road.

7.9.7. Greater separation distances apply from the proposed development to properties on the other roads where named appellants live, being Lower Ballymount Road, Walkinstown Avenue, Saint Peters Road, Thomas Moore Road. The properties directly west along Walkinstown Road are in commercial use, while dwellings further north on the western side of the Walkinstown road would have only an angled view of mainly the development. I do not consider that any unacceptable overbearing impacts would occur on any nearby properties due to the separation distances and orientation of the existing properties.

#### Visual Impact

7.9.8. The appellants raised concerns regarding the visual impact of the proposed development and in that regard the applicant's submitted a revised visual impact assessment and presentation of verified views in respect of the revised design following further information. 10 viewpoints were selected with a rationale set out for selecting each view. Several of the viewpoints are close to the site being VP1, VP2, VP3 and VP6, which record a high degree of change, while the most distance views V9 and VP10, taken from nearby parks, would experience negligible impact.

7.9.9. It is expected that the height and scale of the proposed development would have a significant visual impact at the closest viewpoints and would become the dominant feature in the vicinity above, however I am satisfied that the junction is currently dominated by the roundabout and traffic and the site and the area has the capacity to accommodate a building of the scale proposed. I consider that the proposed development would impact the definition, focus and legibility of the site and neighbourhood centre that the visual impact will be positive for the area.

#### Property Values

7.9.10. The appellants raised concerns that the development would lead to a devaluation of properties in the area. However, having regard to the assessment outlined above and the absence of any evidence from the appellants to support their claim, I am satisfied that the proposed development would not seriously injure the amenities of properties in the vicinity to such an extent that it would have any adverse effect on the value of those property.

## 7.10. Daylight and Sunlight

### Policy

#### Urban Development and Building Height Guidelines (2018)

- 7.10.1. Section 3.2 of the Urban Development and Building Height Guidelines (2018), refers to the criteria to be considered in assessing applications at the scale of the site/building and states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light and that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 2009 (2nd edition 2011) or BS 8206-2: 2008. The Development Plan 2022-2028, the Apartment Guidelines (2023) and the Compact Settlements Guidelines (2024) refer to a more up-to-date version of the BRE 209 Guide from 2022.
- 7.10.2. I consider that this updated guidance provides a degree of flexibility to does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines and the Dublin City Development Plan. I have carried out a site inspection and had regard to the proposed development and its surroundings, and I note that neither the third party observations nor the appeal raised concerns in relation to daylight and sunlight, while the planning authority was satisfied with the revised information provided by the applicant at further information stage.

### Daylight within the Proposed Apartments

- 7.10.3. The initial application included a 'Daylight, Sunlight and Overshadowing Study' and upon review the planning authority stated by way of further information that it had serious concerns that the daylight and sunlight provision for 43% of units fail to achieve an ADF of 2% for combined living/ kitchen/ dining (LKD) rooms and requested a revised layout to comply with the appropriate ADF of 2% or to provide a rationale for any alternative compensatory design solution for units not meeting the requirements of the daylight provision.
- 7.10.4. Both SPPR 3 of the Building Height Guidelines and the Development Plan, refer to guidelines which use Average Daylight Factor (ADF) as a means of assessment of



daylight and the revised Daylight, Sunlight and Overshadowing Study submitted in response to the request for further information has confirmed that all 42 combined living/kitchen/dining areas meet and exceed a 2% ADF target while all 65 bedrooms assessed would meet and exceed the 1% ADF target.

7.10.5. I am satisfied that all rooms would receive an acceptable level of daylight.

#### Daylight to Existing Buildings

7.10.6. In designing new development, it is important to safeguard the daylight to nearby buildings. The applicant's assessment contains a 'light from the sky' (VSC) analysis for the windows of surrounding properties. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines 2022 state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum and that if the VSC, is both less than 27% and less than 0.8 times its former value, with the new development in place, occupants of the existing building would notice the reduction in the amount of skylight.

7.10.7. The applicant's assessment considers the VSC impacts on surrounding residential properties at 6-16 Cromwellsfort Road, 143, 144A and 145 Bunting Road, and 160 and 162 Walkinstown Road. A total of 39 windows were tested, all of which would retain a VSC in excess of 27% and 0.8 times their former value. Accordingly, I am satisfied that this complies with BRE recommendations, and I have no objection in this regard.

#### Sunlight to existing and proposed amenity spaces

7.10.8. BRE 2009 (2022) has retained the previous recommendation that amenity areas should receive at least two hours of sunlight on the 21<sup>st</sup> of March. The revised Daylight, Sunlight and Overshadowing Study submitted as further information, included an assessment of sunlight availability to neighbouring amenity areas, as a result of the proposed development, and the analysis has demonstrated that 100% of the amenity areas of those residential properties that were identified as being overshadowed at particular times of the year (No's. 143 & 145/145A Bunting Road, No's 15 & 17 Cromwellsfort Road and No 162 Walkinstown Road) would continue to

received more than 2 hours of sunlight on the 21<sup>st</sup> of March with the proposed development in place

- 7.10.9. The daylight, sunlight and overshadowing study has also demonstrated that 58% of the combined rooftop open space areas within the development would receive at least two hours of sunlight on the 21<sup>st</sup> of March over their total combined area. The fourth floor area would achieve 51% and the fifth floor area 65%. It is also noted that the quantum of communal open space at 361sqm is 105sqm in excess of the minimum requirement of 256sqm, meaning that c82% of the required communal open space will would receive at least two hours of sunlight on the 21<sup>st</sup> of March.

#### Sunlight to Existing Buildings

- 7.10.10. Sunlight to existing buildings is assess by the applicant in terms of annual probable sunlight hours (APSH), and if a room can receive more than one quarter of annual probable sunlight hours 25% (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight. If the overall annual loss of APSH is 4% or less, the loss of sunlight is small. Any reduction in sunlight access below these levels should be kept to a minimum. If the available sunlight hours are both less than the amount above and less than 0.80 times their former value, either over the whole year or just in the winter months (21 September to 21 March), and the overall annual loss is greater than 4% of APSH, then the occupants of the existing building will notice the loss of sunlight; the room may appear colder and less cheerful and pleasant.

- 7.10.11. The ground floor living room windows off existing dwellings at 160-162 Walkinstown Road and 143-145 Bunting Road, were examined. In all of the five windows that were examined, it was demonstrated that they would receive significantly more than 25% APSH and significantly more than 5% of APSH in the winter months and the annual APSH is between 0.91 and 1 on an annual basis for the five windows, but less than 0.8 of the former value for two of the windows in 162 Walkinstown road in winter, while the overall in reduction in ASPH for four of the five windows would be greater than 4%.

- 7.10.12. For those windows at 162 Bunting Road that would experience as loss of more than 4% in APSH, I also note paragraph 2.2.4 of Bre 2009 (2022) which states that loss of light to existing windows need not be analysed if the distance of each part of

the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small. I am satisfied that the individual elements of the proposed building would be more than three the height of building distant from the affected windows, that would still receive significantly more than the 5% APSH and I am satisfied that all nearby houses will continue to receive an adequate amount of daylight, and I am further satisfied that that the proposed development is acceptable in this regard.

#### Sunlight to Proposed Apartments

7.10.13. Site layout is the most important factor affecting the duration of sunlight in buildings. It can be divided into two main issues, orientation and overshadowing. East and west-facing windows will receive sunlight only at certain times of the day and a dwelling with no main window wall within 90° of due south is likely to be perceived as insufficiently sunlit. This is usually only an issue for apartments.

7.10.14. Sun lighting potential of a large residential development may be initially assessed by counting how many dwellings have a window to a main living room facing south, east, or west and the aim should be to minimise the number of dwellings whose living rooms face solely north, northeast, or northwest, unless there is some compensating factor such as an appealing view to the north.

7.10.15. In the submitted study, the living areas of the proposed apartments were assessed against APSH annual and winter targets greater than 25% and 5% respectively. Eleven of the proposed apartments facing west over Walkinstown Road fail to meet the 5% minimum ASPH recommendation, with 74% of points compliant with the recommended annual BRE values. Where proposals would not fully comply with the sunlight requirements, I note that the applicant could increase the floor to ceiling heights, but I also consider that the provision of winter gardens in lieu of the proposed open balconies would effectively act to extend the living space outwards and will increase the levels of sunlight available to residents of the affected apartments in the winter time and I am satisfied that this would be an acceptable means of compensation for any loss of sunlight that may be experienced in the apartments.

#### Conclusions on Daylight/Sunlight

7.10.16. I am satisfied that the BRE guidelines allow for flexibility in terms of their application and note the Board has discretion in applying the guidelines taking into account site constraints and the need to secure wider planning objectives, such as higher density along key transport corridors. I am satisfied that the availability of sunlight and daylight to existing residents, the proposed apartments and open spaces would be in accordance with BRE recommendations and would not result in any unacceptable impacts, and that winter gardens, while recommended as a means of noise mitigation, would have benefits for those apartments found to receive less than 5% APSH in winter time

## 7.11. **Traffic, Parking and Access**

### Car Parking

- 7.11.1. The original application included a Traffic and Transportation Statement (TTS) that incorporated a Preliminary Mobility Management Plan and a Servicing / Operational Waste Management Plan) while additional detail provided as further information. Using TRICS output for apartment developments it was calculated that 42 units (with parking) would generate 11 PCUs (passenger car units) 2-way trips during each of the peak hour AM and PM periods. It also stated that with the the provision of dedicated parking, with an emphasis on encouraging pedestrian cycle movement as well as the use of public and alternative transport modes, the development would result in an absolutely negligible change in local traffic conditions.
- 7.11.2. It is proposed to provide 14 basement level parking spaces, while 16 existing parking spaces will be retained to both the east and west of the building, and 12 surface level spaces would be removed at the southern end of the building.
- 7.11.3. The site is located in parking Zone 2 in Map J of the Development Plan, which refers to areas located alongside key public transport corridor. A maximum provision of 1 space per dwelling applies, resulting in a maximum requirement of 42 spaces. The proposed public house and retail would generate a maximum need for c.9 additional spaces.
- 7.11.4. The TTS notes that household car ownership in the surrounding area varied from 60% to 80% (Census 2016) and that the daily commute of between 60-70% of locals is by means other than private car, generally using public transport, walking and cycling.

- 7.11.5. There is significant policy support in the Apartment Guidelines, Compact Settlement Guidelines support for reduced parking and in areas where car-parking levels are reduced people are more likely to walk, cycle, or choose public transport for daily travel.
- 7.11.6. SPPR 3 'Car Parking' in the Compact Settlement Guidelines provides that, it is a specific planning policy requirement that on urban neighbourhoods sites car-parking provision should be minimised, substantially reduced or wholly eliminated. It also recommends that the maximum car parking provision be 1 no. space per dwelling.
- 7.11.7. Even before Bus Connects, the site is considered to be located on a key public transport corridor, while LUAS is also located nearby, while the applicant has state the scheme will be marketed and managed as a 'reduced car-dependency' scheme.
- 7.11.8. I am satisfied that the site is within a central and/or accessible urban location as described in the Apartment Guidelines and that the development would comply with the criteria of section 4.29 whereby car parking provision may be relaxed in part or whole, on a case by case basis, for urban infill schemes on sites of up to 0.25ha.
- 7.11.9. In light of prevailing policy that support higher density development with limited or no parking, in or near key public transport corridors, which are served by existing or proposed high frequency public transport connections, I am satisfied that the proposed car parking provision, that will be actively controlled and managed, would be sufficient to meet the needs of the development.

#### Bike parking

- 7.11.10. The Apartment Guidelines 2023 provide that a general minimum standard of 1 cycle storage space per bedroom and 1 space per 2 residential units for visitors will be provided. SPPR 4 of the Compact Settlement Guidelines referring to Cycle Parking and Storage states that in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied and that visitor cycle parking should also be provided. It continues to stated that provision should be made for larger/heavier cargo and electric bikes, that cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint and that it is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

7.11.11. The total number of bicycle parking of spaces required by with the Apartment Guidelines is 86, with includes 65 for residents and 21 for visitors. The public house and retail units would generate a need of 4 visitor space and one space for every 5 staff. The development would have 20 stands outside the building with capacity for 39 visitor spaces meaning that there would be 17 spaces for staff and customers of the commercial units, while 72 standard spaces are proposed in a secure ground floor area with a separate area proposed for accessible and cargo bikes.

7.11.12. I am satisfied that sufficient parking will be provided to serve the needs of the apartments and commercial units at ground floor.

#### Access and Servicing

7.11.13. Vehicular access to the basement would operate via a Bluetooth controlled system as part of the overall parking management strategy that will only permit registered vehicles to enter the lift, which would by default be stationed at the ground level, with priority given to vehicles entering the lift. The proposed access from Bunting Road will facilitate the stacking of two vehicles in front of the site and a third on the lift. I am satisfied based on the low level of parking spaces and traffic projections, that the proposed access arrangement to the basement will not create a traffic hazard or interfere with the free flow of traffic on the adjoining road, although queueing vehicles may temporarily impeded the proposed cycle lane, which in itself is not connected to a wider cycle path network.

7.11.14. The servicing of the site is addressed in the Servicing & Operational Waste Management Plan that notes the presence of the existing large Kestrel House pub on the site. By way of further information the applicant was required to demonstrate that they had sufficient legal interest to service the western side of the building from the existing adjacent carpark between the site and Walkinstown Road. However, they response demonstrated that the existing pub is serviced from the Bunting Road side of the building and this arrangement would continue. I also note that the planning authority did not express any concern and did not attach a condition in respect of servicing. I am satisfied that the servicing of the commercial elements of the building and the collection of wastes that would involve short-term parking should be agreed with the planning authority by condition of any grant of permission.

7.11.15. I acknowledge concerns raised by the third party regarding the lack of car-parking and potential for overspill parking to occur on the surrounding road/footpath network including adjacent to their homes. However, I am satisfied that the applicant has undertaken market the scheme as a reduced car dependency scheme, and for that reason it is not unreasonable to expect that it would residents who do not own or require the use of car. The site is located on a key transport corridor that will be upgraded with BusConnects along with options for walking and cycle existing or to be developed while temporary traffic impacts at construction stage could be satisfactorily addressed through the agreement of a construction traffic management plan by condition. Accordingly, I am satisfied that that the proposed development would not have unacceptable impacts on the safety and free flow of traffic or the movements of pedestrians, cyclists and other vulnerable road users in the vicinity.

#### Public Transport Capacity

7.11.16. The site is currently served by bus routes 27 and 77a (Walkinstown Road), the 77N on Friday and Saturday nights, the 56 (Walkinstown Avenue) and the No.9 (Cromwellsfort Road). The 27 has a peak weekday frequency of 10 minutes from 7am to 7:30pm to Dublin city and from 6:20am towards Tallaght. The routes interact with Luas, Dart and commuter rail at various locations, while Bus Connects routes are planned that will increase the frequency to 5 minutes and I am satisfied that there is sufficient capacity in the public transport network to facilitate the occupants and patrons of the proposed development.

### **7.12. Public Realm & Circulation**

7.12.1. As part of the request for further information the applicant was requested to move the building further from its southern boundary close to the Walkinstown Roundabout to enhance the public realm. The revised building was moved between 1.5 and 4.7m northwards of its original proposed building line, while the footprint of the building was reduced from 908sqm to 838sqm.

7.12.2. The planning authority was satisfied that the revised setback would provide adequate pedestrian circulation space, which was reflected in amended verified views from May 2022.

- 7.12.3. I note that the main entrance to the public house at the southern end would be set back c2m further from the edge of the public footpath than originally proposed and the entrances to the apartments and retail units would also be set back from the road and separated from the road by parking and drop off areas as well as footpaths. I consider that the building and entrances are adequately setback from the public realm, and will facilitate bus connects works, without causing direct conflict with pedestrians using the adjacent public footpaths or crossing the public roads.
- 7.12.4. I am satisfied that the proposed building provides an adequate setback from the existing and proposed road network, particularly along the east and west of the site, where it would have a similar footprint to the existing building
- 7.12.5. I also note that the legal interest of the applicant to carry out the development has not been raised by way of an observation or appeal by the owners of the adjacent carpark to the west and if that if an issue were to arise it would lie to be resolved between the relevant parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000 (as amended).
- 7.12.6. If the board is minded to grant permission, I am satisfied that a conditions can be imposed to address the surface finished to be provided on the hard surfaces areas within the application site, so that the proposed development would not adversely impact on pedestrian or cyclist movements in the immediate area.

### 7.13. **Piped Infrastructure**

- 7.13.1. While that appellants have raised concerns regarding the capacity of piped services, I note that Irish Water has confirmed that piped services are available while the planning authority has not raised any issue either. I note that section 3.3 of the Building Heights Guidelines states in respect to Fire and Public Safety 3, that compliance with fire safety requirements is a separate, parallel, regulatory requirement. I am satisfied that adequate piped service are available to the proposed development.

### 7.14. **Telecommunications**

- 7.14.1. In the previous application for 52 apartments on this site under ABP 311065-21 (P.A. Reg. Ref. 3193/22), the board refused permission for a single reason which included



the following wording ‘the site adjoins an important telecommunications exchange site, and the application does not include adequate information to demonstrate that the proposal allows for the retention of important telecommunications channels.

Accordingly, the Board is not satisfied that a material contravention of the development plan is justified in this instance, in that the proposed development fails to meet the criteria set out in Section 3.2 and Specific Planning Policy Requirement 3 (A)’.

- 7.14.2. The third party appellants raised concerns that no justification had been provided for the proposed telecommunications infrastructure and the visual and health impacts have not been considered
- 7.14.3. Circular Letter PI07/12 ‘Telecommunications Antennae and Support Structure Guidelines’ was issued to Planning Authorities in 2012 and includes advice on the issue of health and safety and reiterates that this is regulated by other codes and is not a matter for the planning process.
- 7.14.4. It is noted that Towercom Ltd that manage the existing communications infrastructure on the rooftop of the adjacent Eir building to the immediate north of the site submitted an observation on the original application had appealed the decision, but the appeal has been withdrawn. In responding to the grounds of appeal, the applicant was satisfied that they had overcome all issues by the inclusion of a telecommunications report with the application and a further submission at further information stage.
- 7.14.5. Section 15.18.5 of the development plan require applications to take account of the Telecommunications Guidelines and also states that possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations’ and that in assessing proposals for telecommunication antennae...factors such ...the position of the object with respect to the skyline will be closely examined’.
- 7.14.6. The applicant submitted a telecommunications report to address the board’s previous refusal reason in ABP-311065 with respect to Section 3.2 of the Building Height Guidelines, which states that in order to support some proposals, specific assessments may be required to demonstrate that the proposal allows for the retention of important telecommunication channels, such as microwave links.

- 7.14.7. This location of the proposed antennae was originally raised in two of the submissions to the planning authority, and further information issued requested that the applicant consider relocating the antennae away from the edge of the roof in order to reduce visual impact. In response, the applicant proposed moving the antennae back c3m from the edge of the roof.
- 7.14.8. The initial telecommunications report addresses both radio frequency links and microwave transmission links with the latter more easily affected by interference in line of sight, for instance by the presence of new structures, as the loss of line of sight can result in a loss of signal. The assessment identified four microwave links and four radio frequency links, which may be affected, with specific allowance required for their retention through mitigation. The immediate area is served by three cells on sites at very close range to the proposed development site, and this was determined that the proposed height sought by the applicant will impact the identified radio frequency and microwave links. In order to maintain the existing microwave and radio frequency links, as a means of mitigation, the applicant has proposed to install antennae on the roof, which will also have capacity for future links that may or may not be required. The key finding of the initial telecommunications report is that the proposed development would allow for the retention of important telecommunication channels and satisfies the criteria of section 3.2 of the building height guidelines.
- 7.14.9. A brief cover letter was submitted by the applicants telecommunications consultants in response to the request for further information, which confirmed the relocation of the proposed antennae away from the edge of the roof by c3m in order to reduce the visual impact, and a reduction in height above parapet by approximately 500mm. The antennae would also be reconfigured so that they are parallel rather than stacked as originally proposed. The amended location of the proposed antennae is also evident on the revised verified views, submitted as further information.
- 7.14.10. The telecommunications reports indicate that the building would result in some loss in signal without mitigation, but that on the installation of the antennae there would be no loss. This indicates that there is potential for loss of signal during the construction works, prior to the installation of the antennae on the roof, which could lead to temporary loss of signal for local residents and businesses. While I am satisfied that the proposed development is acceptable, I consider it appropriate that should the board be minded to grant permission, that a condition be attached to

requiring the applicant to take appropriate measures to ensure that existing telecommunications channels are maintained throughout the duration of the construction works.

## 8.0 **Appropriate Assessment**

- 8.1.1. The proposed development is not directly connected to or necessary to the management of any European site.

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

- 8.1.2. The proposed development is not directly connected to or necessary to the management of any Natura 2000 site and therefore is subject to the provisions of Article 6(3).

### Screening the need for appropriate assessment

- 8.1.3. The proposed development is examined in relation to any possible interaction with Natura 2000 sites, namely designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any Natura 2000 Site.
- 8.1.4. The proposed development that was subject to the decision to grant permission consist of a public house, 3 retail units and 42 apartment and I note that the grounds of appeal do not address Appropriate Assessment (AA) and the Planning Authority did not consider AA to be necessary.

### Designated Sites and Zone of Impact

- 8.1.5. The nearest Natura 2000 site is the Glenasmole Valley SAC (Site Code 001209), c. 6.8km southwest of the site. Natura 2000 sites in Dublin Bay area including South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC c8.3km east, North Bull Island SPA and North Dublin Bay SAC are c11.2km north east. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network.

### Direct/Indirect Impacts

- 8.2. Applying, the source-pathway-receptor method, I am satisfied that there is no potential for connectivity between the appeal site and the Glenasmole Valley SAC.

- 8.1.6. Having carried out and reviewed AA Screening for other developments in the area including the former CMH SHD site c300m to the west of the site, I am aware that there are potential indirect connections to the Natura 2000 sites in Dublin Bay via watercourses and the surface water and foul drainage networks. The application proposes to discharge surface water and foul water to the existing Irish Water sewer systems already on site, which ultimately discharge to Dublin Bay. However, the existence of potential pathways does not necessarily mean that potential significant impacts will arise from the development. Having regard to the confirmation of feasibility on file from Irish Water that capacity exists in the foul sewage network, I am satisfied that the proposed development would not give rise to significant effects on Natura 2000 sites in Dublin.
- 8.3. The engineering report indicates surface water, will incorporate appropriate management measures to regulate discharge flows in terms of quantity and quality including attenuation in blue roofs at each of the three rooftops and permeable paving, and it is expected that there will be a reduced flow from the site into the surface water system on Cromwellsfort Road relative to the current discharge rates as the site consists entirely of artificial surfaces. While there is potential for surface water contamination during construction works, I am satisfied that best-practice construction management will satisfactorily address this matter, and in my mind such practices are not mitigation measures but constitute a standard established approach to construction works. Their implementation would be necessary for a development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. In any event, if these practices were not applied or were applied and failed, I am satisfied that it would be unlikely that there would be any significant effects on the designated site due to the nature and scale of the development proposed, dilution effects, separation distances and the extent of intervening urban environment, together with the conservation objectives of the designated sites in Dublin Bay. Accordingly, I am satisfied that there is no possibility of significant impacts on Natura 2000 within Dublin Bay from surface water pressures from the development.

- 8.4. Wastewater from the development will increased loading at the Ringsend WWTP, which has sufficient capacity to accommodate the additional loading from the development and I am satisfied that there is no possibility that the additional wastewater loading resulting from the development will result in significant effects on Natura 2000 sites within Dublin Bay.
- 8.5 GSI Mapping indicates that the subsoil permeability is low and the groundwater vulnerability in the area is only moderate. Therefore, together with the significant separation distance from Natura 2000 sites, I am satisfied that any potential groundwater impacts can be excluded.
- 8.6 As the site is an entirely brownfield site, the potential for significant impacts such as displacement or disturbance due to loss or fragmentation of habitats or other disturbance can be excluded due to the lack of suitable habitat for qualifying interests of Natura 2000 sites and the intervening distances between the appeal site and Natura 2000 sites.

#### Screening Determination

- 8.1.7. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, I have concluded 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 designated Natura 2000 Sites, in view of the sites' Conservation Objectives, and Appropriate Assessment (and the submission of a NIS) is not therefore required.
- 8.1.8. The proposed development does not occur within or directly adjacent to designated sites and there will be no direct impacts, such as habitat loss or modification as a result of this proposed development.
- 8.1.9. The possibility of significant effects on all Natura 2000 sites has been excluded on the basis of objective information. I have screened out all Natura 2000 sites for the need for appropriate assessment, based on a combination of factors including the intervening minimum distances, the marine buffer/dilution factor and the entire absence of habitat on the site. I am satisfied that there is no potential for likely significant effects on these any Natura 2000 sites.

8.1.10. Measures intended to reduce or avoid significant effects on Natura 2000 sites have not been considered in the screening process.

## 9.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the reasons and considerations outlined overleaf.

## 10.0 Reasons and Considerations

9.1.1. Having regard to the zoning for the site, to the nature and scale of the proposed development, and to the provisions of the Dublin City Development Plan 2022-2028, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024, the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2023 and the Urban Development and Building Heights, Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in 2018, it is considered that subject to compliance with the conditions below, the proposed development would feature appropriate uses, building heights, density, design and layout for this site, would respect the character and setting of the area, would not seriously injure the amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants, would feature an appropriate provision of drainage, access and parking services, would be acceptable in terms of road safety and would not interfere with telecommunications signals. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on the sixth of April 2022 and by the response to the appeal received by An Bord Pleanála on the 6<sup>th</sup> of September 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>The proposed metal railings on the apartment balconies shall be omitted and the balconies shall be enclosed to create winter gardens, that will provide for noise levels of 50-55dBA during the hours of 0700 to 2300 hours, when the winter gardens are closed. Prior to the commencement of development details, including revised plans, elevations and specifications for the winter gardens, to be submitted for the written agreement of the planning authority, which shall include details of the type of suitable non reflective glazing to be installed.</p> <p><b>Reason:</b> In the interest to residential amenity and traffic safety and to reduce the potential for glint and glare on road users.</p>
3.	<p>Prior to the occupation of the proposed non-residential units (public house and retail units), details of the occupant of the public house and retail units, including finalised service details and opening hours, and details of any proposed signage to be applied to the elevations of the respective units, including details of the glazing, materials, colour, lettering and depth of the signage, shall first be submitted to and agreed in writing with the Planning Authority.</p>

	<p><b>Reason:</b> In the interest of clarity and the visual amenity of the area.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(a) Details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site.</p> <p>(b) Prior to commencement of development full details, including samples where appropriate, of the treatment of the areas of public realm within the site boundary, shall be submitted to the planning authority and written agreement obtained. This shall include full details of the paving materials, seating and street lighting.</p> <p><b>Reason:</b> In the interest of visual amenity, durability and to ensure a high standard of public realm.</p>
5.	<p>a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services</p> <p>b) An existing public surface water sewer extends into the red line site boundary of the site at Walkinstown Road. The exact location of this sewer must be accurately determined onsite prior to the commencement of the development. A clear minimum distance of three metres shall be maintained between this sewer and all structures on site. No additional loading shall be placed on this sewer.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
6.	<p>The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Éireann, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>Proposals for naming the development and a unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the</p>



	<p>planning authority prior to commencement of development. Thereafter, all signage and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
8.	<p>(a) The basement car parking shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any other purpose than those stated in the application unless the subject of a separate grant of planning permission.</p> <p>(b) Prior to the occupation of the development, a final Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the means of how the car parking spaces shall be assigned, and managed by the management company.</p> <p>(c) Details of all cycle parking, including the provision of cargo-cycle parking spaces, shall be submitted to and agreed in writing with the planning authority prior to the occupation of development.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed development.</p>
9.	<p>A minimum of 50% of the proposed car parking spaces shall be provided with electric-connection points, to allow for functional electric-vehicle charging. The remaining car parking spaces in the basement car park shall be fitted with ducting for electric-connection points to allow for future fit-out of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transport.</p>

10.	<p>Prior to the occupation of the development, a finalised Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the use car parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
11.	<p>Lighting shall be provided in accordance with a final scheme, which shall include lighting for the communal open spaces, basement parking and entry areas bicycle parking and bin storage areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any residential or commercial unit.</p> <p><b>Reason:</b> In the interests of amenity and public safety</p>
12.	<p>All service cables associated with the proposed development other than the rooftop antennae (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
13.	<p>The control odour and noise emissions from the proposed public house shall be in accordance with the detailed construction standards of the Planning Authority for such works, including extract duct details and noise minimisation measures, which will be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	<p><b>Reason:</b> In the interest of public health and to protect the amenities of the area.</p>
14.	<p>The internal noise levels, when measured at the windows of the proposed apartments, shall not exceed:</p> <p>(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and</p> <p>(b) 30 dB(A) LAeq at any other time.</p> <p>A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed apartments are made available for occupation.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
15.	<p>Prior to the first occupation of the apartments, a noise survey shall be carried out at the rooftop communal open spaces to determine background noise levels. A report of the results will be prepared and if necessary, a scheme of noise mitigation measures will be prepared, in order to achieve noise levels of 50-55dBA Lday (LAeq, 16 hr.), and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures which will included a solid noise barrier only, shall be implemented before the proposed apartments are made available for occupation.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
16.	<p>(a) Amplified music or other specific entertainment noise emissions from the proposed hospitality unit shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling, including apartments, in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.</p>

	<p>(b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.</p> <p>(c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either</p> <ul style="list-style-type: none"> <li>i. during a temporary shutdown of the specific noise source, or</li> <li>ii. during a period immediately before or after the specific noise source operates.</li> </ul> <p>(d) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the proposed hospitality unit is at its maximum level.</p> <p>(e) Any measuring instrument shall be precision grade.</p> <p>Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the planning authority.</p> <p><b>Reason:</b> In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low-frequency sound emissions during night-time hours.</p>
17.	<p>a) Prior to the installation of the rooftop telecommunications antennae precise specifications of the antennae shall be submitted to the planning authority for agreement and shall be sited in accordance with the revised plans and elevations submitted to the planning authority by way of further information on the 6<sup>th</sup> of September 2022.</p> <p>b) With the exception of rooftop antennae referred to in a) above, no additional development shall take place above roof-parapet level, including lift motor enclosures, air-handling equipment, storage tanks,</p>

	<p>ducts or other external plant, telecommunication aeri-als, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>c) With the exception of rooftop antennae referred to in a) above, all service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> To protect the visual and residential amenity.</p>
18.	<p>The rooftop communal open spaces shall be landscaped in accordance a landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall be designed by a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme and communal open space shall be completed before any of the apartments are made available for occupation and shall be maintained thereafter by the management company.</p> <p><b>Reason:</b> In the interest of visual and residential amenity.</p>
19.	<p>a) Prior to commencement of development, the developer shall delineate on a map those areas that are to be taken in charge for the written agreement of the planning authority.</p> <p>b) All areas not intended to be taken in charge by the planning authority, shall be maintained by a legally-constituted management company.</p> <p>c) Details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the proposed units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of communal areas.</p>

	<p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
20.	<p>A plan containing details for the management of waste, in particular recyclable materials, within the completed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate waste storage.</p>
21.	<p>The construction of the development shall be managed in accordance with a Final Construction and Waste Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
22.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including demonstration of proposals to adhere to best practice and protocols. The Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan must be submitted to the planning authority for written agreement prior to the commencement of development.</p>

	<p>All records, including for waste and all resources, pursuant to the agreed Resource Waste Management Plan shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
23.	<p>Prior to the commencement of development, the applicant shall submit to the planning authority from written agreement, a plan indicating how telecommunications signals will be maintained during the construction phase, prior to the commissioning of the new rooftop telecommunications antenna.</p> <p><b>Reason:</b> In the interest of maintaining uninterrupted telecommunications signals</p>
24.	<p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
25.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
26.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an</p>

	<p>agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
27.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of that part of the site owned by Dublin City Council that is in the control of for the purposes of the application, the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
28.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the</p>



planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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.

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Joe Bonner  
Senior Planning Inspector

7<sup>th</sup> March 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-314103-22		
<b>Proposed Development Summary</b>	Demolition of two storey building. Construction of 42 apartments, 3 retail units, public house, telecommunications infrastructure at roof level and associated site works.		
<b>Development Address</b>	Kestrel House, 157 Walkinstown Road, Dublin 12, D12 NN8A with frontage to Cromwellsfort Road and Bunting Road		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	
<b>Yes</b>	X	Class 10(b)(i) of Part 2: threshold 500 dwelling units. Class 10(b)(iv) of Part 2 Class 14 of Part 2 (demolition)	Part of the development consists of 42 apartment.  Proceed to Q.4

		Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)	The site is located in a urban area.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-314103-22	
<b>Proposed Development Summary</b>	Demolition of two storey building . Construction of 42 apartments, 3 retail units, public house, telecommunications infrastructure at roof level and associated site works.	
<b>Development Address</b>	Kestrel House, 157 Walkinstown Road, Dublin 12, D12 NN8A with frontage to Cromwellsfort Road and Bunting Road	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject development comprises a mix of public house and 3 retail units at ground floor level with residential development at first to fifth floor levels in an area characterised by commercial and residential development, on a site which currently accommodates a public house and bookmakers. In this way, the proposed development would not be exceptional in the context of the existing environment.</p> <p>During the demolition and construction phases the proposed development would generate waste during excavation and construction. However, given the moderate size of the proposed building I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phase due to the nature of the proposed use.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context</p>	<p>The proposed development would consist of a single building accommodating 42 apartments unit at first to fifth floor levels above a ground floor public house, 3 retail units, bin stores, car and cycle parking and circulation space and is not considered exceptional in size in the context of the</p>	

<p>of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>nearby buildings, notwithstanding that the nearby environment is made up primarily of two storey building, with some single and three storey buildings including a commercial building to the west on the opposite side of Walkinstown Road to the site. The nearby Ballymount and Greenhills Road industrial areas are earmarked for major residential development and a SHD apartment development is currently under construction c300m west of the site in two blocks up to 8 floors in height.</p> <p>Owing to the serviced urban nature of the site and the infill character of the scheme, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>	<p>No</p> <p>No</p>
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The application site is not located in or immediately adjacent to any European site. The closest Natura 2000 site is the Glenasmole Valley SAC (Site Code 001209), c.6.8km southwest of the site.</p> <p>There are no waterbodies or ecological sensitive sites in the vicinity of the site. The site is located within a serviced urban area and the site would be connected to public surface and foul sewers. I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b> EIA not required.</p>		

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)