



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-314124-22**

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#### **Strategic Housing Development**

Demolition of existing buildings on site, construction of 194 no. apartments, creche and associated site works.

#### **Location**

Lands at Harold's Bridge Court and No.s 1-3 Clare Villas, Harold's Cross Road and Greenmount Lane, Dublin 6W.

#### **Planning Authority**

Dublin City Council

#### **Applicant**

The Adroit Company Limited

**Prescribed Bodies**

Department of Housing, Local  
Government and Heritage  
(Development Applications Unit)  
Irish Water

**Observers**

Alan Massey  
Amanda Philip  
Brendan and Catherine McGarry and  
Other  
Carolyn Moore  
David James  
David Russell and family  
Fiona McGuinness and Clare Miller  
Harmsworth Limited  
Harolds Cross Village Community  
Council  
Jason Jalet and David Flaherty  
Jean Connolly  
John Conway and the Louth  
Environmental Group  
Kate Courtney  
Liam Mulcahy and Fiona Murray  
Mark Adams and Emer Hartnett  
Peter Kelly and Martin Wall  
Peter McLoughlin and Joseph O'Dea  
Residents of Parnell Road  
Rosemary O'Halpin  
Roy Pearson and Joan Whelan

**Date of Site Inspection**

16<sup>th</sup> September 2022

**Inspector**

Rónán O'Connor

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## **1.0 Introduction**

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## **2.0 Site Location and Description**

- 2.1.1. The subject site is irregularly shaped and comprises a stated area of 1.01 ha, located southwest of the junction of Harold's Cross Road and Parnell Road / Grove Road at Emmet Bridge, at Dublin 6W. The site has frontage to Harold's Cross Road to the east and Greenmount Lane to the west. To the north, the site is bounded by a low-rise office development and the rear of residential properties fronting Parnell Road. To the south, the site is bounded by existing commercial and residential development. Residential development to the south-west on Limekiln Lane and Greenmount Lane comprise single-storey terraced cottages. Greenmount Lane also includes industrial buildings and terraced two-storey housing to the west of the site. There is a detached dormer dwelling immediately north of the site fronting onto this lane.
- 2.1.2. The site is currently in predominantly residential use, comprising four duplex blocks and two single storey detached houses in Harold Bridge Court, of which two face onto Harold's Cross Road but without active frontage thereto. This development is accessed via an entrance from Harold's Cross Road which is shared with the adjoining office development to the south. Within the site, Clare Villas comprises a terrace of three no. two-storey houses, which are currently accessed via mews laneway off Parnell Road to the north.
- 2.1.3. The site also includes a large industrial / warehouse building fronting onto Greenmount Lane to the west. This building is currently partly in use as an artist's gallery and studio space (Mart Gallery and Studios). There is pay and display parking on Greenmount Lane.

### 3.0 Proposed Strategic Housing Development

The proposed development provides for 194 no. dwellings comprised of studio, 1, 2 & 3 bed apartment units in 4 no. 2-9 storey blocks (Blocks A-D). The development also includes 1 no. commercial / retail unit (c.175m<sup>2</sup>) at ground floor level of Block A, 1 no. creche (142.2m<sup>2</sup>) at ground floor level of Block C and 22 no. artist work studios and exhibition space (1,958m<sup>2</sup> GFA) at ground & 1st floor level of Block D, all on a site area of 1.01Ha.

Permission is sought for the demolition of all existing buildings on site (c. 5,356m<sup>2</sup>), i.e. (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey detached dwellings i.e. No.s 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at No.s 1-3 Clare Villas (c. 331m<sup>2</sup> in total) and (c) an existing warehouse (c.1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane.

Vehicular access to the proposed development will be via Harold's Cross Road, utilizing the existing entrance to Harold's Bridge Court. Limited vehicular traffic will be allowed enter the site from Greenmount Lane, with no vehicular traffic progressing through the entire development. Pedestrian and cyclist access is proposed via Greenmount Lane, Limekiln Lane and Harold's Cross Road.

The proposed development consists of the following:

Block A is a four to seven storey building accommodating 56 no. dwellings comprised of 29 no. 1 bed & 27 no. 2 bed apartments. Block A also includes 1 no. commercial / retail unit (c.175m<sup>2</sup>) at ground floor level, with a communal amenity room (c.35m<sup>2</sup>) and 2 no. communal roof gardens (c.144m<sup>2</sup> & c.39m<sup>2</sup> respectively) on the 6<sup>th</sup> floor. Bin and bicycle stores, sub-station & switch room are accommodated at ground floor. Block B is a two-three and five-nine storey building accommodating 56 no. dwellings comprised of 2 no. studio units, 20 no. 1 bed, 32 no. 2 bed & 2 no. 3 bed apartments. Block B also includes a communal amenity room (c.53m<sup>2</sup>) on the 3rd floor, with a communal roof garden (c.164m<sup>2</sup>) also on the 3rd floor. Bin and bicycle stores are accommodated at ground floor.

Block C is a four to eight storey building accommodating 57 no. dwellings comprised of 15 no. 1 bed, 39 no. 2 bed & 3 no. 3 bed apartments. Block C also includes a 1

storey creche (142.2m<sup>2</sup>) at ground floor level, with associated outdoor play space (c.233m<sup>2</sup>), bin stores at ground floor level and a communal amenity room (c.50m<sup>2</sup>) on the 7th floor, with a communal roof garden (c.169m<sup>2</sup>) also on the 7th floor.

Block D is a four to five storey building accommodating 25 no. dwellings comprised of 1 no. studio unit, 16 no. 1 bed, 7 no. 2 bed & 1 no. 3 bed apartments. Block D also includes 22 no. artist work studios and exhibition space (1,958m<sup>2</sup>) at ground & 1st floor level, and communal open space (c.124m<sup>2</sup>) at 2nd floor level. Bin and bicycle stores are accommodated at ground floor.

The proposed development provides for public open space (c.1,355m<sup>2</sup>), hard and soft landscaping & boundary treatments. Communal residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual blocks. Additional communal open space is provided at ground level totalling c.577m<sup>2</sup>. Private open spaces for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels.

Car parking is to be provided in the form of surface and basement level car parking (65 no. spaces in total). Blocks B & C are located above the proposed basement, which accommodates 58 no. car parking spaces (including EV parking), 4 no. motorcycle spaces and 426 no. bicycle parking spaces (inclusive of 8 no. cargo bike spaces & 48 no. electric bicycle spaces). There are an additional 7 no. surface level car parking spaces proposed (including 4 no. club car spaces), and 50 no. surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level within Blocks A, B & D (104 no. spaces in total).

The proposed development includes for all associated site development works above and below ground, bin & bicycle stores, plant (M&E), 2 no. sub-stations, public lighting, servicing, signage, surface water attenuation facilities etc.

## Key Figures

Key development parameters include:

<b>Site Area</b>	1.01 Ha
<b>No. of units</b>	194
<b>Density</b>	192 units/ha (gross and net)

<b>Plot Ratio</b>	1:1.52
<b>Site Coverage</b>	40%
<b>Building Heights</b>	Block A: 4 to 7 storeys Block B: 2 to 3 & 5 to 9 storeys Block C: 4 to 8 storeys Block D: 4 to 5 storeys
<b>Dual Aspect</b>	72%
<b>Other uses</b>	22 no. artist work studios/exhibition space (1,958 sq. m) 1 no. commercial/retail unit (175 sq. m) 1 no. crèche (142.2 sq. m)
<b>Public open space</b>	1,355 sq. m (13% of the site area)
<b>Communal open space</b>	1,217 sq. m
<b>Car parking</b>	65 no. spaces
<b>Cycle parking</b>	580 no. spaces

<b>Unit type</b>	<b>Studio</b>	<b>1-bed</b>	<b>2-bed</b>	<b>3-bed</b>
<b>No.</b>	3	80	105	6
<b>%</b>	2%	41%	54%	3%

## 4.0 Planning History

**PA ref. 3605/16 & ABP ref. PL29S.247583:** Permission refused in 2017 for a mixed-use development comprising 121 no. apartments and creche in 6 no. 3-4 storey buildings. The reasons for refusal related to:

1. The development would constitute substandard over-development by reason of:
  - lack of diversity in dwelling mix.
  - deficiencies in quantity, layout, quality and amenity potential of public open space, lack of permeability and visual connectivity and linkage across the development and with the established neighbourhood.
  - excessive proximity between blocks resulting in reciprocal overbearing impact, poor access to sunlight and daylight at some units, especially at lower



levels with a north facing aspect and the proximity of some units to the external play areas for the crèche.

The development would fail to satisfy the recommendations and standards in the “Sustainable Designs for New Apartments: Guidelines for Planning Authorities” and the Dublin City Development Plan, and would set a precedent for further similar development.

2. The use of designated spaces on Greenmount Lane, which has a max carriageway width of 6m and which serves existing residential and industrial development, as a route for traffic between Parnell Road and Harold’s Cross Road and as the sole drop-off and collection point for the crèche would result in additional turning movements at the junctions with the Regional routes and obstruction of the safe and free flow of vehicular traffic and pedestrian circulation. In the absence of an alternate vehicular access to the crèche the development would endanger public safety by reason of traffic hazard.
3. Part of the site is subject to the zoning objective: Z6: To provide for the creation and protection of enterprise and to facilitate opportunities for employment creation. It is policy that possible residential development within lands subject to the Z6 zoning objective must be subsidiary to the employment generating land use and not conflict with the primary objective providing for employment requirements of the city. The proposed residential development would eliminate the potential for the achievement of this primary objective, would set a precedent for further similar development at other locations subject to a similar zoning objective and would, therefore, materially contravene this development objective and be contrary to the proper planning and sustainable development of the area.

**PA ref. 4261/05 & ABP ref. No. PL29S.214671:** Permission refused in 2006 for 66 no. dwellings and 6 no. live / work units in five buildings ranging in height from 4-6 storeys. Alterations to no.47 and 48 Harold Bridge Court were also proposed. The three reasons for refusal related to the following:

1. The development would be visually obtrusive and out of scale with the established pattern of development in the vicinity and would be detrimental to the residential amenities of adjoining properties by reason overlooking and loss of privacy.

2. Over-development of the site, detrimental to the residential amenity of future residents having regard to the mix of house types proposed and the deficiencies in open space provision and natural daylighting.
3. Loss of public open space associated with Harold's Bridge Court detrimental to the residential amenities thereof.

**PA ref. 1499/00 & ABP ref. PL29S.12 2977:** Permission refused in 2001 for 8 no. 1 bedroom apartments and 31 no. 2 bedroom apartments and 2 no. ground floor apartments with 2 no. 3 bedroom duplex units.

**PA ref. 1305/93:** Permission granted for 48 no. residential units in 4 no. 3 storey blocks and associated site development works on 2.25 acre site.

## **5.0 Section 5 Pre Application Consultation**

- 5.1.1. A Section 5 pre application consultation took place via Microsoft Teams on the 25<sup>th</sup> March 2022. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.
- 5.1.2. In the opinion of An Bord Pleanála, the following issues needed to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:
  1. Further consideration of, and possible amendment to the documents submitted with regard to compliance with the zoning objectives relating to this site. In this regard, the documentation should include a detailed statement of consistency and planning rationale, clearly outlining how in the prospective applicant's opinion, the proposed development is in compliance with local planning policies having specific regard to the Z6 zoning objective relating to the site – 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'.

Justification for the principle of the proposed development on lands zoned Z6 should have regard to the specific policies and principles of the Development Plan which state, inter alia, that

“A range of other uses including residential, local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, ...”

“Any redevelopment proposals should ensure that the employment element should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.”

This may require possible amendment to the documents and/or design proposals submitted.

5.1.3. The prospective applicant was notified that the following specific information should be submitted with any application for permission:

1. A detailed Housing Quality Assessment, demonstrating compliance with relevant development standards. The application should clearly identify those dwelling units indicated as dual aspect units.
2. An updated and complete Townscape and Visual Impact Assessment, and updated CGS's, which should have regard to final proposed materials and finishes. Such assessment should take account of the reduced screening effects of any foliage / vegetation in winter months.
3. Proposed pedestrian and cycle connections to adjoining public roads should be clearly identified. The application should demonstrate that the building set-back provides for satisfactory levels of pedestrian provision along Greenfield Lane.
4. Details of areas intended to be taken in charge by the local authority.
5. The application should include a comprehensive daylight and sunlight assessment examining the proposed dwelling units and amenity / open spaces, as well as potential impacts on daylight and sunlight to adjoining

properties. In preparing such assessment regard should be had to the provisions of section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and to the approach outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

6. The assessment should provide a comprehensive view of the performance of the entire development in respect of daylight provision. Where any alternative, compensatory design solutions in respect of daylight are proposed, these should be clearly identified and justified, and their effect appropriately described and / or quantified. The assessment should demonstrate that due regard was had to any screening to balconies or windows proposed to address potential overlooking of adjoining properties.
7. Further consideration with regard to the relationship of the proposed development with adjoining lands to the north and south. It should be demonstrated that the proposed development would not prejudice any future development / redevelopment of those lands, having particular regard to the proximity of Blocks B and C, and associated windows and balconies, to the northern and southern site boundaries.
8. The application should provide detailed section drawings and other visualisations clearly describing the relationship with adjoining residential properties and demonstrating how the development will address potential overlooking and overbearing impacts thereon, having regard to the transition in heights between the development its surroundings. Particular regard should be had to the relationship with properties on Limekiln Lane and Boyne Court.
9. With regard to Block B, further detail should be provided with regard to proposed screens to windows and balconies to address potential overlooking of properties on Parnell Road. Such detail should address the nature, function and effectiveness of the proposed screens as well as an assessment of their impact on the quality, value and daylighting of these residential amenity spaces.

## **5.2. Applicant's Statement**

- 5.2.1. The application includes a statement of response to the pre-application consultation (Statement of Response to Pre-Application Consultation Opinion), as provided for under section 8(1)(iv) of the Act of 2016

### **5.3. Material Contravention Statement**

- 5.3.1. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dublin City Development Plan 2016-2022 in relation to the matters of (i) Height (ii) Unit Mix and (iii) Minimum Internal Apartment Space Standards.
- 5.3.2. I refer the Board to Section 10.12 of this report which summarises the contents of same and considers the issue of material contravention generally.

## **6.0 Relevant Planning Policy**

### Project Ireland 2040 - National Planning Framework (2018)

National Strategic Outcome 1 is identified as Compact Growth, recognising the need to deliver a greater proportion of residential development within existing built-up areas. Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 3A seeks the delivery of at least 40% of all new housing in existing built-up areas of cities, towns and villages on infill and/or brownfield sites.

Objective 11 favours development within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth

Objective 13 provides that, in urban areas, planning and related standards will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objectives of Chapter 6, 'People Homes and Communities', including Objective 27, seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities.

Objective 33 seeks to prioritise the new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

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

#### Housing for All - A New Housing Plan for Ireland (Sept 2021)

The stated aim is to provide access to a home to purchase or rent at an affordable price, built to a high standard and in the right place, offering a high quality of life. The plan identifies the need for construction of an average of 33,000 homes per annum nationally until 2030 to meet the targets outlined in the National Planning Framework. Four overarching objectives are identified:

- Supporting Homeownership and Increasing Affordability.
- Eradicating Homelessness, Increasing Social Housing Delivery and Supporting Social Inclusion.
- Increasing New Housing Supply; and
- Addressing Vacancy and Efficient Use of Existing Stock.

The Pathway to Increasing New Housing Supply includes a focus on the adequate supply of serviced zoned lands to meet housing need, at required densities.

#### Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019)

The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF).

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

RPO 3.3 notes that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites and provide for increased densities as set out in the national policy.

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

The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.

Section 5.3 identifies guiding principles for development of the MASP area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

RPO 5.4. - “Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

#### Transport Strategy for the Greater Dublin Area 2016-2035

The Transport Strategy for the Greater Dublin Area 2016-2035 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA). It also provides a transport planning policy around which other agencies involved in land use planning, environmental protection, and delivery of other infrastructure such as housing, water and power, can align their investment priorities.

The Strategy sets out the necessary transport provision, for the period up to 2035, to achieve the above objective for the region, and to deliver the objectives of existing national transport policy, including in particular the mode share target of a maximum of 45% of car-based work commuting established under in “Smarter Travel – A Sustainable Transport Future”.

#### 6.1.1. **S.28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submission of the planning authority and other

authorities, I am of the opinion that the most directly relevant section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020).
- Urban Development and Building heights, Guidelines for Planning Authorities (2018).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') (2009).
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011).
- Design Manual for Urban Roads and Streets (DMURS).
- National Cycle Manual.
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).
- Childcare Facilities – Guidelines for Planning Authorities.

## **6.2. Local Planning Policy – Dublin City Development Plan 2016**

The application site is primarily zoned Z1, Sustainable Residential Neighbourhoods – 'To protect, provide and improve residential amenities'.

The vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open space and facilities such as shops, education, leisure, community facilities and amenities, on foot and by public transport and where adequate public transport provides good access to employment, the city centre and the key district centres.

The western part of the site, fronting Greenfield Lane, is zoned Objective Z6 – Employment and Enterprise: 'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation'

Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region.



The permissible uses will be accommodated in primarily office-based industry and business technology parks. A range of other uses including residential, local support businesses, are open for consideration on lands zoned Z6 but are seen as subsidiary to their primary use as employment zones. The incorporation of other uses, such as residential, recreation, and retail uses, will be at an appropriate ratio where they are subsidiary to the main employment generating uses and shall not conflict with the primary land-use zoning objective, nor with the vitality and viability of nearby district centres.

Within the Z6 zoning, the following development principles shall apply, in addition to complying with land-use zoning:

- **Employment:** To create dynamic and sustainable employment areas. Any redevelopment proposals should ensure that the employment element should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.
- **Uses:** To incorporate mixed uses in appropriate ratios. All such uses, including residential and retail, shall be subsidiary to employment-generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city.
- **Transport:** To maximise access to public transport connections and proposed public transport infrastructure.
- **Built Environment:** To create a distinct identity for individual areas with a high-quality, physical environment and coherent urban structure.
- **Landscape:** To exploit and integrate natural amenities, biodiversity considerations and emerging strategic green networks
- **Permissible Uses** include, childcare facility, cultural/recreational building and uses, live-work units, cultural, creative and artistic enterprise and uses.  
Residential use is Open for Consideration.

Section 4.5.3, Making a more Compact Sustainable City, promotes the consolidation of the city. Policy SC13 promotes sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the

city, which are appropriate to their context, and which are supported by a full range of community infrastructure.

Policy SC14 promotes variety of housing and apartment types which will create both a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces.

Chapter 5 deals with Quality Housing, and policies include:

- Policy QH5 promotes residential development addressing any shortfall in housing provision through active land management and a co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.
- QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.
- QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Lands to the north, along the canal are identified as Conservation Area, while properties along Parnell Road to the north are protected structures.

Section 11.1.5.3 of the plan deals with Protected Structures. Section 11.1.5.6 outlines Conservation Area Policy. Policy CHC2 seeks to protect the special interest of protected structures, while Policy CHC4 seeks to protect the special interest and character of conservation areas.

Section 16.4 promotes sustainable residential densities. Density should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable.

An urban design and quality-led approach to creating urban densities is promoted, focused on the creation of sustainable urban villages and neighbourhoods. A varied typology of residential units will be promoted within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.

Section 16.5 notes that the indicative plot ratio for outer city Z1 lands is 0.5 – 2.

In accordance with section 16.7.2, the site is considered to be ‘outer city’, wherein a maximum building height of 16m is specified for commercial and residential development.

## **7.0 Observer Submissions**

- 7.1.1. 20 no. submissions on the application have been received from the parties as detailed above. The issues raised in the submissions are summarised below.

### Principle/Density

- Has been a previous refusal on this site
- Current proposal would exacerbate the issues raised in respect of the previously refused scheme
- Lack of a Local Area Plan for Harold’s Cross
- Proposed density is twice the recommended density
- Overdevelopment of the site
- Cannot be confirmed if the artists studios specifically create employment in line with the intent of the zoning objective
- Not clear if the artist studios are intended as live work studios
- Previous reasons for refusal by the Board remain unaddressed including mix, overbearing impacts and location of the crèche
- Floor Area of Block D is 54% commercial and 46% residential/extent of residential not considered subsidiary
- Piecemeal development/uncoordinated development of the site and the wider industrial estate

- Site is not in a KDC, an SDRA or within the catchment of high capacity public transport/therefore not suitable for high density as per Section 4.5.3.1 of the Development Plan.
- Does not comply with the provisions of the NPF, including Objectives 4, 13, 33 and 34
- Does not comply with the provisions of the Sustainable Residential Development Guidelines (2009), the associated Urban Design Manual, the Design Standards for New Apartments (2020), the Building Height Guidelines (2018).
- Does not comply with Z1 zoning objective
- Will set a dangerous precedent for similar backland sites outside of the canal ring
- Is not appropriate infill development
- Density is in excess of that recommended in the Sustainable Residential Development Guidelines.
- Cannot grant permission where justification relies on the building height and apartment guidelines as these are ultra vires and not authorised by section 28(1C) of the planning and development act. The guidelines are also contrary to the SEA Directive.
- Materially Contravenes density/mix/public open space/height/visual impact/car parking/Childcare provisions/ACA's/Non-compliance with a Local Area Plan/Masterplan/Urban Design Framework (Objectives SS02a and PM17) of the development plan/cannot be justified with reference to s.37(2) of the PDA 2000 or s.28 Guidelines.
- Application documents do not comply with the Planning and Development Regulations/the 2016 Act
- Insufficient infrastructure capacity including public transport/drainage/water services and flood risk
- If the Board purports to justify non-compliance with objectives of the LAP, Development Plan, Masterplan and/or Urban Design Framework, this will amount to an unlawful breach of the requirements of the SEA Directive.
- Not in accordance with BRE Guidelines.

- Contravenes Section 14.8.6 of the Development Plan/Majority residential in the Z6 zone.
- Existing MART has 45 studio spaces/proposed development only has 22 studio spaces.
- Proposed artist studio floors would become potential apartment infrastructure

#### Design/Conservation/Visual Impact

- Development is too high/too dense
- Max height should be 5 storey
- Appearance is out of character with the area
- Height will dwarf Quaker Cottages
- Excessive Height, in particular Block D
- Proposed development will dominate the area
- Negative impact on the visual amenity of the area
- Does not provide a sufficiently active streetscape
- Site is not in a location suitable for taller buildings
- Is located in an area where low-rise development is permitted, up to 16m in height
- Does not meet the criteria for mid-rise and taller building as per Section 16.7.2 of the Development Plan
- St. Clare's Park is the only residential scheme in excess of 3 storeys within a 380m radius (it is 4-5 stories in height)/provides a more appropriate scheme relative to the subject proposal/on a much larger site
- Do not concur with the conclusions of the Visual Impact Assessment (VIA)
- Impact on heritage including surrounding Protected Structures and the Grand Canal Conservation Area.
- May damage Protected Structure at 5 Parnell Road
- Impact on conservation area

- Building line is approx 3.4m from the road boundary, contrary to Section 5.2 of the Development Plan.
- Demolition of existing 150 year old terraced housing of solid granite structure
- Materials of Block D should be altered to red brick.
- Ground levels of the houses and rear gardens of No. 1-7 Parnell Road are 2.25m lower than the site level.
- Impact on views across the city from Harold's Cross, along the canal from East and West and views of the mountains from Emmet Bridge.
- Does not meet the criteria within the Building Height Guidelines
- Houses at Clare Villas date from about 1862/vernacular that will be lost if they are demolished

#### Residential Amenity

- Will overshadow existing properties
- Impact on privacy
- Windows should be relocated so as not to overlook the Greenmount Office Park Site
- Overlooking between proposed Blocks A & B and Block C & D.
- Impact of the crèche on residential amenity
- Overshadowing will impact BER rating of existing houses
- Concern over the proposed location of bins
- Impact of overshadowing during the winter months

#### Residential Standards/Mix

- Some areas of open space feel incidental
- 80 of the 194 units are one bed/ Too many 1 bed apartments
- Does not comply with mix requirements, as per Section 16.10.1 of the Development Plan

- No detailed assessment of child care provision has been provided with the application for a crèche in Block C/Insufficient childcare spaces have been provided.
- Substandard aspects to units in Block A and C

#### Traffic and Transportation

- Impact on traffic and parking
- Inadequate parking provision
- Removal of cul-de-sac at Lime Kiln Lane – there has never been a right of way on the lane/was a vehicle access/lane will become congested.
- Support the low car parking provision
- Support the provision of links to surrounding streets
- Impact of construction traffic on road safety
- Pedestrian footpath on Greenmount Lane is very narrow
- Proposed pedestrian entrance on Greenmount Lane won't work
- Object to both Greenmount Lane and Limekiln Lane being used as a construction access.
- No details are provided to confirm construction access proposals.
- Impact on road safety
- No footpath on Limekiln Lane
- Overspill parking
- Greenmount Lane is not wide enough for two vehicles to pass each other/entrance to Greenmount Lane from Greenmount Avenue is a blind corner/visibility is further reduced by on street parking

#### Flood Risk/Site Services

- A Flood Risk Assessment is required.
- Location of the underground river needs to be determined (The Poddle)
- Lane has flooded in the past/has been previous loss of life

- Development will increase the risk of flooding
- SFRA is inaccurate
- Development is not in line with DCC SFRA Floor Map Appendix C
- Ground level will be approximately 4ft higher than Limekiln Lane
- Flood proof wall would be required to protect dwellings which are located at a lower level than the site.
- No site sections showing the change in levels of the site to the rear gardens of No.'s 1-7 Parnell Road.
- The River Poddle runs through the site/The river to the west is the Abbey Stream
- Climate predications are that 1 in 100 flood events will become 1 in 10.
- The 2011 flood event flooded homes on Greenmount Avenue, Limekiln Lane, Parnell Road and Harold's Cross Road
- There was one person drowned on Parnell Road
- Proposed required works upstream are not begun/are only at planning stage
- Unclear how surface water will be dealt with
- Flooding impacts as a result of the underground car parks
- SSFRA is incomplete and deficient/lack of detail in relation stream on/near the site
- No new development should be allowed until the completion of the River Poddle Flood Scheme.

#### Ecology/Trees/AA/EIA

- Existing trees should not be damaged
- The EIAR (EIA Report) is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- Notwithstanding that the development is sub-threshold, it is submitted that due to the nature of the development (identified contaminants, including asbestos), nature of the development (including height) and locus of the proposed



development adjacent to a protected habitat, it should have been subjected to full EIA.

- The Screening for EIA presented by the Developer, including Ecological report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The EIAR, when read together with the Construction and Waste Management Plans, provides insufficient information to enable a proper and complete assessment of pollution and nuisances arising from the proposed development. There is insufficient information to assess the impact on risk to human health arising in respect of the proposed development. Impermissible for matters that impact human health such as noise / dust to be left over to the contractor. Approach is contrary to the requirements of the EIA Directive with respect to public participation.
- Board lacks ecological and scientific expertise and/or does not appear to have access to the same, to examine the EIA Screening Report and AA Screening.
- The application does not comply with the requirements of the planning and development act 2000, the planning and development regulations 2001 or the EIA Directive. Information is insufficient and contrary to the requirements of the EIA Directive. Criteria considered in the EIA screening does not comply with requirements under the act and regulations.
- Insufficient information in the NIS in relation to the impact of the proposed development on bird and bat flight lines/collision risks in AA screening.
- EIAR fails to provide a comprehensive cumulative assessment of the project
- The population and human health chapter of the EIAR is inadequate as fails to assess the impact of increased population on services including schools, childcare and medical care.
- EIAR does not adequately consider impact on biodiversity and human health from construction stage.
- AA contains lacunae and is not based on appropriate scientific expertise.

- AA Screening does not provide sufficient reasons or findings as required. No clear methodology or analysis offered.
- AA Screening flawed as doesn't consider all aspects of proposed development arising during construction.
- Insufficient surveys carried out to assessment potential impacts arising from bird collision/flight paths and/or Brent Geese
- Zone of influence has no basis in law
- Inadequate regard to cumulative effects in AA Screening Report
- AA Screening has had regard to Mitigation Measures
- Reliance on the Ringsend WWTP is flawed
- Potential hydrological connection between the site of the proposed development and North Dublin Bay SAC and North Bull Island SPA.
- Impact on existing mature trees
- Impact on ecology
- Impact on wildlife species on and within the canal (inc pike, roach, perch and European Eel).

#### Other

- Impact on structural stability of surrounding properties/no foundations in these properties
- Demolition of existing duplexes will see eviction of the current tenants
- Impact on property values
- No mention of the embodied carbon within these dwellings/demolition is not in keeping with the City's climate objectives
- No solar panels
- Location of Part V allocation runs contrary to inclusive and sustainable community building
- Existing wall at the end of gardens of House Numbers 5-7, - wall should be reinstated or rebuilt to the same height as currently

- No contiguous elevations or cross sections through the site were submitted
- Creche is in an inappropriate location
- Health and safety risk as a result of the basement car park
- Site notice does not mention D12/website was not live until 6 days after the site notice.
- Site is located within a defining position.
- Drawings are inadequate/glaring omissions/misleading plans and elevations.
- Site layout plan does not show Greenmount Avenue/9a and 8a Greenmount Lane Cottages/No. 1 and 2 Limekiln Lane/Greenmount Square/Hatters Lane.
- Contiguous elevations are inaccurate.
- An insufficient number of site notices were erected/not all residents would have been informed
- Insufficient boundary treatment
- Red line boundary is incorrect in relation to the end of the garden at No. 3 Parnell Road.

## 8.0 Planning Authority Submission

- 8.1.1. Dublin City Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. I have summarised this submission below.

### Principle/Zoning

- Previous planning refusal reasons did not specifically object to the principle of demolition of these buildings
- PA acknowledge the loss of the existing residential/cognisance of the intensification of the residential use/proposal to encourage more sustainable mode of transport/improved connectivity through the site with more active interfaces with their site frontages on Harold's Cross Road and Greenmount Lane
- Considered that the proposed development complies with the land use zoning objectives, particularly the proposed development's compliance with the

requirements of the Development Plan in relation to the Z6 Land Use Zoning Objective.

### Density

- Application results in a density of 192 units per hectare, which is high in the surrounding context that is made of low scale housing
- PA considered there is a need for efficient brownfield land use particularly in well established residential area.
- High densities can be supported where a proposed development relates successfully to its surroundings, provides good quality residential accommodation, protects neighbouring amenity and is acceptable with regard to transport and environmental impacts.
- Site is suitable for high density development given the location adjacent to a number of bus routes and just outside the Grand Canal.
- At Opinion stage concerns regarding height of Blocks A&B/Future development potential of adjoining sites.
- Design and External Finishes
- The overall contemporary design is considered to be of high quality, but the use of rough cast concrete should be limited and brick and other high quality materials used primarily.
- More could be done to maximise variation in the scheme.
- Metal cladding on Block D contrasts significantly with the rough cast render below, in addition to the use of the rough cast render for the balconies.

### Height

- Proposed development materially contravenes the provisions of the Development Plan/PA notes recent national policy on building height, in particular the publication of the Urban Development and Building Height Guidelines (December 2018)/appropriate height for a site must be assessed having regard to site specific issues, the impact on residential amenity and the impacts on the surrounding environment.

- PA at 'Opinion' stage had noted concerns regarding the height of the development and the visual dominance in the area which was noted in the Preliminary Views by 3D Design as identified in views 2, 3, 6, 7 and 9/height has not been reduced on any apart of the development/PA still concerned regarding the visual obtrusiveness of the taller elements of the scheme and their intrusion into the streetscape.
- There is no objection in principle to height at this location on zoned lands, there are concerns regarding the overall scale, massing and visual impact of the development and its integration to the streetscape.

### Visual Impact

- View 2 – Emmet Bridge – Shows how dense the development is/Block A and B together dominates the skyline/height of Block B is excessive at 9 stories/reduction in height would help to alleviate the visual impact of the development in the locality.
- View 3 – concern is the massing, bulk, scale and height of having two such large blocks positioned together/development has not been moderated to take into account appropriate transitioning of bulk and height/render façade at the upper levels of Block B also a concern.
- View 12 – Concerns over high of Block B and its dominance in the skyline.
- View 14& 15 – Contrasts in height against the surrounding area are prominent.
- Render at upper levels is a concern from other views/metal cladding on Block D.
- Development should be reduced in scale by omitting two floors from Block B and C/will allow for the development to more appropriately integrate with the existing environs of the area, removing unwarranted bulk, scale and massing from these blocks, whilst also allowing for an intensification of the site.
- A condition should attached recommended that the applicant revisit the render at the upper levels of the blocks.

### Residential Amenity

- Policy 16.10.2 of the Development Plan requires a separation distance of 22m between existing and proposed residential developments.

- Most sensitive properties are the rear gardens of the properties on Parnell Road/Noted applicants have reduced the height of Block B to 5 storeys adjacent to these gardens/privacy screens noted.
- Block D has no windows of significance on the gable elevations/Block D is not considered to be problematic in relation to overlooking.
- Southern elevation of Block C will overlook the communal space of the Boyne Court Apartments/ways should be sought to alleviate this.
- Development does not cause significant overshadowing to adjoining residential properties.
- Results show a significant portion of rooms do not comply with the Sunlight Exposure (SE)/concern is raised in relation to this.
- Concern also raised in relation to results for Spatial Daylight Autonomy.
- Noted the applicant has endeavoured to provide for compensatory measures within the development to off-set these results, which is welcomed.
- A further reduction in the bulk, scale and massing of the development would further improve the situation for the apartments.

#### Residential Standards

- Mix complies with SPPR1 of the Apartment Guidelines/note contents of Mat Con Statement in relation to mix.
- Crèche facility is welcomed/PA had raised noise concerns in relation to same.

#### Other

- Retail unit - Conditions should be attached regarding signage and opening hours.
- Social Infrastructure – Capacity of facilities in the area has not be detailed/PA notes site is well located in close proximity to services at Harold's Cross Village.
- Flood Risk – Note contents of SFRA/Drainage Department have not objections subject to conditions (see also summary of Drainage Department report below).

#### Transport

- No through access for vehicles will be provided between Harold's Cross Road and Greenmount Road, which is welcomed.
- Broadly satisfied with the car parking proposed arrangements.

### Conclusion

- Proposal for the redevelopment of the site for residential use and with the enterprise use being retained on the Z6 portion of lands is welcomed in principle and is considered to be in keeping with the Z1 and Z6 zoning objective.
- PA still have concerns regarding the bulk, scale and massing of the development in particular Blocks B and C/tower over the surrounding low density development/scale of Block B and C are excessive/visually obtrusive/should be reduced in height by 2 floors/resulting in a maximum height of 7 storeys
- Finishes should be reviewed.
- Full boundary treatments should be agreed in writing.
- Conditions recommended should the Board decide to grant permission.  
Conditions of note include:
  - Condition 2 – reduce height of Blocks B and C by 2 floors/second floor of each block and one of the upper floors.
  - Condition 3 – Details of finishes/omit render and rough cast render.
  - Condition 6 – Boundary treatments
  - Condition 14 – Transportation requirements.
  - Condition 15 – Drainage requirements.

### **Internal Reports**

#### Transportation Planning Division

- Final design of the Harold's Cross Road and Greenmount Lane junctionscan be conditioned/ A Road Safety Audit of the revised junction should be conditioned.
- Auto-track annotation for a large fire truck conflicts with hard landscaping, cycle parking stands and planting within the public realm of the proposal/a condition is recommended.

- Vehicular access/exit points along Harold's Cross Road and Greenmount Lane, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car-entry/exit. Details of other safety measures shall be agreed in writing with the Environment and Transportation Department.
- Overall, the level, location, type and design of the cycle parking provision is acceptable.
- Proposed car parking arrangements are acceptable.
- Contents of the Trip Generation and Distribution within Chapter 7 of the TTA are noted/acceptable.
- A revised drawing outlining areas suitable to be taken in charge by Dublin City Council shall be submitted prior to commencement of the development to the planning authority for written agreement.
- A detailed CMP shall be submitted to the planning authority for written agreement
- No objections in principle to the proposed development/Conditions recommended

#### Drainage

- No objection to this development subject to conditions.
- The proposal for the management of surface water as indicated on the drawings submitted is not acceptable/The proposed areas for taking in charge are not acceptable/Public roads should not be draining into a private system/Private drainage is not acceptable within proposed taking in charge areas/ surface water infrastructure is not to taking in charge standards/Applicant shall confirm how the rainfall interception volume will be delivered/Extent of individual catchments and corresponding interception volumes to be provided.
- Other conditions recommended

#### Air Quality Monitoring & Noise Control Unit

- Conditions recommended

#### Housing



- Applicant has previously engaged with the Housing Department in relation to the above development and are aware of the Part V obligations pertaining to this site if permission is granted.

#### Waste

- Conditions recommended

#### Archaeology

- Concurs with the findings of and the mitigation recommended in the submitted archaeological assessment/Conditions recommended

### **Elected Members**

8.1.2. The following is a summary of the comments made by Elected Members at the South East Area Committee Meeting, Monday, 12th September 2022:

- Nine storeys not acceptable
- Previous refusal on site
- Questioned if it was BTR
- Could it be protected against sale to Corporate Pension Funds.
- Further information required on the exact location of the River Poddle.
- Not appropriate to have other uses (other than artist studios) within the Z6 zoning
- Drainage Report requested.
- Opposition to the demolition of existing housing/Legal ownership of housing queried/Impact on existing residents/demolition not in line with climate objectives
- Query in relation to the ownership of the crèche
- Concern in relation to the location of the Part V units
- Concern in relation to car parking and cycle spaces

## **9.0 Prescribed Bodies**

Department of Housing, Local Government and Heritage (Development Applications Unit)

Archaeology– Recommend conditions

Nature Conservation-

- Conditions recommended as follows:
  - That any clearance of vegetation shall only be carried out between September and February
  - Finalised lighting scheme to be signed off by a bat specialist to be submitted

Irish Water

- Recommend conditions

## 10.0 **Assessment**

10.1.1. The main planning issues arising from the proposed development can be addressed under the following headings-

- Principle of Development
- Design including density, height and layout
- Surrounding Residential Amenity
- Residential Amenities and Development Standards
- Traffic and Transportation
- Flood Risk
- Site Services
- Ecology/Trees
- Other Issues
- Planning Authority's Submission
- Material Contravention

## 10.2. **Principle of Development**

Zoning

- 10.2.1. The majority of the site is zoned 'Z1' which is "Sustainable Residential Neighbourhoods", the objective of which is "To protect, provide for and improve residential amenities". The residential units and the commercial/retail unit (175 sq. m) are within this portion of the site/ Permissible uses include residential and shop (local). While no end user has been defined for the commercial unit I note 'shop-local' is acceptable in principle within the NC zoning. It could be argued that the term commercial is somewhat undefined and could also constitute an office use, which is not listed as permissible nor open for consideration within the Z1 zoned area. However, I am of the view that an appropriate condition can be imposed by the Board, should they be minded to grant permission, requiring that the applicant submit details of the proposed use of the commercial/retail unit, that is in line with that set out in the zoning objectives for the site. I am therefore satisfied that the Board has sufficient information to make a decision, notwithstanding the lack of clarity as to the end user of this unit.
- 10.2.2. The second zoning on this site is 'Z6' which is "Employment / Enterprise" and has an objective: "to provide for the creation and protection of enterprise and facilitate opportunities for employment creation". The 'Z6' zoning is located to the western part of the site, adjacent to Greenmount Lane. Section 14.8.6 of the Development Plan considers Z6 zones and it is stated that that Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect. The primary objective is to facilitate long-term economic development in the city region. Residential uses are expected to be subsidiary to the main employment generating uses. It is expected that sites should have good vehicular and public transport access.
- 10.2.3. Within the Z6 zoned area, the Development Plan sets out permissible uses that include, childcare facility, cultural/recreational building and uses, live-work units, cultural, creative and artistic enterprise and uses. Residential use is Open for Consideration. The proposed artist studios are permitted, with the proposed residential use open for consideration.
- 10.2.4. The Planning Authority of the opinion that the proposed development complies with the land use zoning objectives that pertain to the site, particularly the proposed development's compliance with the requirements of the Development Plan in relation to the Z6 Land Use Zoning Objective.

- 10.2.5. Within the Z6 zoning, the following development principles shall apply, in addition to complying with land-use zoning:

*Employment: To create dynamic and sustainable employment areas. Any redevelopment proposals should ensure that the employment element should be in excess of that on site prior to re-development in terms of the numbers employed and/or floor space.*

- 10.2.6. In relation to same, the applicants have set out that the floor area of the existing warehouse, currently occupied by artists for work studios is 1,178sq.m. The current proposal seeks to provide 22 no. work studios, and exhibition / gallery space laid out over two floors totalling 1,958sq.m, thereby providing an increase of 780sq.m (a 60% increase) in existing floor space. I am therefore satisfied that the above criteria has been met in this instance.

*Uses: To incorporate mixed uses in appropriate ratios. All such uses, including residential and retail, shall be subsidiary to employment-generating uses and shall not conflict with the primary aim of the Z6 land-use zoning to provide for the employment requirements of the city.*

- 10.2.7. In response to same, the applicant has set out that the ratio of employment floor space to residential floor space is 54% to 46% (within Block D – the Z6 zoned area of the site). The Planning Authority is satisfied that the proposed development accords with the Z6 zoning, and I concur, and I am satisfied that the residential use is subsidiary to the main employment generating uses and does not compromise the vitality and viability of nearby district centres, and is in line with the criteria above.

*Transport: To maximise access to public transport connections and proposed public transport infrastructure.*

- 10.2.8. There is a Quality Bus Corridor running along Harold's Cross Road and this is utilised by bus routes, 16, 16c, 49, 54a and 9. The No. 16 is a high frequency bus route (10 minute peak hour frequency) running between Dublin Airport and Ballinteer. The No. 9 is also a high frequency route, running between Charlestown and Limekiln Avenue. The bus stops serving these routes lies to the immediate east of the site on Harold's Cross Road and access is provided to these bus stops. This will also be in place to access alternative routes as proposed under the Bus Connects programme. The site is also located 1.3km (16min) from the closest Luas

Station (Charlemont), which runs at 4 to 5 min frequency at peak times (Monday to Friday), although I am of the view that the site's public transport accessibility derives from its proximity to a high frequency bus route, rather than its proximity to the Luas Line, given the distance from the site to the nearest Luas Station.

10.2.9. In terms of capacity, the submitted Traffic and Transport Assessment (TTA) sets out that the existing bus capacity analysis reveals that, during peak travel periods, the existing bus services have the capacity to accommodate up to 10,829 no. passengers in the AM peak period and 10,465 no. passengers in the PM peak period. It is set out that the expected impact on northbound buses would be 1% of total capacity, which can be accommodated within the reserve capacity of 72%. The impact on southbound services would be approximately 2%, which can be accommodated within the reserve capacity of 49%. In relation to the Luas, it is set out that the existing Luas services (Green Line) have the capacity to accommodate up to 51,256 no. passengers in the AM peak period and the same in the PM peak period.

10.2.10. In relation to proposed public transport infrastructure, of particular note is the proposed BusConnects programme. The proposed development will be mainly served by the BusConnects F-spine routes (F1, F2, and F3) and route no. 82, which will be stopping in close proximity to the site. The future bus capacity analysis reveals that, during peak travel periods, the bus services have the capacity to accommodate up to 10,920 no. passengers in the AM peak period and 10,738 no. passengers in the PM peak period. As such the impact of the proposed development this capacity will be similar to that reported above, in relation to existing services (of the order of 1 to 2% of total capacity).

10.2.11. Having regard to the above considerations, I am therefore satisfied that the above criteria has been met in this instance.

*Built Environment: To create a distinct identity for individual areas with a high-quality, physical environment and coherent urban structure.*

10.2.12. I have considered this issue in Section 10.3 below.

*Landscape: To exploit and integrate natural amenities, biodiversity considerations and emerging strategic green networks.*

10.2.13. I have considered this issue in Sections 10.3 and 10.5 below.

10.2.14. Having regard to the discussion above, I concur with the view of the planning authority and I am satisfied that the proposed uses are in compliance with the land use zoning objectives that pertain to the site.

#### Demolition of Existing Duplexes

10.2.15. A number of observations on the application have stated the demolition of the existing duplexes is unwarranted, given that they were only built in recent years, and they are providing existing accommodation. In relation to same, I note that Section 5.5.8 of the Development Plan states that the demolition of existing housing is generally discouraged on sustainability grounds, and it may lead to a loss of residential accommodation and streetscape character. Policy QH23 seeks 'To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land'.

10.2.16. In this instance, I note that 51 dwellings are to be demolished in total (48 no. duplexes and 3 no. 2 storey houses). However the proposal is providing a total of 194 residential units, with a net gain of 143 no. residential units, which is a positive net gain, having regard to the acknowledged lack of housing units, typically termed 'a housing crisis', and the overarching policy drive to make more efficient use of suitable, well-located development sites. This net gain in housing stock is acknowledged by the Planning Authority and the Planning Authority have not raised an objection in principle to the demolition of the existing housing stock on the site. In terms of streetscape character, I have considered this issue in Section 10.3 below. I have considered climate change implications in Section 10.10 below.

### **10.3. Design including density/height/layout**

#### Density

10.3.1. The proposed net density is 192 units/ha (194 no. residential units on an overall site area of c1.01 Ha).

10.3.2. The Planning Authority have stated that the density is high in the surrounding context, although state that high densities can be supported where a proposed development relates successfully to its surroundings, provides good quality residential accommodation, protects neighbouring amenity and is acceptable with

regard to transport and environmental impacts. In relation to the subject site, the Planning Authority is of the opinion that the site is suitable for high density development given the location adjacent to a number of bus routes and just outside the Grand Canal.

- 10.3.3. Observer submissions have stated that the proposed development represents an overdevelopment of the site and that the proposed density is in excess of that recommended in the Sustainable Residential Development Guidelines and that the proposal materially contravenes the development plan in relation to *inter alia* the density proposed.
- 10.3.4. In relation to national policy, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.
- 10.3.5. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.
- 10.3.6. In relation to Section 28 Guidelines, I note the provisions of the Apartment Guidelines (2020) which state, with respect to location, that apartments are most appropriately located within urban areas. As with housing generally, the scale and extent of apartment development should increase in relation to proximity to core urban centres and other relevant factors. Existing public transport nodes or locations where high frequency public transport can be provided, that are close to locations of employment and a range of urban amenities including parks/waterfronts, shopping and other services, are also particularly suited to apartments.

- 10.3.7. My view is that the site lies within the category of a 'Central and/or Accessible Urban Location' as defined within the Apartment Guidelines (2020), given the site's location which is served by a high frequency, high capacity bus service (as discussed in detail in Section 10.2 above). The site is also located just outside the canal ring, and is therefore within walking distance of the city centre, which is a significant employment location that includes a number of hospitals and third level institutions. The Guidelines note that these locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments.
- 10.3.8. In principle, therefore, a higher density such as that proposed here is supported by the Apartment Guidelines, having regard to the locational characteristics of the site as considered above.
- 10.3.9. In relation to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009), the site could be considered under the category of a 'Public Transport Corridor' as it is within 500m of a high frequency bus service. The capacity of public transport should also be taken into consideration in considering appropriate densities, and I have considered this issue in Section 10.2 above, and there is demonstrated capacity on the existing and proposed bus services serving the site. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Given the nearest bus stops lie to the immediate east of the site and these are served by high frequency, high capacity bus service, with the No. 9 and No. 16 running every 10 minutes during the morning peak hours, a relatively high density can be considered on this site. No upper limit on density is specified in these Guidelines, as relates to this specific category of site.
- 10.3.10. As such, having regard to the discussion above, the density is also supported, in principle, by these guidelines, subject to other criteria being met, which includes but are not limited to criteria relating to design, height, residential standards and residential amenity.



10.3.11. In relation to local policy, the Development Plan states that higher densities will be promoted in the city centre, SDRAs and in the catchment of high capacity public transport. There is no specific density set out by the plan for the site. The site is within the catchment of high frequency, high capacity bus service and is therefore is suitable for higher densities, according to the provisions of the Development Plan.

10.3.12. It is my view, that having regard to the detailed discussion above, a higher density, such as that proposed here, is supported, in principle, by National and Regional Policy, Relevant Section 28 Guidelines and, in principle, is supported by the Development Plan, subject to the proposal meeting certain criteria including the need to provide high quality development and the protection of surrounding residential amenity

#### Plot Ratio/Site Coverage

10.3.13. The Development Plan sets out an indicative plot ratio of 0.5-2.0 for Z1 sites, and 2.0-3.0 for Z6 sites. The plot ratio proposed here is 1.52. An indicative site coverage is also set out for Z1 sites (45% to 60%) and for Z6 sites (60%). The site coverage proposed here is 40%. I note the proposed development is slightly below the indicative plot ratios and site coverages for Z6 sites, however as these figures are indicative, a considered assessment is required, and I do not consider the above variance from the indicative plot ratio or site coverage to be material.

#### Design, Height and Layout

10.3.14. The proposed development generally comprises 4 no. blocks as follows:

- Block A is a four to seven story building accommodating 56 no. dwellings comprised of 29 no. 1 bed & 27 no. 2 bed apartments. Block A also includes 1 no. commercial / retail unit (187.6m<sup>2</sup>) at ground floor level, with a communal amenity room (c.34m<sup>2</sup>) and 2 no. communal roof gardens (c.144m<sup>2</sup> & c.39m<sup>2</sup> respectively) on the 6th floor.
- Block B is a four to nine storey building accommodating 56 no. dwellings comprised of 2 no. studio units, 20 no. 1 bed, 32 no. 2 bed & 2 no. 3 bed apartments. Block B also includes a communal amenity room (c.53m<sup>2</sup>) on the 3rd floor, with a communal roof garden (c.164m<sup>2</sup>) also on the 3rd floor.

- Block C is a four to eight storey building accommodating 57 no. dwellings comprised of 15 no. 1 bed, 39 no. 2 bed & 3 no. 3 bed apartments. Block C also includes for a 1 storey creche (142.2m<sup>2</sup>) at ground floor level, with associated outdoor play space (c.233m<sup>2</sup>), a communal amenity room (c.50m<sup>2</sup>) on the 7th floor, with a communal roof garden (c.165m<sup>2</sup>) also on the 7th floor.
- Block D is a four to five storey building accommodating 25 no. dwellings comprised of 1 no. studio unit, 16 no. 1 bed, 7 no. 2 bed & 1 no. 3 bed apartments. Block D also includes 22 no. work studios (1,930m<sup>2</sup>) at ground & 1st floor level, and communal open space (c.114m<sup>2</sup>) at 2nd floor level.

10.3.15. The maximum heights are set out in the table below:

<b>Block</b>	<b>Building Height – Storeys</b>	<b>Building Height – Metres (m)</b>
A	4-7	13-22.3
B	2-3 & 5-9	8-28
C	4-8	13-28
D	4-5	13.5-16.7

10.3.16. In relation to local policy on heights, the Dublin City Development Plan 2016-2022 sets out a range of permissible building heights for different areas in the City (Section 16.7.2). The subject site is located within the 'Outer City' area and 'low-rise' category. Accordingly, a maximum permissible building height of 16 m (commercial and residential) above ground level applies on the site. The maximum building height proposed in this instance is 28m above ground level (Blocks B and C) with other blocks also exceeding the maximum building heights allowed (Block A – max 22.3 and Block D max 16.7m). As such I am of the view the proposal represents a Material Contravention of the Development Plan, as relates to maximum heights, given the maximum height of each block exceeds the maximum permissible height of 16m above ground level. I have considered the specific issue of Material Contravention in Section 10.12 of this report.

- 10.3.17. The Planning Authority are also of the view that the proposed development materially contravenes the provisions of the Development Plan and note recent national policy on building height, in particular the publication of the Urban Development and Building Height Guidelines. While the Planning Authority have no objection in principle to height at this location, there are concerns in relation to the overall scale and height of the development and visual impact of same, from a number of viewpoints. It is recommended that the development is reduced in scale by omitting two floors from Block B and C and it is the view of the Planning Authority that this will allow for the development to more appropriately integrate with the existing environs of the area. Amended materials are also sought for some elements of the development.
- 10.3.18. The vast majority of observer submissions raise concerns in relation to the height and scale and design of the proposed development and resultant impacts upon adjacent residential properties, including a number of Protected Structures. Impacts on the Grand Canal Conservation Area are also cited as a concern. It is generally felt that the height is excessive and overbearing and that the proposal represents an overdevelopment of the site. The low rise nature of surrounding development is highlighted. It is set out that the proposal is a material contravention of the Development Plan and there is insufficient justification to allow for this. It is also contended that the proposal does not comply with national policy and Section 28 guidelines, including the criteria as set out in Section 3.2 of the Building Height Guidelines. Impacts on visual amenity are also raised as a concern.
- 10.3.19. In relation to national policy on height, the National Planning Frameworks sets out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height on a particular site, over and above any specific restriction in height such as that set out in the Development Plan, such as that proposed here, is supported by the NPF, subject to compliance with the relevant performance criteria. Such relevant performance criteria can be found in Section 3.2 of the Urban Development and Building Height Guidelines (2018), which I have discussed below.
- 10.3.20. In relation to Section 28 Guidelines, the most relevant to the issue of building heights, is the Building Height Guidelines (2018), referred to above. Within this

document it is set out that that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas. (Section 1.21 refers). It is stated that increasing building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability (Section 2.3 refers). It is further stated that such increases in height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). The Height Guidelines also note that Planning Authorities have sometimes set generic maximum height limits across their functional areas. It is noted that such limits, if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework. It is also noted that such limitations can hinder innovation in urban design and architecture leading to poor planning outcomes.

10.3.21. SPPR 3 of the Building Height Guidelines states that where a planning authority is satisfied that a development complies with the criteria under section 3.2 of the guidelines, then a development may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. As such, should the Board consider the proposed height materially contravenes the Development Plan in relation to height, and should they wish to grant permission, they are required to be satisfied that the criteria under Section 3.2 have been met, if they intend to rely on SPPR 3 for the material contravention.

10.3.22. Section 3.2 of the Building Height Guidelines sets out detailed development management criteria, which incorporate a hierarchy of scales, (at the scale of the relevant city/town, at the scale of the district/neighbourhood/street; at the scale of the site/building), with reference also made to specific assessments required to be submitted with application for taller buildings. In relation to same I note the following.

#### City Scale

*The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.*

10.3.23. The first criterion relates to the accessibility of the site by public transport and refers to the need for a high capacity, frequent public transport service. I have considered this issue above of public transport, including frequency and capacity, above, and as concluded above, I am of the view that the site can be considered to be an accessible urban location, in light of the demonstrated frequency and capacity of the local bus services.

*Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/ enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.*

10.3.24. In terms of the character of the area, I note the site is comprised of three distinct elements; the existing 3 storey duplex buildings and the associated landscaping and car parking areas; the three no. terraced houses; and the existing warehouse building to the west, fronting onto Greenmount Lane. To the immediate north are 2 storey commercial buildings, which are set back from Parnell Road and the Grand Canal. To the north and north-west, on Parnell Road, are a number of two-storey over basement Georgian Structures, which are Protected Structures. To the south and south-west are single storey cottages on Greenmount Lane and Limekiln Lane. Immediately to the west of the existing warehouse building are two storey terrace properties on Greenmount Lane and the blank façade of a large warehouse building associated with the business park to the west. In terms of land uses, the wider area is a mix of residential and commercial land uses, reflecting the Z1 and Z6 zonings.

10.3.25. In terms of architectural and archaeological sensitivity, I note the Protected Structures as referred to above, as well as the Grand Canal Conservation Area, located to the immediate north of the site, as defined on Map H of the Development Plan, although I note there are no Architectural Conservation Areas, as defined by Section 81 of the Planning and Development Act 2000 (as amended) within the vicinity of the site. A zone of Archaeological Interest is indicated to the west of the site, but does not encompass the site itself (see discussion in relation to Archaeology in Section 10.10 below). I note an Architectural Heritage Impact Assessment (AHIA) has been submitted with the application. This considers those structures of

architectural interest on the site and in the vicinity of the site, including the terrace of 3 no. houses on the site, surrounding Protected Structures, the cottages on or adjacent to Greenmount Lane to the south and the west facing houses on Harold's Cross Road. The Grand Canal Conservation Area is also considered within the report. The impact of the demolition of the terrace of 3 no. houses was considered to be a negative impact, but the report notes that these are not Protected Structures, nor are they listed in the NIAH, and much of their interior features have been lost. It is concluded that there will be a slight negative impact on those Protected Structures facing the canal, resulting from the visibility of the new buildings over these structures. No other negative impacts are cited within the AHIA.

10.3.26. There are no key/protected views, as defined within the Development Plan, impacted by the proposal. A Townscape and Visual Impact Assessment (TVIA) (dated July 2022) has been submitted with the application. The application is also accompanied by a CGI/Photomontage Document (dated July 2022), which the TVIA makes reference to. A total of 15 views are considered within the report. At construction phase, effects are cited as moderate and negative, although will be of short term duration. During operational phase effects on townscape character are concluded as being negative-neutral (i.e. marginally negative) and permanent. In relation to impact on selected views, negative impacts of varying degrees are reported for VP6 (Harold's Cross Cottages) VP9 (Corner of Greenmount Avenue and Limekiln Lane), VP10 (Corner of Greenmount Avenue and Greenmount Lane) VP11 (Northern end of Limekiln Lane) and VP14 (Parnell Road by junction of Greenmount Lane), although no significant negative impacts are reported. Positive impacts of varying degrees are reported at VP 2 (Emmet Bridge), VP3 (Junction of Harold's Cross Road and Grove Road), VP4 (Harold's Cross Road near north-east corner of site), VP5 (Harold's Cross Road near south-east corner of site), VP7 (Junction of Harold's Cross Road and Mount Drummond Avenue), VP8 (Harold's Cross Park) and VP 12 (Greenmount lane). No significant positive impacts are reported. Overall, the TVIA concludes that there will be no significant townscape or visual impacts resulting from the proposal.

10.3.27. In relation to the conclusions set out in the reports cited above, I note the following. The site is at a prominent location near the junction of Harold's Cross Road. The proposed development will be readily visible from a large number of viewpoints, with

Block A, and the upper floors of Blocks B and C, particularly so. The 4-7 storey Block A building has a frontage onto Harold's Cross Road. In relation this block, while it is higher than immediately adjoining developments at 7 storeys, I am of the view that the context within which Block A sits, along the frontage of a relatively wide main arterial route into the city, near a prominent junction, allows for a greater height than existing and this element, while highly visible, is not overly dominant in my view. I note also that the building provides for appropriate transitions in height, with setbacks at third, fourth, fifth and sixth floor level, with the roof terrace at sixth floor level, allowing for an appropriate transition in scale from the existing three storey commercial block to the south of proposed Block A.

10.3.28. As noted above, the higher elements of Block B (a 4 -9 storey building) and Block C (a 4 – 8 storey building) are particularly prominent, especially when viewed from the south-east of the site along Harold's Cross Road (View 7), from views to the south (Views 8, 9, 10) and from views to the north and north-west (Views 13, 14 and 15). While the applicant has sought to place the higher elements of the proposal more centrally within the site, so as reduce any visual impact from same, I am not of the view that this has been achieved, due to the height of Block B and C, and the comparatively low height of surrounding developments. I concur with the view of the Planning Authority that, as a result of this height, the proposal appears overly dominant, bulky and visually overbearing.

10.3.29. The Planning Authority is of the view that the visual dominance referred to above can be improved by the removal of two floors from each of these blocks, one lower floor and one upper floor, with the result that the setbacks of the upper elements are maintained. I too share the view that a reduction in scale is warranted but not of the order as suggested by the Planning Authority. It is my view that it is the top two floors of Block B, and the top floor of Block C, that are excessively dominant, and these are the elements that should be omitted, in order to reduce this visual dominance and overbearing appearance. I would note the Block B is effectively made up of two sub-blocks, the five storey element to the west of the site, closest to the rear gardens of Parnell Road, which itself incorporates setbacks, and I am of the view that the scale of this element is appropriate and I am not of the view that a floor should be removed from this element as suggested by the Planning Authority (as a result of the suggestion of removing a lower floor and an upper floor). However it is the nine

storey element that is excessively dominant, and the removal of the top two floors of this element would alleviate this visual dominance. This would result in the loss of 5 no. units (3 x 1 bed and 2 X 2 bed).

10.3.30. In relation to Block C, I note that this incorporates a number of setbacks, which reduces the overall height of the block as one moves closer to the southern boundary of the site, beyond which is the communal open space associated with the Boyne Court Development. Block C reduces in height to four storeys at the boundary and I am of the view that this height is appropriate for this urban site. I do not consider that the removal of a lower floor from this block (as suggested by the Planning Authority) is therefore warranted. However, it is the top floor that results in excessive visual dominance, in my view, especially from longer views (as discussed above) and I would recommend that this element is omitted from the proposal. This would result in the loss of 4 no. units C-54 to C-57 (1 X 1 bed and 3 x 2 bed) from the seventh floor, as well as the loss of the communal roof garden and communal space. In order to accommodate these communal spaces on the sixth floor, it is necessary also to omit 3 no. Units C-47 to C4-3 (1 x 1 bed and 2 X 2 beds) from the sixth floor.

10.3.31. In relation to Block D, at 4-5 storeys, which has a frontage onto Greenmount Lane, is appropriately scaled in my view, with the 4 storey element fronting onto the lane, with the fifth floor setback behind. Block D also provides for setbacks, which provides a transition in scale from the adjoining single storey cottages on Greenmount Lane.

10.3.32. A further criteria set out in Section 3.2 of the Guidelines is the contribution of tall buildings to place-making and the introduction of new streets and public spaces. In this regard, the proposal provides for permeability through the site that is lacking at present, with the creation of a pedestrian link street running east to west, which also provides for cycle access. Pedestrian and cycle access is also provided for through Limekiln Lane to the south. The proposal also incorporates areas of public open space, including a play area, within an area where such spaces are generally lacking. Block A, with a defined street frontage onto Harold's Cross Road, provides for a more active, animated urban environment than is currently the case, with the existing duplex blocks set in from the road behind a high boundary wall. I am therefore satisfied the proposal has fulfilled the above criteria in this instance.



10.3.33. In relation to the detailed design and materials proposed, the Design Statement sets out the approach to same. Blocks A, B and C are clad predominantly in a red brick and light grey rough cast render. Balconies are concrete and enclosed with vertical steel balustrades. Block B also incorporates slatted timber privacy screens to the west-facing facades. Block D is finished in concrete on the two lower floors, and metal cladding on the upper floors, referencing the industrial units opposite and the original warehouse building on the site. I note the Planning Authority have stated that additional variation in the scheme is warranted and have raised concern in relation to the use of the metal cladding on Block D. However I have no objection to the materials proposed, and are of sufficient quality in my view, and the use of alternative materials on Block D, as well as alternating materials on the remainder of the blocks provide sufficient variation and visual interest to the proposal.

10.3.34. Criteria 3.2 sets out that, at the neighbourhood scale, proposals such as these are expected to contribute positively to the mix of use and building dwelling typologies. The proposal provides for a sufficing mix of uses in my view, with artist studios and a retail/commercial unit being provided, as well as the residential units. In terms of building typologies, the proposal provides for apartment units of varying sizes, which provides variation and choice to an area which is at present, predominantly two and three storey residential dwellings. As such the proposal contributes positively to the provision of a mix of building dwelling typologies.

10.3.35. At the scale of the site/building, it is expected that the form, massing and height of the proposed development should be carefully modulated so as to maximise access to natural daylight, ventilation and view and minimise overshadowing and loss of light. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.

10.3.36. I have set out my assessment of the internal amenity of the proposed units in Section 10.5 below, and I am satisfied that a sufficient standard of daylight would be provided to the units, with BRE targets been achieved for the vast majority of units. Where targets have not been achieved, the proposal has provided sufficient compensatory design measures as discussed in detail in Section 10.5 below. I have also considered the issue of overshadowing of proposed amenity spaces in Section 10.5 below. I have considered the issues of surrounding residential amenity, in

relation to overshadowing, daylight and sunlight in Section 10.4 below, and I am satisfied that there will be no significant adverse impact on surrounding residential amenity, as relates to daylight, sunlight and overshadowing impacts.

10.3.37. In relation to specific assessments, the Guidelines require that such assessments may be required, and refer to an assessment of the micro-climatic effects of the proposed development. In relation to same, I note that a Wind Microclimate Modelling Study has been submitted (dated July 2022) which has concluded that the proposed development does not impact or give rise to negative or critical wind speed impacts and each of the proposed spaces is demonstrated as being suitable for its purposes, having regard to predicted wind speeds.

10.3.38. In locations in proximity to sensitive bird and / or bat areas, proposed developments need to consider the potential interaction of the building location, building materials and artificial lighting to impact flight -lines and /or collision. There is no evidence on file, or within any of the submissions received, that the location is particularly sensitive location having regards to the potential for bird or bat flight lines and collision, including in relation to birds associated with any European Sites (See Section 12 below). Furthermore, it is unlikely that the proposed development would have a material impact on telecommunication channels and no party has raised this as an issue.

10.3.39. While I have considered the proposal within the framework of the Building Height Guidelines, the companion Urban Design Manual to the Sustainable Residential Development in Urban Areas (2009) shows how design principles can be applied in the design and layout of new residential developments, at a variety of scales of development and in various settings. In particular, the Design Manual sets out a series of 12 criteria which should be used at in the assessment of planning applications and appeals. In relation to same, having regard to the discussion above, I am of not of the opinion that the proposal as submitted responds well to its context, due to the excessive height of Blocks B and C. However, I am of the view that the recommended reduction in heights, as discussed above, would allow the development to sit more comfortably within its context. Connections and permeability are discussed in this section and in Section 10.2 above (and in Section 10.6 below) and I am of the view that the site is well connected by virtue of a high quality, high capacity bus services and good pedestrian linkages to same. Permeability through

the site is provided for as discussed above. In relation to inclusivity, the residential units will allow for a wide range of future occupants. The proposal has been designed for ease of access throughout the site in accordance with Part M of the Building Regulations. In relation to efficiency, the proposal makes efficient use of land, as discussed above, and provides for a distinctive development that is a positive addition to the locality, with sufficient daylight and sunlight penetration to the proposed units, and to the open spaces as a whole. In terms of layout and public realm, the proposal has provided landscape public open spaces and communal spaces, as well as a landscaped pedestrian walkway/cycleway. I am satisfied in relation to the layout and the overall open space provision. The proposal meets and exceeds standards in relation to required minimum floor areas for the residential units, and I am satisfied in relation to the level of daylight provided to the units and in relation to the overall standard of accommodation for end users (see relevant discussion in Section 10.5 below). I have considered the issue of detailed design above, within this section of the report, and I have concluded that the materials proposed are appropriate and, subject to the omission of the two floors from Block B and one floor from Block C, I am satisfied that the proposal achieves an appropriate form of development for the site.

#### **10.4. Surrounding Residential Amenity**

- 10.4.1. The nearest surrounding residential dwellings are located on Parnell Road to the north and north-east, Greenmount Lane to the west, Lime Kiln Lane the south, Greenmount House to the south-east and on the opposite side of Harold's Cross Road to the east.
- 10.4.2. The submission of the Planning Authority has not raised any concerns in relation to the impact of the development on surrounding residential amenity.
- 10.4.3. Observer submissions have raised concerns in relation to impacts on daylight, sunlight and overshadowing. It is stated that the proposal will result in overlooking, overshadowing and will be overbearing, with adverse visual impacts. Additional heating costs are raised as a concern. The height and proximity of the new blocks, relative to the current development, is raised as a concern.

#### Daylight and Sunlight

- 10.4.4. I note that the criteria under section 3.2 of the Building Height Guidelines include reference to minimising overshadowing and loss of light. It is set out that '*Appropriate and reasonable regard* should be taken of quantitative performance approaches to daylight provision outlined in guides *like* the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. (my emphasis) It should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines (2<sup>nd</sup> Edition). This is also reiterated in the 3<sup>rd</sup> Edition of BRE which note that the guidance is 'is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location' and Section 1.6 of same states 'the advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'
- 10.4.5. The applicant has submitted a Daylight and Sunlight Assessment Report which considers *inter alia* effects on daylight to surrounding properties (in terms of VSC), effects on sunlight to surrounding properties (in terms of APSH/WPSH) and overshadowing impacts. This report notes that, at the time of publication of Apartment Guidelines and Building Height Guidelines (referred to above), BRE 209 was in the 2nd edition, published in 2011. Since then, a 3rd edition of BRE 209 has been published (June 2022). BRE 209 no longer references BS 8206-2:2008. The primary standard used as reference in BRE 209 3<sup>rd</sup> edition is BS EN 17037. The submitted Daylight and Sunlight Assessment Report applies the standards and recommendations of the 3rd edition of BRE - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2022). As discussed also in Section 10.5 below, I am satisfied that this approach is reasonable and the Building Height Guidelines (and the Apartment Guidelines) allow for a variety of quantitative performance approaches to daylight and sunlight impacts, and the targets utilised with the applicants Daylight and Sunlight Assessment Report are contained within a document that is considered authoritative on the issue of daylight and sunlight. I would note also that the standards for neighbouring daylight and sunlight impacts to existing development, as contained within the BRE 2<sup>nd</sup> Edition and the BRE 3<sup>rd</sup>

Edition, are much the same, with standards for VSC, APSH/WPSH and sunlight to existing amenity areas remaining the same.

- 10.4.6. The Dublin City Development Plan references safeguarding sunlight and daylight within or adjoining a proposed development by way of site coverage. A site coverage standard of 45-60% is applicable to Z1 zoned lands and a standard of 60% for Z6 zoned lands. The site coverage in this instance is 40%. I note generally that a lower site coverage than advised in the Development Plan is likely to result in lesser impact on adjoining properties, having regards to sunlight and daylight impacts, although this is, of course, dependent on the layout and height of the development, the orientation of the development relative to adjoining properties as well as the proximity of the development to adjoining properties.

#### Daylight

- 10.4.7. Paragraph 2.2.7 of the BRE Guidance (Site Layout Planning for Daylight and Sunlight - 2011) notes that, for existing windows, if the VSC is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this would be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in daylight.
- 10.4.8. The submitted Daylight, Sunlight and Overshadowing Study considers the impacts of the development on daylight levels to the following properties, in terms of Vertical Sky Component (VSC):
- 1-9 Parnell Road
  - 1-10, 15, 16, 18, 20 Greenmount Lane
  - Lime Kiln Lane
  - 1-36, 37-48 Boyne House
  - Argus House
  - Greenmount House
  - 17, 19, 21, 23 Harold's Cross Road
  - Greenmount Office Park

10.4.9. Of the windows 278 windows assessed, it is reported that negligible impacts were experienced at 176 windows, minor adverse impacts at 67 windows, moderate adverse impacts at 33 windows and major adverse impacts at 2 windows. This includes moderate and minor adverse impacts on the commercial windows located adjacent to the application site. I have considered the impacts on adjoining commercial windows below.

#### Residential Windows

10.4.10. Of the residential windows considered, there are no major adverse impacts reported at any residential windows. Moderate adverse impacts were reported at 1 no. residential window and minor adverse impacts are reported at 12 no. residential windows. I am satisfied that the report has sufficiently defined the significance of effects in Section 3.2 of the report and I concur with the reporting of same. A moderate adverse effect is reported at window No. 11b (No. 11 Limekiln Lane). This sees a reduction in VSC from 30.17% (as existing) to 17.04% (as proposed). This a reduction of 43% (0.57 its baseline value). This window faces the subject site across a narrow lane. The property is also served by another window to the front which only sees a minor effect, and is served by windows to the rear (which are unaffected by this development). I am of the view that any development of scale on this site would impact this window, given the proximity of same to the application site. I note the current site allows for relatively open aspect over the site from this window allow for relatively large amount daylight to reach this window.

#### Commercial Windows

10.4.11. I note the submission from the owners of Unit Numbers 30 to 36, Greenmount Office Park, which highlights potential impacts on daylight and sunlight to the office units. In relation to such units, BRE notes that the guidelines may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight; this would normally include schools, hospitals, hotels and hostels, small workshops, and some offices. There is no evidence that the office units adjacent would have a particular requirement for high levels of daylight, but I am of the view that any impacts should be such that some daylight is maintained to adjoining office uses. The submitted daylight assessment notes two major adverse effects on daylight, both of which are confined to two gable end windows of Argus House to the

south of the proposed development. Notwithstanding these effects, some level of daylight is maintained to these windows, and the remaining windows of this block, and other commercial blocks, experience only moderate to minor impacts. I am satisfied therefore that impacts on surrounding commercial units are acceptable, having regard to loss of daylight.

10.4.12. In relation to the conclusions of the report, in terms of impacts on daylight, I generally concur with same. I am of the view that, where shortfalls in meeting BRE targets have been identified, the quantum of windows affected is relatively small and I am of the opinion that impacts on same are, on balance acceptable, having regard the minimal impacts on the remaining windows of surrounding properties and the need to deliver wider planning aims, including the delivery of housing and the regeneration of an underutilised urban site.

#### Sunlight

10.4.13. The impact on sunlight to neighbouring windows is generally assessed by way of assessing the effect of the development on Annual Probable Sunlight Hours (APSH). The BRE recommendations note that if a new development sits within 90° of due south of any main living room window of an existing dwelling, then these should be assessed for APSH. In this regard, the only residential properties assessed within the report are properties on Parnell Road, Greenmount Lane and Lime Kiln Lane. I note the report has also assessed commercial windows. BRE (2022), in relation to sunlight in non-domestic buildings states that any spaces that are deemed to have a special requirement for sunlight should be checked. As noted above I do not have any evidence on file, nor was it evident from my site visit, that there were existing commercial spaces that have a special requirement for sunlight.

10.4.14. In terms of impacts to sunlight for existing residential units, minor adverse effects are reported at window 9a (at 9 Greenmount Lane) and at windows 10a and 10b (at 10 Greenmount Lane), which see a minor breach of BRE guideline targets (values are 83.7%, 83% and 98.8% of BRE targets, respectively). All other windows assessed are BRE compliant. I am satisfied that the impact of the proposed development is minimal, having regard to the conclusions of the Sunlight and Daylight Report, and having regard to my observations on site. I am satisfied that the data within the report is sound and I have no evidence to conclude otherwise.

#### Amenity Areas/Shadow Analysis

- 10.4.15. In relation to overshadowing, both the 2011 2<sup>nd</sup> Edition and the 2022 3<sup>rd</sup> Edition of the BRE guidelines state that an acceptable condition is where external amenity areas retains a minimum of 2 hours of sunlight over 50% of the area on the 21<sup>st</sup> March (of any given year). The submitted report considers those amenity areas that are to the rear of residential properties on Parnell Road and serving properties on Boyne Court, Harold's Cross Road and 23 Harold's Cross Road. It is reported that at least 50% of all the amenity areas considered will receive at least 2hrs of sunlight on the 21<sup>st</sup> March, with the reduction in extent of between 0% and 9% of the area, with the majority all well above 50%.
- 10.4.16. The report has included a shadow study which indicates overshadowing impacts at other times of the year. As expected during summer, impacts are more limited, with the sun higher in the sky, and shadow impacts on amenity spaces are subsequently limited. In winter, the surrounding properties are shown to be heavily overshadowed as existing, and the proposed development is not seen to materially worsen the situation. There are some impacts seen on the mid-morning sun in March on the rear gardens of properties on Parnell Road. However, these impacts are limited to the morning sun and reduce during the day. In addition, these gardens are in compliance with the BRE Guidelines in relation to overshadowing (as discussed above).
- 10.4.17. In conclusion, and having regard to impacts to daylight and sunlight levels to surrounding properties, and overshadowing of same, I am satisfied that external daylight, sunlight and overshadowing report has identified the majority of potential impacts, and I am satisfied that the majority of properties will experience impacts that are in line with BRE Targets as set out in the 3<sup>rd</sup> Edition of the BRE Guidelines (and as per the 2<sup>nd</sup> Edition). While some minor adverse impacts have been identified, the overall impact is, on balance, acceptable, having regard to the detailed discussion above. I am satisfied that impacts on surrounding amenity spaces will also be acceptable, having regard to the considerations above.

#### Overlooking/Loss of Privacy/Visual Impact

- 10.4.18. The Dublin City Development Plan does not prescribe a minimum separation distance between new apartment developments and existing housing. In relation to 'Houses', Section 16.10.2 sets out that *'at the rear of dwellings, there should be*



*adequate separation between opposing first floor windows. Traditionally, a separation of about 22 m was sought between the rear of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances and windows serving halls and landings do not require the same degree of privacy as habitable rooms’.*

10.4.19. The residential properties with the potential to be overlooked by this development include those properties to the south at Boyne Court. Proposed Block C is set back a distance of approximately 6.1m from the northern gable elevations of Boyne Court but does not face directly towards same, rather it faces towards the area of open space that is associated with the Boyne Court Development. As such there are no directly opposing windows between the existing and proposed blocks. The northern gable end of Boyne Court has small gable obscured windows that serve non-habitable rooms.

10.4.20. In relation to the western/south-western boundary, there are single storey residential properties on Greenmount Lane and Limekiln Lane. Proposed Block D is set back from the south-western boundary by 1m and has a small number of obscured windows facing towards the cottages. There are no directly opposing windows facing from the proposed development towards existing properties. A two-storey privacy screen is proposed to prevent overlooking from the proposed balconies, walkways and communal areas.

10.4.21. In relation to the properties to the north and north-west of the site, on Parnell Road, I note the windows to the northern elevation of Block D at first floor level are obscured (these serve workshop areas), notwithstanding that the nearest window to window distance is at least 24.9m and in most cases is greater than this, up to 37m. There are no windows serving residential units on the northern elevation of Block D. Privacy screens are proposed to the deck access areas. In relation to Block B, there are no directly opposing windows that face towards the windows on the rear of properties on Parnell Road. The applicant has proposed timber and metal privacy screens to the proposed balconies on this elevation.

10.4.22. In relation to those properties on the opposite side of Harold's Cross Road, I note that the nearest directly opposing windows (to the front) are at least 22m from any windows on Block A.

10.4.23. I am satisfied that the separation distances referred to above and the measures to prevent overlooking from the balconies and communal areas are sufficient to prevent any material overlooking from the proposed development to surrounding residential properties. In relation to other properties, I am of the view that all other properties not referred to above are sufficiently set back or a sufficient distance away from the proposed development to ensure that no material impact from overlooking results.

#### Visual Amenity

10.4.24. In relation to visual impact, I have discussed this in detail in relation to views from the street, and the resultant visual impact of same, in Section 10.3 above. In relation to views from adjacent properties, the nature of the view will change from the existing low rise warehouse and residential buildings and will be of buildings of a more substantial scale. In relation to that from Boyne Court Apartments from the south, proposed Block C is 4 storeys at the boundary, and it rises to 8 storeys in total. I am not of the view that this block will be particularly overbearing when viewed from the communal areas of Boyne Court given the extensive setbacks, but I do have concerns in relation to longer views towards same, and I have recommended that the top floor is omitted from this block (as per the discussion in Section 10.3 above). In relation to those properties on Parnell Road, proposed Block B (up to 9 storeys) would be particularly visually dominant, by virtue of the height proposed, despite the setback of the 9 storey element from the rear gardens of Parnell Road. As per the discussion above, however, I am of the view that reduction in height of this development, by omitting the top two floors of same, as referred to in Section 10.3 above, would reduce the overbearing nature of this element, and would render the visual impact acceptable in my view. In conclusion, it is clear that that development will be visible from surrounding rear gardens, and will be more prominent than the existing relatively low rise development on the site. I also note that the site is designated for residential development and, given the overarching national and regional support for compact growth, a development of scale is appropriate for this site. I acknowledge that the views towards the site from Boyne Court, from the rear gardens of properties on Parnell Road and from other residential properties with

views towards the site, will change substantially. However, of particular relevance also when considering visual impacts/impacts on visual amenity is the separation distances, and the reductions in height of the proposal close to the boundaries of the application site, which I have discussed above. This reduction in height towards the boundaries, as well as the recommended two storey reduction in height of Block B and the single storey reduction in height of Block C, reduces the overall visual impact to an acceptable level, in my view. Furthermore, while there still be a high degree of visibility towards the development, even with those mitigation measures I have referred to, given the quality of the proposed design, as discussed above in Section 10.4 above, I am not of the opinion that the visual impact will be negative, although I acknowledge that this is a not a view shared by the occupants of surrounding properties, or by other surrounding residents, noting the contents of the observer submissions.

#### Noise and Vibration

10.4.25. Noise and vibration impacts can occur at the construction phase. In relation to the impacts from construction, the submitted Construction and Environmental Management Plan (July 2022) includes measures to reduce noise and vibration impacts at construction stage and it is set out that noise and vibration during the construction phase will be controlled with reference to the best practice control measures within BS 5228 (2009 +A1 2014) Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2. Measures include, but are not limited to, monitoring levels of noise and vibration during critical periods and at sensitive locations. Specific noise and vibration limits are set out in the CEMP, which the contractor will be required to adhere to. It is stated that, in relation to vibration limits, such limits relate to more modern buildings and should be reduced to 50% or less for more critical buildings. It would appear that these reduced limits should apply to those older structures on Greenmount Lane/Lime Kiln lane, where the residents have stated that these properties were built without foundations.

10.4.26. In conclusion then, subject to conditions requiring the mitigation measures as set out in the Environmental and Construction Management Plan to be implemented, I am satisfied that noise and vibration impacts, at construction stage, on surrounding residential properties will not be significant.

## 10.5. Residential Amenities and Development Standards

- 10.5.1. An assessment of the amenities of the proposed development relative to quantitative and qualitative standards for residential development is undertaken below having regard to the guidance set out in the New Apartments Guidelines, the Development Plan and the Building Heights Guidelines, which also refer to documents providing guidance for daylight and sunlight assessments within new developments. The proposed apartments in this current proposal would come within a category of development that would be subject to development standards based on the terms of the New Apartment Guidelines.
- 10.5.2. I note that policy QH1 of the Development Plan seeks to have regard to various Department guidance documents, including the 'Sustainable Urban Housing: Design Standards for New Apartments' (2015). Section 16.10.1 of the Development Plan requires proposals for apartments to comply with the standards set out in the 2015 version of the New Apartment Guidelines. Since the adoption of the Development Plan, these section 28 New Apartment Guidelines were updated in 2018 and again in 2020. Where guidelines referred to in the Development Plan have been updated since the Development Plan was adopted, the Planning Authority refer to the current guidance in their report on this application, including the 2020 New Apartment Guidelines. This is considered to be a reasonable approach in assessing the acceptability or otherwise of the subject proposals.
- 10.5.3. Further to this, I am satisfied that the provisions within section 16.10.1 of the Development Plan are clearly standards and deviation from these standards would not be likely to be of a material nature, particularly where there is compliance with contemporary and more up-to-date development standards.

### Apartment Mix

- 10.5.4. Observations assert that a poor housing mix is proposed as part of the development, with an excessive provision of single-bedroom apartments. The mix of apartments proposed would comprise 3 X studio units (2%), 80 X one-bedroom units (41%), 105 X two-bedroom apartments (54%) and 6 X three-bedroom apartments (3%). Section 16.10.1 of the Development Plan requires a mix of no more than 25% to 30% of one-bedroom units in a development and a minimum of 15% of three or more bedroom units. The proposed development would not comply with this standard of

the Development Plan. I do not consider this to be a material contravention of the Development Plan, as it only relates to divergence from a standard of the Development Plan, and not a policy of this Plan. Furthermore, the more contemporary requirements under SPPR1 of the New Apartment Guidelines state that apartment developments may include up to 50% one-bedroom or studio-type units and that there shall be no minimum requirement for apartments with three or more bedrooms. The Planning Authority consider the unit mix to comply with SPPR1 of the New Apartment Guidelines standards and I am satisfied that this would be the case.

#### Apartment Standards

- 10.5.5. A Housing Quality Assessment with a Schedule of Accommodation has been submitted with the application, which provides details of apartment sizes, room sizes, storage space, aspect and private amenity space.
- 10.5.6. Minimum unit size requirements of 37 sq. m (Studio), 45 sq.m (1 bed), 73 sq.m (two bed) and 90 sq. m (three bed) are respectively required in the Apartment Guidelines (as per SPPR 3 of same). Each of the units meets the minimum apartment floor area standards. I note the Development Plan requires a minimum floor area of 40 sq. m for a studio. There are three number studios (Units B-07, B-08 and D-17) with a floor area of 39.82, 43.27 and 38.01 respectively. I do not consider non-compliance of 2 no. studio with the minimum floor area cited in section 16.10.1 of the Development Plan to represent a material contravention of the Development Plan and standards as per contemporary national guidance is for a minimum floor area of 37 sq. m. and the Development Plan itself refers to the standards as set out in the Apartment Guidelines (as discussed above).
- 10.5.7. There are 12 no. 3 bed/2 person units, equating to 7% of the unit mix. The Apartment Guidelines allow up to 10% of such units. All of these units meet or exceed the required minimum floor area of 63 sq .m based on the New Apartment Guidelines.
- 10.5.8. The internal design, layout, block configuration, room sizes and storage space for each of the apartments and blocks, as identified in the drawings and Housing Quality Assessment, would appear to accord with or exceed the relevant standards, as listed in the Apartment Guidelines (2020) including the appendix 1 standards. Floor to

ceiling heights of the ground floor units range from 3m to 3.7m in height, which exceed minimum standard of 2.7m for ground floor units and in all other cases the standard is met or exceeded, in compliance with SPPR5 of the New Apartment Guidelines. The 10% additional floor space required in section 3.8 of the New Apartment Guidelines for the majority of apartments is also achieved, with 11% being achieved in this instance.

10.5.9. The private amenity space for each of the apartments, including balcony and terrace sizes and depths, would meet or exceed the minimum requirements set out in the New Apartment Guidelines and the Development Plan.

10.5.10. Under the heading 'Block Configuration', the Development Plan allows for a maximum of eight apartments per floor per core. The number of apartments per floor per core would not exceed 12, as per the less onerous lift and stair core provisions of SPPR6 of the New Apartment Guidelines, with a maximum of 11 units per core in proposed Block A. I do not consider non-compliance with block configuration standards cited in section 16.10.1 of the Development Plan to represent a material contravention of the Development Plan. There is not a specific need under contemporary national guidance for up to eight apartments in an apartment development to be provided with lift and stair core access.

#### Dual Aspect Apartments

10.5.11. With regard to aspect, the Development Plan refers to standards contained in SPPR 4 of the New Apartment Guidelines, which require 33% dual aspect apartments in accessible urban locations, such as the application site. A total of 139 apartments are stated to form dual aspect units, which would equate to 72% of the apartments within the scheme. Having reviewed the drawings submitted, I am satisfied that the provision of dual aspect units would be in compliance with SPPR4 of the New Apartment Guidelines. Less than 2% of the units are north-facing dual aspect units.

#### Daylight Provision

10.5.12. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, in order to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. It is set out that '*Appropriate and reasonable regard* should be taken of quantitative performance approaches to daylight provision

outlined in guides *like* the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' (my emphasis). Where a proposal may not be able to fully meet all the requirements of the daylight provisions in these guides, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the Planning Authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site specific constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

10.5.13. Section 6.6 of the Apartment Guidelines (2020) also state that 'Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.

10.5.14. It should be noted that the standards described in the BRE guidelines are discretionary and are not mandatory policy/criteria and this is reiterated in Paragraph 1.6 of the BRE Guidelines (2nd Edition). This is also reiterated in the 3rd Edition of BRE (published June 2022) which notes that the guidance is 'is purely advisory and the numerical target values within it may be varied to meet the needs of the development and its location' and Section 1.6 of same states 'the advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.'

10.5.15. I would note also that the standards for neighbouring daylight and sunlight impacts to existing development, as contained within the BRE 2nd Edition and the BRE 3rd Edition, are much the same, with standards for VSC, APSH/WPSH and sunlight to existing amenity areas remaining the same.

10.5.16. The applicant has submitted a Daylight and Sunlight Assessment Report which considers *inter alia* internal daylight and sunlight standards to the proposed units, as

well as the amenity spaces associated with the proposed development. The submitted a Daylight and Sunlight Assessment Report applies the standards and recommendations of the 3<sup>rd</sup> edition of BRE - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2022). As discussed also in Section 10.4 above, I am satisfied that this approach is reasonable and the Building Height Guidelines (and the Apartment Guidelines) allow for a variety of quantitative performance approaches to daylight and sunlight impacts, and the targets utilised with the applicants Daylight and Sunlight Assessment Report are contained within a document that is considered authoritative on the issue of daylight and sunlight.

10.5.17. For the proposed development the applicant's Daylight and Sunlight Assessment applies three standards as follows:

Sun On Ground in Proposed Outdoor Amenity Areas (SOG) –

10.5.18. The BRE Guidelines (3<sup>rd</sup> Edition) recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21<sup>st</sup>. I note that this standard is the same as that in the BRE 2<sup>nd</sup> Edition (2011).

10.5.19. In relation to the proposed development, the report has assessed the three number courtyard areas within the scheme it is found that all three spaces meet BRE Guidelines, with the area capable of receiving 2 hours of sunlight on March 21<sup>st</sup> being 87.3%, 89.7% and 73.2% for Courtyards 1, 2 and 3 respectively.

Spatial Daylight Autonomy in Proposed Habitable Rooms (SDA)

10.5.20. Spatial Daylight Autonomy assesses whether a space receives sufficient daylight on a working plane during standard operating hours on an annual basis. The target values differ based on the function of the room assessed:

- 200 Lux for kitchens;
- 150 Lux for living rooms;
- 100 Lux for bedrooms.

10.5.21. Where rooms serve more than one function, the higher SDA target value should be taken. The applicant's report has applied the higher 200 Lux Value for Living/Kitchen/Dining Areas. It is reported that the SDA value in 479 no. habitable rooms meet or exceed the target values for such rooms, given an overall compliance



rate of 95%. The report concludes that, for a scheme of this size, this is considered a good level of compliance.

#### Sunlight Exposure in Proposed Habitable rooms (SE)

10.5.22. Sunlight exposure (SE) is a measure of sunlight that a given window may expect to receive on a given date between the 1st of February and the 21st of March. The BRE guidelines suggest that March 21st (equinox) is used as the assessment date. The level of sunlight exposure is categorised as follows:

- 1.5 Hours - Minimum
- 3 Hours - Medium
- 4 Hours - High

10.5.23. The recommendation for dwellings is that at least one habitable room, preferably a main living room, should receive at least the minimum criterion. Should no room within a given unit meet the recommended minimum level of sunlight exposure, it will be stated as non-compliant.

10.5.24. The SE assessment has shown that circa 55% of the proposed units meet the criteria for sunlight exposure as set out in the BRE Guidelines. It is set out in the report that the criterion applies to rooms of all orientations, although if a room faces significantly north of due east or west it is unlikely to be met. The report states that it is not always possible to achieve full compliance, especially in developments that contain single aspect units. It is further noted within the report, that BRE makes no recommendation is made regarding the performance of a development as a whole for SE performance, but the report concluded that the development perform as expected, having regard to overall compliance levels.

#### Conclusion on Daylight, Sunlight and Overshadowing

10.5.25. The Planning Authority notes that show a significant portion of rooms do not comply with the Sunlight Exposure (SE) and concern is raised in relation to this. The Planning Authority have also raised concern also raised in relation to results for Spatial Daylight Autonomy (SDA). The Planning Authority also note that the applicant has endeavoured to provide for compensatory measures within the development to off-set these results and this is welcomed. The Planning Authority

set out that a further reduction in the bulk, scale and massing of the development would further improve the situation for the apartments.

10.5.26. In relation to the results as set out in the submitted Daylight and Sunlight Assessment, and also in relation to concerns as raised by the Planning Authority, I note the following. I note that quantitative standards with respect to 'daylight provision' and not 'sunlight provision' are referred to in the Building Heights Guidelines and New Apartment Guidelines. As such the key results are those relating to daylight (Spatial Daylight Autonomy (SDA)). In relation to same, I note the applicant has carried out a thorough assessment of daylight within the development and has considered all habitable rooms, on all floors, within all 4 no. blocks, utilising the tests for Spatial Daylight Autonomy (SDA), as discussed above. A high compliance level is generated (95% of assessed rooms). Furthermore, I am satisfied that the tests for daylight as carried out are robust, and are contained within a document that is considered authoritative on the issue of daylight and sunlight.

10.5.27. In relation to sunlight, the levels of compliance is shown to be lower at around 55% of units. There are no overarching requirements (as contained with the Building Height Guidelines and the Apartment Guidelines) to demonstrate compliance with BRE sunlighting guidelines (the requirement is for daylight).

10.5.28. Both the Building Height and Apartment Guidelines state that where a proposed development cannot demonstrate that it meets the BRE daylight provisions, compensatory measures should be described:

"Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution." (page 14 section 3.2 criteria Building Height Guidelines).

10.5.29. Section 8.2.3 of the Daylight and Sunlight Assessment has considered each individual unit where the recommended daylight levels has not been achieved, and has highlighted compensatory measures that have been provided to each unit, which

includes some or other of the following measures - dual aspect provision, larger balconies, larger room areas and larger overall floor areas, larger areas of glazing, views of amenities and extra storage space.

10.5.30. In terms of other compensatory features within the scheme, which are of benefit to those units that do not achieve minimum sunlighting levels also, it is set out that the proposed public and communal spaces, as well as private amenity spaces and roof gardens have been designed so as to benefit from sunlight provision, and this will ensure that sun-lit areas are available to all residents of the proposed development. An excess provision of public open space (at 13.3% of the site area) has also been provided. It is set out also that all balconies are partially or fully recessed, which has a resultant impact on sunlight levels, but also provide more a more sheltered, private area of amenity space for each unit. It is also noted that many of the balconies are larger than the minimum requirements. At ground floor level, the floor to ceiling height is between 3.0m to 3.7m in height, with ground floor windows between 2.7m to 3m (standard height is 2.1m) which will improve levels of sun lighting to the ground floor units.

10.5.31. As noted above, flexibility needs to be applied when using the relevant guidance document, particularly in the context of redeveloping the site to accommodate a sustainable level of development and I am satisfied that the daylighting to the proposed development would adequately meet the residential amenity levels for future residents.

10.5.32. Overall, and with reference to the performance of the proposed development against the minimum levels set out in BRE methodology, I am satisfied that the applicant has demonstrated adequate daylight, sunlight and overshadowing levels within the proposed development. This is specifically in light of the identification of compensatory measures as required in section 28 guidelines

#### Privacy and Overlooking

10.5.33. I am satisfied that adequate separation distances between blocks has been provided in order to mitigate against any material mutual overlooking between the proposed units, with the shortest separation distance being between the southern elevation of Block B and the northern elevation of Block C, at 15.3m.

#### Public Open Space

10.5.34. In relation to public open space, the Development Plan (Sections 16.3.4 and 16.10.3 refer) requires 10% public open space. The proposal has provided for a total of 1,355 sq. m (13% of the site area). I am satisfied the quality, quantity and location of public open space is acceptable and therefore the proposal complies with the provisions of the Development Plan in relation to same.

#### Communal Open Space

10.5.35. According to section 16.10.1 of the Development Plan and appendix 1 of the New Apartment Guidelines, the communal open space provision to serve the development should be as follows:

- 4sq.m for studio units;
- 5 sq.m for 1 bed dwellings;
- 6 sq.m for 2 bed / 3 person dwellings;
- 7 sq.m for 2 bed / 4 person dwellings;
- 9 sq.m for 3 bed dwellings.

10.5.36. Based on the housing mix and these planning provisions, the proposed development would require 1,189 sq. m of communal open space. A total of 1,217 sq. m. has been provided. This has been provided in the form of 2 no. communal roof gardens within Block A, 1 no. roof garden within Blocks B and C and an area of communal open space within Block D. The location and overall area of the communal space would accord with the requirements set out in the New Apartment Guidelines and I am satisfied that the communal open space proposed would provide a reasonable level of amenity for future residents based on the relevant applicable standards.

#### Social Infrastructure

10.5.37. Policy SN5 of the Development Plan requires a social audit to accompany applications for development of this scale, as well as implementation and phasing programme details. The applicant has provided a Social Infrastructure Assessment addressing local transport, social and community infrastructure, and identifying childcare, education, sports and recreation, health and community facilities within proximity of the site. The broadly identifies the main services and resources in the immediate area, following the guidance contained within the Sustainable Residential

Development Guidelines. The Planning Authority note the audit does not set out the Capacity of facilities in the area although it is acknowledged that the site is well located in close proximity to services at Harold's Cross Village.

10.5.38. In relation to social infrastructure, I am of the view that increased housing in locations such as this, which have a wide range of social infrastructure continues to ensure the efficient and increased use of existing and planned services, including public transport, shops, schools and other social infrastructure. Such services, whether commercial or social, are dependent on a critical mass of population to justify the establishment of additional services or for them to become or remain viable. In the immediate and wider environs of the site there are shops, medical facilities, parks, open spaces and schools, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. The nature of development is such that non-residential services and facilities generally become and remain viable alongside increases in residential units.

10.5.39. I am satisfied that the development would be reasonably well serviced in respect of social and community infrastructure, the details submitted are in compliance with policy SN5 of the Development.

#### Building Lifecycle and Management

10.5.40. As required within the Apartment Guidelines (2020), a Building Lifecycle Report assessing the long-term running and maintenance costs and demonstrating the measures that have been considered by the applicant to manage and reduce costs for the benefit of residents, has been included with the planning application.

#### Residential Amenities and Development Standards - Conclusion

10.5.41. In conclusion I am of the view proposed development would provide a suitable mix and standard of apartments and open space, meeting the relevant design standards and providing a suitable level of amenity for future residents.

### **10.6. Traffic and Transportation**

10.6.1. The Transport Planning Division of the Planning Authority did not object to the proposed development, requiring standard matters to be addressed as conditions in the event of a planning permission for the proposed development. The majority of observations from neighbouring residents highlight concerns in relation to the

capacity of existing roads infrastructure and the potential for the development to result in increased traffic congestion in the immediate area. Concern is also raised in relation to potential traffic and public safety hazards due to the narrow footpaths, the loss of a cul-de-sac, and due to the high volume of traffic anticipated to enter and leave the site. It is stated that the development will bring a risk of overspill parking arising from the development

#### Access/DMURS

- 10.6.2. The subject site is currently only accessible via a shared access road from the east of the site, off Harold's Cross Road. The shared access road also serves Greenmount Office Park. At Greenmount Lane, the existing warehouse fronts directly onto the laneway and has a private entrance gate along its front boundary wall.
- 10.6.3. The proposed main access to the site will be from Harold's Cross Road via the existing access point to the site. Only vehicular traffic associated with Block D will be permitted to access the site from Greenmount Lane. No through traffic will be permitted from either Greenmount Lane or the Harold's Cross Road.
- 10.6.4. Section 3.3 of the Design Manual for Urban Roads and Streets considers permeability and legibility and states that *inter alia* designers should maximise the number of walking and cycle routes between destinations. Criteria 2 of the Urban Design Manual (the companion document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009 ) considers connections and notes that attractive routes should be provided for pedestrians and cyclists and that proposals should prioritise the pedestrian and cyclist in the layout and design of the public realm. In this regard, the proposed site layout provides for direct pedestrian and cycle connectivity and permeability from Greenmount Lane to the west, Limekiln Lane to the south-west, and Harold's Cross Road to the east.
- 10.6.5. The site access off Harold's Cross Road is dedicated to the underground car park users, loading traffic for the commercial unit, and set down for bin collection. A mini roundabout has been included within the access design to enable loading vehicles to turn and access the loading bays, which allows loading/unloading activities without affecting traffic on Harold's Cross Road.

#### Car and Cycle Parking

- 10.6.6. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2020, states (under Section 4.21) that: “In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.”
- 10.6.7. Section 16.38 of the Development Plan which sets out car parking standards applicable across the City. The site is within Area 3 (Map J of the Development Plan) and Table 16.1 sets out the relevant standards which are 1.5 spaces per dwelling (therefore a maximum of 291 spaces would be required). The Development Plan notes that, in relation to residential car parking in Apartments, that ‘Car parking standards are maximum in nature and may be reduced in specific, mainly inner city locations where it is demonstrated that other modes of transport are sufficient for the needs of residents’. In addition Section 16.38 of the Plan states that ‘Parking provision below the maximum may be permitted provided it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety’.
- 10.6.8. I note that the standards as set out Section 16.38 of the Plan are supported by Objective MT17 which states:
- ‘To provide for sustainable levels of carparking and car storage in residential schemes in accordance with development plan car parking standards (section 16.38) so as to promote city centre living and reduce the requirement for car parking’.
- 10.6.9. The development proposal caters for 65 no. car parking spaces to cater for 194 no. dwellings proposed, equating to c. 0.33 spaces per unit. This is inclusive of 4 no. club car spaces, 4 no. mobility impaired spaces and 16 no. EV spaces. This is provided at surface level and basement level. Of the proposed 65 no. car parking spaces, 58 no. are located at basement level which is situated below Blocks B & C. The proposed basement is accessed from the south of Block B / north-east of Block C via the proposed internal access road which enters the site from Harold’s Cross Road. At surface level, 7 no. car parking spaces are provided (including 4 no. club car spaces), which are located at the internal access road in the western part of the site.

10.6.10. Where a deviation from maximum standards as contained with the Development Plan is to be considered, the acceptability of proposals will be assessed against a number of criteria including, *inter alia*:

- The civic importance of the scheme
- The identified need for public car parking in the area
- The accessibility of the surrounding area
- Road capacity and impact on the road network
- The mix and appropriateness of uses proposed
- The impact on the public realm, streetscape and urban fabric of the city
- The impact on the grain and vitality of city streets
- Compliance with Section 4.5.5, 'The Public Realm'
- Compliance with policies to make efficient use of finite urban land and consolidate the city
- Compliance with policies to safeguard investment in public transport and encourage modal shift.

10.6.11. I am satisfied that car parking standards below the Development Plan maximum standards for the residential element of the proposed development would be reasonable, given its location relative to public transport services, and the proposal makes efficient use of land and safeguards investment in public transport, as discussed in Sections 10.2 and 10.3 above. The proposal is provided much needed housing to the city, and is therefore of civic importance. The submitted Traffic and Transport Assessment has demonstrated that the proposal will have a minimal impact on the surrounding road network (as per the discussion below) and I am of the view that increased car parking levels in this location would have the potential to increase levels of traffic congestion, with a negative impact on the surrounding road network. I have consider the mix and appropriateness of uses in Sections 10.3 and 10.5 above, and have concluded that a sufficient mix of uses has been provided with the uses being appropriate for the site. I have considered the issues of public realm (in terms of public open space and permeability), streetscape and urban fabric in Section 10.3 above.



10.6.12. I am not of the view that any detrimental impacts on residential amenity will result as a result of the parking provision proposed. It is unlikely that overspill parking will result, given the demand considerations I have set out above, and if this were to occur, there are parking restrictions in place on surrounding roads.

10.6.13. Specifically in relation to any possible material contravention of the Development Plan, as relates to car parking, I have assessed the proposal against the criteria set out in the Development Plan above and I have concluded that it complies with the criteria which allows for a reduction in car parking from the maximum. I note that the standards are supported by a specific policy objective in the plan (Objective MT17). However, the standards themselves allow a degree of flexibility. I am of the mind that given this degree of flexibility inherent within the standards that quantum of car parking provision provided here would not constitute a material contravention of the plan, nor would it constitute a contravention of the plan. This view is supported by the fact that neither the report of the Planning Authority, nor the associated report from the Transport Division, have objected to the overall quantum of car parking provided here.

#### Cycle Parking

10.6.14. A total of 580 no. bicycle parking spaces are to be provided for the proposed development. This includes

- 330 no. long term / resident spaces;
- 40 no. visitor spaces;
- 8 no. cargo bicycle spaces;
- 48 no. electric bicycle spaces (resident).

10.6.15. Within Blocks A, B and D, bicycle parking at ground floor level is catered for, with a total of 104 no. spaces accommodated comprised of 62 no. resident / long term spaces, 30 no. visitor spaces and 12 no. spaces for commercial use. At surface level, 50 no. spaces are provided throughout the site, catering for 40 no. spaces are for visitors, and 10 no. are covered staff spaces.

10.6.16. The total number of spaces provided is in excess of that required by the Apartment Guidelines (2020), which require a total of 408 no. spaces, based on the dwelling mix provided. It is also in excess of the Development Plan requirement. I am

satisfied that the quantum and location of cycle parking for the residential development would be welcome in supporting sustainable transport options.

#### Impact on the Surrounding Road Network

10.6.17. The applicant submitted a Traffic and Transport Assessment as part of their application. The applicant's assessment includes traffic survey details for five no., junctions in and around the site. Utilising these surveys, a traffic model was development with 6 no. junctions as follows:

- Junction 1. Site Access 1/Harold's Cross Road
- Junction 2. Site Access 2/Greenmount Lane
- Junction 3. Greenmount Ave/Harold's Cross Road
- Junction 4. Mount Drummond Ave/Harold's Cross Road
- Junction 5. Harold's Cross Road/Parnell Road/Grove Road
- Junction 6. Greenmount Lane/Parnell Road

10.6.18. Using Picady software analyses the applicant undertook modelling of the traffic associated with the operational development. For all modelled years (Opening Design Year, 2024; Future year 2029 and Future Design Year 2039), it is reported that there is minimal impact on the local road network, proportionate increases in traffic at all junctions being well below 5% in peak hours.

10.6.19. I am satisfied that based on the information provided in the Traffic and Transport Assessment, a reasonable approach to modelling future traffic scenarios on the local road network with the development in place has been set out and this does not reveal substantive impacts on traffic. The assessment broadly follows the TII guidance on this matter. Furthermore, the Planning Authority has not objected to the findings of the traffic assessment, and I am satisfied that the applicant has provided adequate justification and rationale for the approach undertaken in their Traffic and Transport Assessment with sufficient information included for the purpose of this assessment.

#### Road/Pedestrian Safety

10.6.20. A number of observers have stated that the proposal will lead to a risk to road safety at both construction and operational phases, due in part to the narrow footpath on

Greenmount Lane. I note that at construction phase, construction traffic will utilise the existing access at Harold's Cross Road, as detailed in the Construction and Environmental Management Plan, and it is not proposed to utilise Greenmount Lane as an access route for construction traffic. At operational stage, only vehicular access associated with Block D will utilise Greenmount Lane. This gives access to 3 no. surface car parking spaces and 4 no. car sharing spaces. All other access to the site, including unloading and loading, will be via the Harold's Cross entrance. As such I am not of the view that the volume of vehicular traffic utilising Greenmount Lane will be materially greater than the existing volumes, given the limited number of car parking spaces accessed via Greenmount Lane. I am therefore not of the view that there will any significant risk to road or pedestrian safety as a result of the proposed development, either at construction or operational phase.

### Conclusion

10.6.21. In conclusion, subject to conditions, the proposed development would not reasonably result in an unacceptable risk of traffic hazard or significant additional traffic congestion in the area, and it would feature an appropriate provision of car and cycle parking.

## **10.7. Flood Risk**

10.7.1. Section 9.3 of the National Planning Framework (NPF) includes guidance for water resource management and flooding with emphasis on avoiding inappropriate development in areas at risk of flooding. National Policy Objective 57 requires resource management by "ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities".

10.7.2. The Planning Authority have not raised any concerns in relation to flooding.

10.7.3. Observers have raised concerns in relation to flooding issues and state the development will increase the risk of flooding. It is stated that the impact of climate change will increase flood risk. Reference is made to previous flooding instances in the area, including that of 2011 in which there was a fatality at a basement flat on Parnell Road. It is further stated that the location of the underground river (the Poddle) needs to be definitively determined (The Poddle) and that the submitted

SFRA is inaccurate. It is stated that the ground level will be approximately 4ft higher than Limekiln Lane and that no site sections have been submitted showing the change in levels of the site to the rear gardens of No.'s 1-7 Parnell Road. It is stated that a flood proof wall would be required to protect dwellings which are located at a lower level than the site. It is contended that no new development should be allowed until the completion of the River Poddle Flood Scheme.

- 10.7.4. A Site Specific Flood Risk Assessment (dated July 2022) has been submitted with the application. This notes the topography of the site and that it slopes from south to north. It is noted that a stream meanders from the southern boundary of the site in a northerly direction and discharges to the River Liffey. The Poddle Stream flows to the west of the subject site through the existing Greenmount Estate by way of a culvert. It is noted that proposed flood protection works on the River Poddle in the areas of DCC and South Dublin County Council are due to start in 2023. This will provide protection against a 1 in 100 year flood event (1% AEP) and will protect approximately 860 residential and 61 commercial properties (I note that the application for this proposal is currently with An Bord Pleanála – Ref ABP-306725-2).
- 10.7.5. Flood Risks are identified in Section 3 of the SFRA. With reference to CFRAM Mapping, the SFRA notes that all proposed dwellings are located in Flood Zone C. It is noted that the DCC SFRA (both the 2016 to 2022 and 2022 to 2028 versions) indicate that most of the site to be in Flood Zone B and not within the defended area. These flood extents are based on a 30% increase in river flow as opposed to a 20% increase in river flow for the in the CFRAMS mapping. OPW Historic Flood Records also note previous flood events in close proximity to the site. Flood risk is also identified from the existing trunk combined sewer with some pluvial flooding noted from pluvial maps, and also from the localised low points on the site. It was considered the site was at low risk from groundwater and tidal flooding, due to geology and location of the proposed development. A low risk from pluvial flooding from potential surcharging and blockage of the new drainage network is also cited in the report.
- 10.7.6. The risk of pluvial flooding associated within the development is addressed by the proposed surface water drainage design, which is outlined in details in the Infrastructure Design Report submitted with this application (see discussion of same in Section 10.8below). In summary, it is set out that the proposed new development

is on an existing residential site and the impermeable area will not be increased more than that of the existing. Surface water outflow will be controlled to mimic greenfield runoff rates (2.6 l/s). In the case of storms greater than the 1% AEP event, the development's drainage network design will be exceeded and areas with low ground levels will begin to flood. Fig 5.1 of the SFRA indicates overland flow paths, and it is indicated that surface water is directed towards areas of open spaces or to the basement areas, with advanced Flood Warning & Evacuation Plan in place for the basement areas. The existing overland flow associated with the existing culvert to the west in Greenmount Industrial Estate is not affected.

- 10.7.7. Lowest house floor levels are set a minimum of 0.5m above the top water level in the corresponding attenuation facility in accordance with recommended minimum freeboards. Floor levels are also set above the estimated 0.1% AEP Fluvial Flood Event of 22.0 m OD. The floor levels proposed are set above the existing floor levels on the site which provides an improvement as recommended in the DCC SFRA. These floor levels are also set a minimum of 300mm above the existing road / pavement levels as set out in the DCC SFRA. In terms of off-site flood risk, the SFRA notes that adjacent areas will not be impacted by the development for up to the 1% AEP flood event. As per the discussion above, in larger storms exceeding the 1% AEP, overland flood routes may be directed towards open space areas, the basement and the outfall to the north of the site.
- 10.7.8. The SFRA concludes that the vast majority of the site is within Flood Zone Category B, when all of the various flood risks to the site are considered. A Justification Test is therefore required, as per the Flood Risk Guidelines, and this is set out in Section 5.7 of the SFRA. I have considered same and I am of the view the information contained therein is acceptable and is in line with the requirements of the Justification Test.
- 10.7.9. The impact of climate change is accounted for, with the drainage system and attenuation storage design allowing for a 20% increase in rainfall intensities, as recommended by the GDSDS.
- 10.7.10. Residual risks are identified as (i) fluvial flooding from the 0.1%AEP Storm Event (ii) Pluvial flooding from the private drainage system related to a pipe blockage or from flood exceedance and (iii) Pluvial flooding from the development's drainage system

for storms in excess of the design capacity. Mitigation measures are set out to deal with same, including sufficient FFLS (as discussed above), regular maintenance of the drainage system, and the flood routing of the overland flows as discussed above.

### **Conclusion on Flood Risk**

10.7.11. Overall, I am satisfied that the proposal would not increase the risk of flooding on the site or to the surrounding area, with an appropriate approach to mitigating surface water drainage. The detailed specification of surface water management measures, including those details as requested from the Drainage Department of the Planning Authority, can be requested by way of condition, should the Board be minded to grant permission. Specifically in relation to those matters raised by observers I note the following. In relation to the location of the River Poddle, this location is identified within the SFRA and the specified location of this river corresponds to the mapping date on the EPA website.<sup>1</sup> As such I am satisfied the SFRA is accurate in this regard, having regard to available data. The SFRA has also considered previous flooding events, including the 2011 flood event, and the impact of climate change when considering flood risk. In terms of level changes, relative to adjoining sites, and the potential for flooding of adjacent sites as a result of the proposed development, surface water attenuation is provided up the 1% AEP, which will prevent surface water from leaving the site. In events greater than the 1% AEP, surface water is directed towards the proposed basement areas, the proposed open spaces and the outfall to the north of the site. I am satisfied therefore that the SFRA has sufficient considered any increased risk of flooding of adjoining sites as a result of this development and has provided sufficient mitigation in order to reduce the risk of same. In relation to the proposed River Poddle Flood Scheme the SFRA has stated that the proposed flood risk measures as detailed in the SFRA will provide sufficient flood protection in advance of this scheme, and I am satisfied that this is the case. Furthermore, I note the Planning Authority have not objected to the principle of a development on this site, in advance of the completion of the proposed River Poddle Flood Scheme.

### **10.8. Site Services**

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<sup>1</sup> <https://gis.epa.ie/EPAMaps/>

- 10.8.1. Irish Water have not raised any objections to the foul water or water supply proposals as set out in the application documentation. The Planning Authority have not raised an in principle objection to the surface water proposals for the site, although have recommended some minor alterations in relation to same.

#### Surface Water

- 10.8.2. In relation to surface water drainage, the submitted Civil Engineering Infrastructure Report notes that the subject site is currently served by an existing 600mm diameter combined sewer which traverses the site and enters from the Harold's Cross Road. This discharges to the existing 3660mm diameter trunk sewer located in Parnell Road which runs adjacent to the Grand Canal; an existing 780mm x 350mm stone combined sewer enters the site from Limekiln Lane to the south and discharges to the 3660mm trunk sewer located in Parnell Road and an existing 450mm diameter vitrified clay combined sewer enters the site from Greenmount Lane to the west and discharges to the 600mm diameter combined sewer in the centre of the site.
- 10.8.3. The proposed surface water drainage system will collect storm-water run-off from the proposed residential development via a traditional pipework and manhole system laid within the proposed street network. Run-off from hard standing areas will be collected via collectors. Green roof technology will be incorporated into the development which will reduce the surface run-off from the roof while also improving the quality of water. Sustainable Urban Drainage Systems (SUDS) will be incorporated to reduce run-off volumes and improve run-off water quality.
- 10.8.4. I am satisfied that the principle of the proposed design is appropriate for the site, and any detailed technical requirements, such as those raised in the Drainage Report from the Planning Authority, can be agreed with the Planning Authority, and I recommend a standard condition be imposed on any permission, should the Board be minded to grant permission.

#### Water Supply

- 10.8.5. The proposed development will be served by a water supply connections to the existing watermains along Harold's Cross Road and Greenmount Lane. Irish Water have not cited any concerns in relation to same.

#### Foul

10.8.6. The site is currently served by an existing 600mm combined sewer which traverses the site and enters from the Harold's Cross Road. This in turn discharges to the existing 3660mm trunk sewer located in Parnell Road and runs parallel to the Grand Canal. This 3660mm trunk main ultimately discharges to the Ringsend WWTP to the east. The general foul sewer strategy for the development will be to discharge by gravity to this existing 600mm diameter combined sewer. Irish Water have not raised any capacity constraints in relation to foul water and have issued a Statement of Design Acceptance for the proposal.

#### 10.9. **Ecology/Trees**

10.9.1. I note that the Planning Report submitted by the Planning Authority does not raise specific concerns in relation to impacts on ecology and/or trees,

10.9.2. The Department of Housing, Local Government and Heritage (Development Applications Unit) have not raised any objections to the proposed development and recommend general conditions relating to appropriate timing of vegetation clearance and details of a finalised lighting scheme.

10.9.3. Observer submissions have raised concerns in relation to the impact on existing mature trees, the impact on ecology in general and the impact on wildlife species on and within the canal (inc pike, roach, perch and European Eel).

10.9.4. The application is accompanied by an Ecological Impact Assessment (EclA). Within this report it is noted that the nearest designated site is the Grand Canal pNHA which is located c60m north of the proposed development boundary but is not hydrologically connected to the proposed development. No protected habitats or flora were identified on site. The habitats on site consists of Treelines (WL2), Amenity grasslands (GA2), Buildings and Artificial Surfaces (BL3) and Ornamental/non-native shrub (WS3).

10.9.5. Three species of bat, were recorded within the lands during presence/absence surveys in 2020. In 2022, common pipistrelle, Leisler's bat and one unidentified pipistrelle species were recorded during the presence/absence surveys. Activity levels were generally low within the proposed development lands. No potential roosting features were observed in trees or buildings within the lands. The local bat populations using the proposed development site and the surroundings as foraging and commuting habitat are valued as being of local importance (higher value). There



were no signs of otter, badger or other protected mammal fauna on the site and as noted above. While otters are known to use the Grand Canal for commuting purposes, the site is not hydrologically connected to the same and the ECiA rules out the presence of otter habitat hydrologically connected to the proposed scheme. It is concluded that the site is of local importance (higher value) for small mammals as the site is potentially utilised for commuting and foraging by same.

- 10.9.6. In relation to birds, some common bird species were observed on the site and surrounding areas and the ECiA concludes that the site is of local importance for breeding birds. The site was considered to have low suitability for wintering birds (see also discussion in Section 12 'Appropriate Assessment').
- 10.9.7. The site is will not discharge directly into the Poddle or Grand Canal, and will not have an impact on the fish species within the Grand Canal. It is noted within the ECiA that, during flood events there is potential for discharge into the Poddle but this river does not have population of salmonoids or other fishery interests due to extensive culverting. Negative impacts on water quality are ruled out in any event (see also discussion in Section 12 'Appropriate Assessment' in relation to same).
- 10.9.8. In terms of residual impacts, following the implementation of mitigation measures that includes retention of all trees along the development boundary, no significant residual effects on habitats and flora are expected. With mitigation, including light control measures there will be no residual effects on bats. With mitigation, including appropriate timing of vegetation clearance, no significant residual effects on bird populations are expected. The ECiA concludes that the proposed development, with the implementation of mitigation measures as described in Section 6 of same, will not result in any significant ecological effects
- 10.9.9. In terms of the conclusions set out in the EcIA, as relates to impacts, I generally concur with same. I am satisfied that sufficient surveys have been carried out, both in relation to general ecology and in relation to bats, and overall I am satisfied that sufficient survey work was carried out in order to be able to arrive at the conclusions set out in the EcIA.
- 10.9.10. Having regard to the contents of the EcIA, and other relevant information on file, as well as having regard to the submissions from the Planning Authority, from Prescribed Bodies and from observers, I am satisfied that there will be no significant

adverse impacts on bats, birds of conservation concern, protected mammals such as badger or otter, or on any other species or habitat of conservation concern, subject to the mitigation measures being put in place. No adverse impacts on the surface water network will result from the proposed development (see further discussion of same in Section 12 of this report). I have discussed the issue of Natura 2000 sites specifically in Section 12 of this report.

10.9.11. In conclusion then, I consider that, subject to the recommendations of the appraisal being carried out, there would no significant ecological adverse impact arising from either the construction phase or from the operational phase of the development. Specifically in relation to bats, I am satisfied that, subject to the measures as outlined in the EcIA, as relates to appropriate lighting, being implemented there will be no adverse impacts on bats as a result of this development.

#### Trees

10.9.12. An Arboricultural Assessment (May 2022) has been submitted with the application. This notes that 63 of the 73 no. trees will be removed. This includes 13 no. category 'B' trees, 45 no. category 'C' trees and 5 no. category 'U' trees. It is noted that new tree, shrub and hedge planting is proposed to mitigate against the loss of trees and vegetation on site. Tree protection measures are set out for those trees that are to be retained.

10.9.13. I am of the view, that the removal of the trees as indicated above is necessary to facilitate the efficient use of the site, and I note that no category 'A' trees are to be removed. I am of the view that the proposed landscaping measures, including replacement tree planting, will have a positive impact on both biodiversity and on visual amenity.

#### **10.10. Other Issues**

##### Oral Hearing Request

10.10.1. The submission received from Harmsworth Ltd (owner of the adjacent Greenmount Office Park Unit No. 30-36). There is no specific grounds set out to justify the holding of an oral hearing but the submission raises issues in relation to the potential dominance of the proposed development, impacts on property values, impacts on daylight and sunlight and rights to light, as well as overlooking impacts. I have considered all of the above issues in the relevant sections of this report.

10.10.2. I note that Section 18 of the Act of 2016 provides that, before deciding if an oral hearing for a strategic housing development application should be held, the Board shall:

(i) have regard to the exceptional circumstances requiring the urgent delivery of housing, as set out in the Action Plan for Housing and Homelessness, and;

(ii) only hold an oral hearing if it decides, having regard to the particular circumstances of the application, that there is a compelling case for such a hearing.

10.10.3. Having regard to the circumstances of this case, to the issues raised in the observations and submissions received by the Board, including the submission of the observer above, I consider that there is sufficient information available on the file to reach a conclusion on all matters arising. I do not consider therefore that there is a compelling case for the holding of an oral hearing in this case.

#### Archaeology

10.10.4. The site is accompanied by an Archaeological Assessment (June 2022). This notes the present of a number of Recorded Monuments within the vicinity of the site, the closest of which is the Harold's Cross Settlement (DU018-050). It is noted that no previous excavations have taken place within the study area. It is noted that the study area does not contain any sites or monuments with a designated zone of notification. No RMP file exist within the study area. The report recommends that all works within the study area should be subject to archaeological monitoring. It is also stated that a limited programme of archaeological testing should be carried out, with three areas within the study area the focus of the testing. The submission from the DAU has recommend conditions in relation to archaeology, including the requirement for testing as suggested in the Archaeological Assessment. Should the Board be minded to grant permission, I recommend that such conditions are imposed.

#### Property Values

10.10.5. A number of submissions have stated the proposal will result in a reduction in property values. This contention is not supported by any evidence of same and I do not consider the Board has sufficient evidence before it to conclude that the proposal would have an adverse impact on property values.

#### Part V

10.10.6. The applicant has submitted Part V proposals as part of the application documents. 29 no. units are currently identified as forming the Part V housing.

10.10.7. I note the recent Housing for All Plan and the associated Affordable Housing Act 2021 which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board elects to grant planning consent, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development.

#### Planning History/Previous Refusals

10.10.8. I note a number of observers on the application, as well as Elected Members, have noted the previous refusals on the site, and it is felt that this proposal does not overcome the previous reasons for refusal, relating to a number of previous applications on this site. In relation to same I note that each proposal is considered on its individual merits, and I have considered this proposal on its merits and have found it to be broadly acceptable, subject to height reductions.

#### Lack of a Local Area Plan

10.10.9. A number of observers have cited the lack of a Local Area Plan for Harold's Cross. The preparation of a Local Area Plan is a matter for the Planning Authority.

#### Childcare Provision

10.10.10. An observer submission has contended that no detailed assessment of child care provision has been provided with the application. It is set out within a further submission that insufficient childcare spaces have been provided. I noted that a crèche has been provided within Block C (142.2 sq. m) which has a dedicated external play area (233 sq. m). This will cater for 39 no. children. This exceeds the requirements of the Guidelines for Planning Authorities on Childcare Facilities (2001), which sets out, in the absence of contrary evidence in terms of existing facilities or demographic profile, a minimum of one childcare facility with 20 places for each 75 dwellings (discounting the studio and one bed units from the requirement as allowed for under the Apartment Design Standards, 2020), which would require a facility catering for a minimum of 30 spaces.

### Limekiln Lane/Right of Way

- 10.10.11. An observer has stated that there has never been a right of way through Limekiln Lane and therefore the provision of the cycle/pedestrian access through same is not within the gift of the applicant. However, the right of access through the laneway to the site is a legal matter between the parties and is not within the scope of the Boards considerations under the subject application.

### Climate Change

- 10.10.12. Observer submissions have stated the demolition of the existing housing stock is not in keeping with the Council's commitments to climate change objectives.
- 10.10.13. In terms of climate change implications, I acknowledge that there is a level of embodied carbon with the existing dwellings, with emissions also resulting from the construction of the proposed development. Over the longer term however the improved energy efficiency of new housing stock may well result in decreased carbon emissions over the longer term, with such energy efficient measures set out in the submitted Energy Report and the Building Lifecycle Report.

### **10.11. Planning Authority's Submission**

- 10.11.1. While the Planning Authority have no objection in principle to height at this location, there are concerns in relation to the overall scale and height of the development and visual impact of same, from a number of viewpoints. It is recommended that the development is reduced in scale by omitting two floors from Block B and C and it is the view of the Planning Authority that this will allow for the development to more appropriately integrate with the existing environs of the area. Amended materials are also sought for some elements of the development. In other respects, the Planning Authority are generally supportive of the proposal and have not raised any fundamental objections to any other aspects of the proposed.
- 10.11.2. I have considered the Planning Authority's submission, including the recommendations that the proposed heights are reduced. I concur that some height reductions are necessary, but not necessarily in line with that suggested by the Planning Authority, and I refer the Board to Section 12.3 of this report for a detailed discussion of same.

### **10.12. Material Contravention**

10.12.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned. Paragraph (c) of same states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'. As noted in Section 10.2, I do not consider that the proposal materially contravenes the zoning objectives that pertain to the site.

10.12.2. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.12.3. The applicant has submitted a Statement of Material Contravention which refers to potential material contraventions of the Dublin City Development Plan 2016-2022 in relation to the matters of (i) Building Height and (ii) Unit Mix (iii) Minimum Internal Apartment Space Standards.

#### Height

10.12.4. In relation to height, the Material Contravention Statement refers to Section 16.7 of the Development Plan which sets out a range of permissible building heights for

different areas in the City. As per Figure 39 and Section 16.7.2 of the Development Plan, the subject site is located within the 'Outer City' area and 'low-rise' category. Accordingly, a maximum permissible building height of 16 m (commercial and residential) above ground level applies on the site.

10.12.5. As set out in the Material Contravention Statement the proposed building heights are as follows:

<b>Block</b>	<b>Building Height – Storeys</b>	<b>Building Height – Metres (m)</b>
A	4-7	13-22.3
B	2-3 & 5-9	8-28
C	4-8	13-28
D	4-5	13.5 – 16.7

10.12.6. All 4 no. blocks exceeds the 16m maximum permissible building height for low-rise areas as provided for under the Dublin City Development Plan with the 3 no. blocks A, B and C exceeding the height limitation by at least 6m with Blocks B and C exceeding the limitation by at 12m. I am of the view that these breaches in height are a material contravention of the Development Plan and this is also the view of the Planning Authority. As such I am of the view that if Board wished to consider a grant of permission that it should be done so having regard to the provisions of s.37(2)(b).

10.12.7. Justification is set out in the Material Contravention Statement for the breach in the height, with reference to the criteria of 37(2)(b). Reference is made to the provisions of the National Planning Framework, Rebuilding Ireland, Housing for All, and the Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) as well as relevant Section 28 Guidance is also referred to including the Urban Development and Building Heights – Guidelines for Planning Authorities (2018), Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual') 2009 and Sustainable Urban Housing: Design Standards for New Apartments (2020). The Material Contravention Statement has assessed the proposal against the

requirements of SPPR3 including an assessment against the criteria as set out in Section 3.2 of the Building Height Guidelines.

10.12.8. The Planning Authority note the contents of the Material Contravention Statement but have not recommended refusal of the application on the basis of height. However the Planning Authority have recommend the removal of two no. floors from Blocks B and C and I have concurred with this recommendation (see Section 12.3 for detailed discussion of same).

10.12.9. Observer submissions have stated the proposal is a material contravention of the Development Plan and there is insufficient justification for this, and it is set out the proposal does not comply with national policy and Section 28 guidelines, including the criteria as set out in Section 3.2 of the Building Height Guidelines.

10.12.10. I have set out my considerations of the proposal, as relates to the relevant criteria of 37(2)(b) of the Planning and Development Act, below.

10.12.11. In relation to the matter of strategic or national importance, (criteria 37(2)(b)(i) of the PDA 2000), the current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, and sought to expedite decision making around developments such as that proposed on this site in response to the housing crisis. I note the proposal represents the intensification of an important site and makes a contribution to the housing stock, of some 194 no. residential units, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery.

10.12.12. With reference to section 37(2)(b)(iii) of the Act, Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO 13 refers). Also of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support



sustainable development and seeks to increase densities in settlements, through a range of measures. In relation regional planning guidelines for the area and Section 28 Guidelines, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs.

10.12.13. In relation to relevant Section 28 Guidelines, given that the potential material contravention in this instance relate to the matters of height, those of most relevance are the Urban Development and Building Height Guidelines (2018), issued under Section 28 of the PDA 2000 (hereinafter referred to as the Building Height Guidelines). The Building Height Guidelines state that increasing prevailing building heights therefore has a critical role to play in addressing the delivery of more compact growth in our urban areas, particularly our cities and large towns through enhancing both the scale and density of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines. In principle, given the locational characteristics of this site, on a site that is well served by public transport, increased heights on this site are supported by the Building Height Guidelines, subject to a detailed consideration of the design merits of the proposal, including a consideration of the proposal in relation to the criteria as set out in Section 3.2 of the Guidelines. I have considered the merits, or otherwise, of the design of the proposed development, within Section 10.4 of this report, including a consideration of the criteria in Section 3.2 of the Height Guidelines and I have concluded that, subject to a reduction in height of Blocks B and C, as detailed in Section 10.3 of this report, I am satisfied the amended proposal complies with same.

10.12.14. Therefore, having regard to the considerations above, should the Board be minded to materially contravene the provisions of the Dublin City Development Plan 2016-2022, as relates to matter of height, in principle, it can do so having regard the criteria of 37(2)(b)(i) and (iii).

#### Unit Mix

10.12.15. In relation to unit mix, the applicant identifies that Section 16.10.1 of the Dublin City Development Plan 2016- 2022, states that each apartment development shall contain a maximum of 25-30% one-bedroom units and a minimum of 15% three

or more bedroom units. I have described in detail in Section 10.5 above the planning policy provisions in relation to unit mix and why I am satisfied that the proposed development is acceptable in this regard. In relation to potential material contraventions of the plan, I do not agree with the applicant that the proposed unit mix would result in a material contravention of the plan. The Development Plan states when introducing the Standards under section 16.10.1, that the Apartment Guideline standards apply. While the 2015 version of the guidelines is referenced, it is logical in my view, to take this as securing subsequent up-dates to those standards which supersede the 2015 version, and specifically the previous 2018 and current 2020 version. SPPR 1 of the Apartment Guidelines state 'PPR 1 of the Apartment Guidelines (2020), state that: *"Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s)'*.

- 10.12.16. As such the proposed mix of units is therefore compliant with SPPR 1 and is subsequently compliant with the Development Plan. Even if the Board are not of this view, I am satisfied that the provisions within section 16.10.1 of the Development Plan are clearly standards and deviation from these standards would not be likely to be of a material nature, particularly where there is compliance with contemporary and more up-to-date development standards.

#### Minimum Internal Apartment Space Standards

- 10.12.17. Section 16.10 of the Development Plan sets out minimum internal space requirements for living/dining/kitchen rooms, bedrooms and storage areas. It is set out in the Material Contravention Statement that some of the proposed dwellings do not meet the minimum room widths for main living/dining rooms and minimum bedroom floor areas of the CDP as follows:

- Block B – 2 no. units - units no.s B-22 and B32. These are 2 bedroom / 4 person units that are required to have an overall minimum floor area of 73sq.m as per

the CDP. Each of these two units have a total floor area of 86.88sq.m which exceeds the minimum required area by 13.8sq.m. The width of the living dining room for each of these units (No.s B-22 on 2nd floor and B32 on 3rd floor) is required to be a minimum of 3.6m, but are 3.3m as proposed.

- Studio Units – there are 3 no. studio units proposed as part of the overall development, 2 no. units (No.s B-07 & B-08) in Block B (ground floor) and 1 no. unit (No. D-17) in Block D (third floor). The CDP requires that the width of the living / dining room be 5sq.m with the 3 no. aforementioned units having living / dining room widths of 4.9m, 4.7m and 4.2m respectively.

10.12.18. In addition, the CDP requires that studio units have a minimum overall floor area of 40sq.m. Unit No.s B-07 and D-17 have an overall floor area of 39.82sq.m and 38.01sq.m which is less than the CDP required minimum of 40sq.m.

10.12.19. As noted above, the Development Plan states when introducing the Standards under section 16.10.1, that the Apartment Guideline standards apply. While the 2015 version of the guidelines is referenced, it is logical in my view, to take this as securing subsequent up-dates to those standards which supersede the 2015 version, and specifically the previous 2018 and current 2020 version.

10.12.20. As set out in Section 10.5 above, all of the proposed units meet the minimum overall floors area, room areas and widths and aggregate room areas and width as set out in Appendix 1 of the Apartment Guidelines. As such the proposed mix of units is therefore compliant with the Apartment Guidelines and is subsequently compliant with the Development Plan.

#### Conclusion on the issue of Material Contravention

10.12.21. I am of the view that the proposal represents a material contravention of the height parameters as set out in Section 16.7.2 of the Development Plan, for the reasons and considerations as set out above. I am not of the view that proposal materially contravenes any other provision of the Development Plan, for the reasons and considerations I have set out above, within the relevant sections of this report.

10.12.22. I am of the view that should the Board be minded to invoke the material contravention procedure, as relates to matters of height;

- In principle, meets the criteria of 37(2)(b)(i), as the development is strategic in nature and relates to matters of national importance (the delivery of housing);
- The proposal meets the criteria of 37(2)(b)(iii), as increased heights (generally, through increased densities of development) are supported by national and regional policy, and by relevant Section 28 Guidelines, namely the Urban Development and Building Height Guidelines (2018);

10.12.23. Specifically, should the Board be minded to invoke the material contravention procedure, as relates to the provisions of the Dublin City Development Plan 2016-2022 pertaining to height, I consider that, in principle, the provisions of Section 37(2)(b)(i) and (iii) have been met, and in this regard I consider that the Board can grant permission for the proposal, should it be minded to do so.

## 11.0 Environmental Impact Assessment (EIA) Screening

11.1.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIAR Screening Report and I have had regard to the same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a sub threshold Environmental Impact Assessment Report (EIAR) is not required in this instance as the proposed development will not have significant impacts on the environment.

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

- (i) Construction of more than 500 dwelling units;
- (iv) Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other built-up area and 20ha 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.)

11.1.3. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that an EIA is required for:

*“Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would*

*be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”*

- 11.1.4. The proposed development is for 194 residential units, 22 no. artist work studios (1,952 sq. m), 1 no. commercial unit (175 sq. m), a crèche (142.2 sq. m) and associated site works. The overall site area is approximately 1.01 ha. The proposed development is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations 2001 (as amended), in that it is less than 500 units and is below 10ha (that would be the applicable threshold for this site, being outside a business district but within an urban area). While there are business uses adjacent to the site, the site itself is predominantly residential in nature, with a number of artist studios within the existing warehouse. The wider area is a mix of uses included residential and commercial uses. I do not consider the site, or the immediate or wider area, could reasonably be described as a business district. Even it were defined as so, the proposed development would still fall below the applicable 2 ha threshold. Class 14 relates to 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. The proposed development comprises of the demolition of all existing structures on site (c. 5,356 sqm) which include (a) 4 no. 3 storey duplex residential buildings (48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey residential buildings (c. 40m<sup>2</sup> & 41m<sup>2</sup>) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at Clare Villas (c. 331m<sup>2</sup>) and (c) an existing warehouse (c. 1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane. All demolition works will be carried out in accordance with best practice in accordance with the submitted Construction and Demolition Waste Management Plan and the Construction and Environmental Management Plan. No likely significant impacts are likely to occur as a result of the proposed demolition works. I note that the site is a serviced brownfield site where there is existing residential and artistic uses. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. I note that the site is not designated for the protection of the landscape or of natural heritage. With mitigation measures in place, including pre-development testing and monitoring of groundworks, I am satisfied there will be no significant impact on archaeology (as set

out in Section 10.10 of this report). The site is not located within an Architectural Conservation Area. There are a number of Protected Structures in the wider areas, including those on Parnell Road to the north and north-west of the site. The applicant's EIA Screening report does not highlight any significant impacts on same. I note the contents also of the Architectural Heritage Impact Assessment, which does not highlight any significant negative impacts on the Protected Structures referred to above (although slight negative impacts are highlighted, as per the detailed discussion in Section 10.3 of this report). The proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site Code 000206), and North Bull Island SPA (Site Code 004006) or any European site, in view of the sites' conservation objectives (see Section 12 'Screening for Appropriate Assessment') The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It 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 Irish Water and Dublin City Council upon which its effects would be marginal.

- 11.1.5. The criteria at Schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of EIA. Section 299B(1)(b)(ii)(II)(A) of the regulations states that the Board shall satisfy itself that the applicant has provided the information specified in Schedule 7A. The submitted EIA Screening Report addresses the information under Schedule 7. It is my view that sufficient information has been provided within the documentation to determine whether the development would or would not be likely to have a significant effect on the environment. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts regarding other permitted developments in proximity to the site, and demonstrates that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and

characteristics of potential impacts. I have examined the sub criteria having regard to Schedule 7A and all other submissions, and I have considered all information which accompanied the application including *inter alia*:

- Daylight and Sunlight Assessment Report
- Housing Quality Assessment
- CGI and Verified Views
- Wind Microclimate Modelling Report
- Hydrological & Hydrogeological Qualitative Risk Assessment
- Environmental Impact Screening Report
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2011
- Outdoor Lighting Report
- Sustainability & Energy Report
- Architectural Heritage Impact Assessment
- Landscape Report (& Landscape Works and Maintenance Specification)
- Townscape and Visual Impact Assessment
- Archaeological Assessment
- Property Management Strategy Report
- Statement of Response to An Bord Pleanála's Notice of Pre-Application Consultation Opinion
- Universal Design Statement
- Building Life Cycle Report
- Social Infrastructure Assessment
- Material Contravention Statement
- Statement of Consistency
- Planning Report

- Arboricultural Assessment
- Appropriate Assessment Screening Report
- Ecological Impact Assessment
- Traffic and Transport Assessment and Mobility Management Plan
- Construction & Environmental Management Plan
- Site Specific Flood Risk Assessment
- Infrastructure Design Report

11.1.6. Noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account, I note that the applicant has submitted a 'Statement in Accordance with Article 299B (1)(b)(ii)(II)(C)'. This notes that the following assessments / reports have been submitted: -

- An AA Screening Report and an Ecological Impact Assessment, in support of the Habitats Directive (92/43/EEC) and Birds Directive (2009/147/EC);
- An AA Screening Report and Hydrological & Hydrogeological Qualitative Risk Assessment, in support of the Water Framework Directive (Directive 2000/60/EC);
- A Site Specific Flood Risk Assessment has been submitted, which was undertaken in response to the EU Floods Directive (2007/60/EC);
- A Construction and Environmental Management Plan (CEMP), in support of the Waste Framework Directive (2008/98/EC);

11.1.7. In relation to other relevant EU legislation, the Statement sets out the following:

- A Strategic Environmental Assessment (SEA) was undertaken as part of the preparation of the current 2016-2022 Dublin City Development Plan and as part of the 2022-2028 Draft Dublin City Development Plan in accordance with the provisions of the Strategic Environmental Assessment (Directive 2001/42/EC);



- A Strategic Flood Risk Assessment was undertaken as part of the preparation of the current 2016-2022 Dublin City Development Plan and as part of the 2022-2028 Draft Dublin City Development Plan in accordance with the provisions of the Floods Directive (2007/60/EC)
- Eastern-Midlands Region Waste Management Plan 2015-2021 was published by Dublin City Council on behalf of the Eastern-Midland Waste Region and this sets out how the requirements of the Waste Framework Directive (2008/98/EC) are met.

11.1.8. The EIAR Screening Statement prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purposes of EIA Screening.

11.1.9. I have taken into account all submitted documentation when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the nature and scale of the project, the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Regulations has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations, and as per the conclusions of the EIA screening assessment in Appendix A of this report.

## 12.0 Screening for Appropriate Assessment

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

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

- 12.1.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).
- 12.1.3. The applicant has submitted an Appropriate Assessment Screening Report (July 2022). The Screening Report has been prepared by Scott Cawley.
- 12.1.4. The Screening Report is underpinned by a habitat survey undertaken on 31<sup>st</sup> August 2020, with a confirmatory resurvey carried out on the 25<sup>th</sup> May 2022. A terrestrial fauna survey (excluding bats) was carried out on the 31<sup>st</sup> August 2020, with a confirmatory resurvey carried out on the 25<sup>th</sup> May 2022. Bird activity was recorded on the site during the 2020 survey and dedicated bird survey was also undertaken on 24<sup>th</sup> June 2022.
- 12.1.5. The Screening Report provides a description of the proposed development which is as generally as described in Section 3 of this report. It is noted that surface water from the site will discharge to the public network which ultimately discharges to the Ringsend WWTP. Foul water will discharge to the existing public sewer network for treatment at Ringsend WWTP, which ultimately discharges to Dublin Bay.

- 12.1.6. The AA Screening Report sets out an assessment of effects on European Sites and it is concluded within the AA Screening Report that the application, whether individually or in combination with other plans and projects, will have no impacts upon this site, nor any of the other Natura 2000 sites identified within the Zone of Influence and that the application does not need to proceed to Stage 2 of the Appropriate Assessment process.
- 12.1.7. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

#### Need for Stage 1 AA Screening

- 12.1.8. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

#### Brief Description of the Development

- 12.1.9. The applicant provides a detailed description of the project within the Screening Report. The development is also summarised in Section 3 of this Report.

#### Site Description

- 12.1.10. As set out in the applicant's AA Screening Report, the following habitat types were identified within the proposed development site; Amenity grassland (improved) (GA2), Treelines (WL2), Buildings and artificial surfaces (BL3) and. Ornamental/non-native shrub (WS3). The habitats on site largely comprise of buildings and artificial surfaces (BL3) and amenity grassland (GA2). There are no Annex I habitats present within the proposed development site or immediate environs. The treeline habitat within the proposed development is considered to be of local importance (higher value), whilst the rest of the habitats are considered to be of local importance (lower value) or of negligible importance. No Annex II flora were recorded on the development site.

- 12.1.11. In relation to Otter, the AA Screening Report notes that the most recent and closest record for otter (dated 1980) is from c. 60m north of the proposed development site, by the Grand Canal. No evidence of otter was recorded within the site during either field survey. The closest European site for which otter is a QI is the Wicklow Mountains SAC, c. 10km south of the proposed development site.
- 12.1.12. In terms of birds, the AA Screening Report notes that the site is within the normal foraging range of SCI species of North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA. The limited areas of suitable foraging habitat are also noted. No other SCI species of any European sites were recorded in the vicinity of the proposed development site during either survey. In relation to raptors, the desktop study found records for two SCI raptor species, namely hen harrier and peregrine falcon, within c. 2km of the proposed development. The nearest SPA designated for hen harrier is the Slieve Bloom Mountains SPA, located c. 79.1km west of the proposed development. The nearest SPA designated for peregrine falcon is the Wicklow Mountains SPA, located c. 10.2km south of the proposed development. There is no suitable rank grassland habitat within the lands for foraging hen harrier or peregrine falcon, and furthermore, neither of these species frequent urban areas and are typically found occurring in remote upland habitats, well removed from the site and its vicinity.
- 12.1.13. In relation to hydrology, the AA Screening Report notes that there are no major waterbodies within the proposed development site, however, it is noted that the Poddle flows northwards just west of the site, before entering the Liffey Estuary Lower c. 1.9km downstream of the site, which flows into Dublin Bay c. 6 km further to the east (Figure 3). The Poddle has an 'Unassigned' WFD status. The River Liffey located c. 1.9km downstream of the proposed development site, has 'Intermediate' WFD status and is 'at risk' according to the EPA. Dublin Bay itself has 'Good' WFD status and is 'not at risk' according to the EPA. The site is located within the Dodder sub-catchment in the Liffey and Dublin Bay catchment, which drains to Dublin Bay.
- 12.1.14. In relation to hydrogeology, the AA Screening Report notes that the bedrock aquifer underlying the proposed site is described as a 'Locally Important Aquifer - Bedrock which is Moderately Productive only in Local Zones'. The groundwater vulnerability underlying the site is largely 'moderate' but with a small area at the southern end of the site in the 'high' category. The Dublin groundwater body is currently classified by

the EPA as having 'Good Status' and is 'not at risk'. There is only one European site within the Dublin groundwater body designated for groundwater dependent terrestrial habitats and species, Rye Water Valley/Carlton SAC, c. 14.5km west (and upstream via different watercourses) of the proposed development site.

#### Submissions and Observations

12.1.15. The Planning Authority have not raised any issues as relates to Appropriate Assessment, nor have objections being raised in relation to surface water proposals. Irish Water have not raised any issues in relation to foul water proposals, nor have Irish Water cited capacity constraints as relates to foul water drainage or treatment.

12.1.16. The Department of Housing, Local Government and Heritage (Development Applications Unit) have not raised any issues specifically in relation to Appropriate Assessment although recommend general conditions relating to appropriate timing of vegetation clearance and details of a finalised lighting scheme.

12.1.17. One Observer submission has stated that the information provided by the applicant contains lacunae and is not based on appropriate scientific expertise and that the proposed development does not comply with the requirements of the PDA 2000 (as amended) and does not comply with the requirements of the Habitats Directive. Other Observer submissions have not raised any issues as relates specifically to impacts on European Sites but more generally concerns are raised in relation to impacts on ecology including impacts on wildlife species on and within the canal (inc pike, roach, perch and European Eel) and impacts on the mature trees within the site.

#### Zone of Influence

12.2. The submitted AA Screening Report does not set out a 'Zone of Influence' *per se* but seeks to identify any source-pathway-receptor connections, where existing, between the proposed development and European sites. The European sites within the vicinity of the proposed development (a 15km buffer) is also set out in Figure 2 of the AA Screening Report and further details of same are set out in Appendix 1 of the AA Screening Report. A summary of these European Sites that occur within a 15km radius of the proposed development is presented in the Appendix 1 AA Screening Report. I have set out a summary of same below in Table 1 below

**Table 1**

Site (site code)	Distance from site	Qualifying Interests	Conservation Objectives;
South Dublin Bay and River Tolka Estuary SPA (004024)	4.3 km east	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p>	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.

		Wetland and Waterbirds [A999]	
South Dublin Bay SAC (000210)	4.3 km east	<p>Mudflats and sandflats not covered by seawater at low tide [1140].</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Dalkey Islands SPA (004172)	13.4 km south	<p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Rockabill to Dalkey Island SAC (003000)	13.8 km south-east	<p>Reefs [1170]</p> <p>Harbour Porpoise (<i>Phocoena phocoena</i>) [1351]</p>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

North Bull Island SPA (004006)	7.2km north- east	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p>	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA.
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		<p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
North Dublin Bay SAC (000206)	7.3 km north-east	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

		Petalophyllum ralfsii (Petalwort) [1395]	
Knocksink Wood SAC (000725)	13.7 km south	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Wicklow Mountains SAC (002122)	10 km south	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain</p>	To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.

		<p>areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Otter (Lutra lutra) [1355]</p>	
Wicklow Mountains SPA (004040)	10.2 km south	<p>Merlin (Falco columbarius) [A098]</p> <p>Peregrine (Falco peregrinus) [A103]</p>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Howth Head Coast SAC (000202)	12.8km north-east	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	To maintain or restore the favourable conservation condition of the

		European dry heaths [4030]	bird species listed as Special Conservation Interests for this SPA.
Howth Head Coast SPA (004113)	14.8km north- east	A188] Kittiwake ( <i>Rissa tridactyla</i> )	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
Baldoyle Bay SAC (000199)	12.5 km north- east	Mudflats and sandflats not covered by seawater at low tide [1140]  Salicornia and other annuals colonising mud and sand [1310]  Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330]  Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
Baldoyle Bay SPA (004016)	12.5 km north- east	Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137]  Shelduck ( <i>Tadorna tadorna</i> ) [A048]	To maintain or restore the favourable conservation condition of the bird species and habitats listed as

		Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046]	Special Conservation Interests for this SPA.
Glenasmole Valley SAC (001209)	9.9 km south-west	Semi-natural dry grasslands and scrubland facies on calcareous substrates ( <i>Festuco-Brometalia</i> ) [6210] Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) [6410] Petrifying springs with tufa formation ( <i>Cratoneurion</i> ) [7220]	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

12.3. The specific qualifying interests and conservation objectives of the above sites are described in Table 1 above. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including the AA Screening Report and the Ecological Impact Assessment (EclA), observations on the application made by prescribed bodies and observers, and I have also visited the site.

- 12.3.1. In terms of determining the zone of influence, I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, I am of the view that the arbitrary use of the 15km radius is not necessary to determine a Zone of Influence, but rather identification of possible impact pathways should determine same and I have set out my consideration of same below.

#### Habitat Loss and Fragmentation

- 12.3.2. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. The proposed site does not support populations of any fauna species links with the qualifying interest or special conservation interests of any European Site. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or nor will it result in a loss of any *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area.
- 12.3.3. There are no other evident impact pathways, noting in particular the lack of suitable habitats on the site for any species of conservation interest associated with any European Site and the lack of habitat suitable for any birds of special conservation interest associated with any European Site. There is no evidence the site lies in a sensitive location as regards to birds nor that the height of the buildings at a maximum of 9 storeys would pose a danger in relation to bird strike. The maximum height proposed is not significantly higher than the maximum height of existing block. I also note that the site itself, as existing, is not deemed to represent suitable *ex-situ* feeding/roosting habitat for any species associated with a Natura 2000 site. As set out in the AA Screening Report, SCI species, herring gull were recorded flying over the proposed development site during breeding bird surveys. The nearest SPA to the proposed development site designated for wintering special conservation interest species is the South Dublin Bay and River Tolka Estuary SPA, located c. 4.2km east of the proposed development. While the proposed development is within the normal foraging range of SCI species of this European site it has no suitable habitat (i.e. open amenity grasslands) for wintering SCI species, such as light-bellied Brent goose. The available grasslands within the proposed development site are considered too small in size, and too enclosed by other habitats for foraging and/or roosting wintering SCI species.

#### Habitat degradation as a result of hydrological impacts

- 12.3.4. The surface water outfall is at the Ringsend WWTP with the eventual outfall to Dublin Bay. The foul water discharge from the site is treated at Ringsend WWTP which discharges into Dublin Bay (at the point of the River Liffey Estuary). The surface water and foul water proposals provide indirect hydrological connections from the site to Dublin Bay Natura 2000 sites. Therefore the indirect hydrological connection of key relevance is that relating to the Natura 2000 Sites in the vicinity of Dublin Bay (that is North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210). It is reasonable to assume that, where the water quality and the conservation objectives of the European sites immediately proximate to Dublin Bay (i.e. North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)) are unaffected by the proposed development, having regard to the source pathway model, the conservation objectives of those European sites at a greater distance would also be unaffected.
- 12.3.5. It is noted within the Screening Report that, during times of flood there is potential drainage into the Poddle via unmapped underground drains. As noted in the Screening Report, this river is located 95m west of the proposed development, and is entirely culverted beneath Dublin City until it discharges into the Liffey Estuary Lower 2km downstream. I am of the view that other indirect pathways to the Dublin Bay site do exist at construction stage via contaminated run off entering the public surface water drainage network, and outfalling subsequently into Dublin Bay via the Ringsend WWTP.

#### Habitat degradation as a result of hydrogeological impacts

- 12.3.6. As noted in the AA Screening Report, the proposed development lies within the Dublin Groundwater Body (Dublin GWB) and the only European site within this groundwater body that is designated for groundwater dependent habitats and/or species is the Rye Water Valley/Cartron SAC, located c. 14.5km west of the proposed development. The AA Screening Report refers to information published by Geological Survey Ireland (GSI) on the Dublin GWB which states that 'The general groundwater flow direction in this aquifer is towards the coast and also towards the

River Liffey and Dublin City'. I concur then with the conclusion in the AA Screening Report which states that, as the proposed development is separated from the Rye Water Valley/Carlton SAC by several waterbodies and located downstream of the SAC, it cannot influence groundwater conditions in the European site.

#### Other Possible Effects

- 12.3.7. Other possible effects, including that relating to invasive species and disturbance and displacement impacts are also ruled out in the AA Screening Report and I concur with the reasoning and conclusions reached therein in relation to same.

#### Conclusion on the extent of the Zone of Influence

- 12.3.8. I am of the view that the only sites that are within the 'Zone of Influence' of the proposed development are those sites in or associated with Dublin Bay, due to indirect connections via the surface water network, and foul water discharge via the Ringsend WWT. In relation to other sites, I am satisfied that the potential for impacts on the other Natura 2000 Sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.
- 12.3.9. Those sites which I have concluded lie within the 'Zone of Influence' of the proposed development are set out below:

- **North Bull Island SPA (004006), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and South Dublin Bay SAC (000210)** - Potential impacts have been identified from surface water run-off during construction and operation and from operational wastewater discharges.

- 12.3.10. The species of qualifying interest/special conservation interest, and the conservation objectives of the above sites are set out in Table 1 above.

#### **Assessment of Likely Significant Effects**

##### Habitat degradation as a result of hydrological impacts

- 12.3.11. I note that standard construction practices and best practice construction measures, as relates to the prevention of surface water pollution at construction stage, as outlined in detail in the Construction Environmental Management Plan, would prevent polluted surface water from entering the surface water drainage network. However, even in the absence of the above measures, I note that the site is at least



5.3 km from the Ringsend WWTP to eventual discharge into the Lower River Liffey Estuary. As such the ecological connection is somewhat weak, in my view, and I would consider that any contaminants (i.e. such as oils, hydrocarbons, silt etc) would be sufficiently dispersed and diluted by the point of entry into Dublin Bay such that likely significant effects on the Dublin Bay Natura sites referred to above can be ruled out. Similar principles apply to potential discharge to the River Poddle. The AA Screening Report, notes that that during times of flood there is potential drainage into the Poddle via unmapped underground drains. The Poddle is located 95m west of the proposed development, however as this is entirely culverted beneath Dublin City until it discharges into the Liffey Estuary Lower 2km downstream. The Screening Report refers to a 'Hydrological and Hydrogeological Qualitative Risk Assessment Report' submitted with the application (AWN, 2022). This report, based on a conceptual site model, indicate that surface water run-off from the proposed development will not result in any perceptible impact on water quality in downstream receiving waters in Dublin Bay (and the European Sites therein). I have considered this report as part of this assessment and concur with the conclusions therein.

12.3.12. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the 'Infrastructure Design Report' and within the 'Site Specific Flood Risk Assessment' will serve to limit the quantity and improve the quality of surface water runoff. These include interception storage measures with on site-attenuation during heavy rainfall events. It is also proposed to restrict outflows from the site. These SuDS measures are proposed to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. These installations have not been introduced to avoid or reduce an effect on any effect on any Natura site and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological connection to a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of 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 an urban site whether or not they were explicitly required by the

terms or conditions of a planning permission. As such, I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on any Natura 2000 within Dublin Bay, or any other Natura 2000 sites, having regard to the sites' conservation objectives. Notwithstanding, and even if these standard work practices were not employed, or should they fail for any reason, and pollutants enter Dublin Bay indirectly via the public surface water network, I am of the view that any such contaminants would be sufficiently dispersed and diluted within the surface water network and within the estuarine/marine environment of Dublin Bay, such that likely significant effects on those Natura 2000 sites within and adjacent to Dublin Bay can be ruled out.

12.3.13. In conclusion therefore, while there is an indirect connection to Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA and North Dublin Bay SAC and North Bull Island SPA, via the surface water network, I am of the view that any particulates or pollutants will be diluted within the surface water network and the marine /estuarine environment of Dublin Bay and would not be seen to be at levels that would cause significant effects on the Dublin Bay SAC, the South Dublin Bay and River Tolka Estuary SPA, the North Dublin Bay SAC or North Bull Island SPA. As such likely significant effects on the Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA and North Dublin Bay SAC and North Bull Island SPA can be ruled out.

#### Foul Water

12.3.14. With regard to wastewater, this will discharge to Ringsend WWTP. Information on the Irish Water website indicates that the Ringsend WWTP plant is operating above its capacity of 1.64 million P.E. with the average daily load received at Ringsend Wastewater Treatment Plant in 2019 being 1.98 million population equivalent with peaks well in excess of this. I note that Ringsend WWTP operates under a discharge licence from the EPA (D0034-01) and must comply with the licence conditions. In this regard, upgrade works have been permitted and are underway on the WWTP which will eventually cater for a 2.4 million population equivalent when completed in 2025, with phased upgrades allowing for 2.1 million population equivalent by 2023<sup>2</sup>.

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<sup>2</sup> <https://www.water.ie/projects/local-projects/ringsend/>

However, notwithstanding the proposed upgrading works, I am of the view that the effluent volumes from the proposed development would be insignificant given the overall scale of the Ringsend facility and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay and therefore would not have an impact on the current Water Body Status (as defined within the Water Framework Directive). I do not consider that foul loading associated with this project (0.054% of the peak hydraulic capacity at Ringsend WWTP – as set out in the Hydrological and Hydrogeological Qualitative Risk Assessment) would result in significant effects on the Dublin Bay and its associated SACs and SPAs. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay.

- 12.3.15. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. Furthermore, other projects within the Dublin Area which can influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality in Dublin Bay.

Cumulative impacts with other proposed/existing developments

- 12.3.16. I note that project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Ringsend WWTP. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area, and in this area, by the Dublin City Development Plan 2016-2022. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a relatively small development of 194 residential units and associated site works. The site is on serviced lands in an urban area and does not

constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, as noted above, upgrade works have commenced on the Ringsend Wastewater Treatment works permitted under ABP PL.29N.YA0010 and this facility is subject to EPA licencing and associated Appropriate Assessment Screening.

12.3.17. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

#### AA Screening Conclusion

12.3.18. It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site Code 000206), and North Bull Island SPA (Site Code 004006) or any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

### **13.0 Conclusion and Recommendation**

13.1.1. The proposed development is acceptable in principle at this site with regard to the relevant zoning objectives of the Dublin City Development Plan 2016-2022. The provision of a development of the nature and scale proposed development at this location is desirable having regard to its location within the Dublin Metropolitan Area, its proximity to existing public transport services and having regard to the existing pedestrian and cycle infrastructure facilities. In addition, the site is located in an area with a wide range of social infrastructure facilities. Subject to a reduction in height of proposed Block B, of the order of two storeys, and subject to a reduction in height of proposed Block C, of the order of one storey, I am satisfied that the resultant height, bulk and massing, detailed design and layout of the scheme are acceptable. I am also satisfied that the development would not have any significant adverse impacts

on the amenities of the surrounding area, subject to the height reductions as recommended within the main body of this report. The future occupiers of the scheme will also benefit from a high standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable, subject to conditions. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

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

## **14.0 Recommended Order**

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: Dublin City Council**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 27<sup>th</sup> July 2022 by The Adroit Company Limited, care of Delphi Architects and Planners, 13 Seapoint Building, 44/45 Clontarf Road, Clontarf, Dublin 3.

#### **Proposed Development:**

The proposed development provides for 194 no. dwellings comprised of studio, 1, 2 & 3 bed apartment units in 4 no. 2-9 storey blocks (Blocks A-D). The development also includes 1 no. commercial / retail unit (c.175m<sup>2</sup>) at ground floor level of Block A, 1 no. creche (142.2m<sup>2</sup>) at ground floor level of Block C and 22 no. artist work studios and exhibition space (1,958m<sup>2</sup> GFA) at ground & 1st floor level of Block D, all on a site area of 1.01Ha.

Permission is sought for the demolition of all existing buildings on site (c. 5,356m<sup>2</sup>), i.e. (a) 4 no. 3 storey duplex residential buildings (i.e. 48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey detached dwellings i.e. No.s 49 & 50 (c. 40m<sup>2</sup> & 41m<sup>2</sup> respectively) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at No.s 1-3

Clare Villas (c. 331m<sup>2</sup> in total) and (c) an existing warehouse (c.1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane.

Vehicular access to the proposed development will be via Harold's Cross Road, utilizing the existing entrance to Harold's Bridge Court. Limited vehicular traffic will be allowed enter the site from Greenmount Lane, with no vehicular traffic progressing through the entire development. Pedestrian and cyclist access is proposed via Greenmount Lane, Limekiln Lane and Harold's Cross Road.

The proposed development consists of the following:

Block A is a four to seven storey building accommodating 56 no. dwellings comprised of 29 no. 1 bed & 27 no. 2 bed apartments. Block A also includes 1 no. commercial / retail unit (c.175m<sup>2</sup>) at ground floor level, with a communal amenity room (c.35m<sup>2</sup>) and 2 no. communal roof gardens (c.144m<sup>2</sup> & c.39m<sup>2</sup> respectively) on the 6<sup>th</sup> floor. Bin and bicycle stores, sub-station & switch room are accommodated at ground floor. Block B is a two-three and five-nine storey building accommodating 56 no. dwellings comprised of 2 no. studio units, 20 no. 1 bed, 32 no. 2 bed & 2 no. 3 bed apartments. Block B also includes a communal amenity room (c.53m<sup>2</sup>) on the 3rd floor, with a communal roof garden (c.164m<sup>2</sup>) also on the 3rd floor. Bin and bicycle stores are accommodated at ground floor.

Block C is a four to eight storey building accommodating 57 no. dwellings comprised of 15 no. 1 bed, 39 no. 2 bed & 3 no. 3 bed apartments. Block C also includes a 1 storey creche (142.2m<sup>2</sup>) at ground floor level, with associated outdoor play space (c.233m<sup>2</sup>), bin stores at ground floor level and a communal amenity room (c.50m<sup>2</sup>) on the 7th floor, with a communal roof garden (c.169m<sup>2</sup>) also on the 7th floor.

Block D is a four to five storey building accommodating 25 no. dwellings comprised of 1 no. studio unit, 16 no. 1 bed, 7 no. 2 bed & 1 no. 3 bed apartments. Block D also includes 22 no. artist work studios and exhibition space (1,958m<sup>2</sup>) at ground & 1st floor level, and communal open space (c.124m<sup>2</sup>) at 2nd floor level. Bin and bicycle stores are accommodated at ground floor.

The proposed development provides for public open space (c.1,355m<sup>2</sup>), hard and soft landscaping & boundary treatments. Communal residential amenity areas and open spaces are provided for in the form of communal roof gardens and communal rooms associated with the individual blocks. Additional communal open space is

provided at ground level totalling c.577m<sup>2</sup>. Private open spaces for the proposed dwellings are provided as terraces at ground floor level of each block and balconies at all upper levels.

Car parking is to be provided in the form of surface and basement level car parking (65 no. spaces in total). Blocks B & C are located above the proposed basement, which accommodates 58 no. car parking spaces (including EV parking), 4 no. motorcycle spaces and 426 no. bicycle parking spaces (inclusive of 8 no. cargo bike spaces & 48 no. electric bicycle spaces). There are an additional 7 no. surface level car parking spaces proposed (including 4 no. club car spaces), and 50 no. surface bicycle parking spaces. Bicycle parking is also accommodated at ground floor level within Blocks A, B & D (104 no. spaces in total).

The proposed development includes for all associated site development works above and below ground, bin & bicycle stores, plant (M&E), 2 no. sub-stations, public lighting, servicing, signage, surface water attenuation facilities etc.

## **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

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

- (a) the location of the site in an established urban area, with the zoning objectives for the site allowing for residential development;
- (b) the policies and objectives of the Dublin City Development Plan 2016-2022;
- (c) Housing for All - a New Housing Plan for Ireland 2021;

- (d) the National Planning Framework which identifies the importance of compact growth;
- (e) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (f) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (g) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018 and particularly Specific Planning Policy Requirement 3;
- (h) Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (i) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (j) Architectural Heritage Protection – Guidelines for Planning Authorities (2011);
- (k) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (l) The pattern of existing and permitted development in the area;
- (m) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan;
- (n) The submissions and observations received;
- (o) The Chief Executive Report from the Planning Authority; and
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

### **Appropriate Assessment**



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

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The existing use on the site and pattern of development in surrounding area;
- (c) The availability of mains water and wastewater services to serve the proposed development,
- (d) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(e) 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),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction & Environmental Management Plan, the Ecological Impact Assessment, the Infrastructure Design Report, the Arboricultural Assessment, the Traffic and Transport Assessment and Mobility Management Plan, the Site Specific Flood Risk Assessment and the Hydrological & Hydrogeological Qualitative Risk Assessment;

the Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, subject to a reduction in height of proposed Block B, of the order of two storeys, and subject to a reduction in height of proposed Block C, of the order of one storey, would be acceptable in terms of pedestrian safety and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the provisions of the Dublin City Development Plan 2016-2022, with regard to building height.

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

in material contravention of the provisions of Section 16.7. 2 'Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development' of the Dublin City Development Plan 2016-2022' would be justified for the following reasons and considerations:

- The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature, in that it is part of a cumulative response to a strategic issue of national importance (i.e. the provision of housing and compact urban growth). National policy as expressed within 'Housing for All - a New Housing Plan for Ireland 2021' and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development. The proposal represents the regeneration of an important site and makes a contribution to the housing stock, of some 194 residential units, and therefore seeks to address a fundamental objective of the Housing Action Plan, and as such addresses a matter of national importance, that of housing delivery;
- Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. It is set out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth and seeks to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements;
- The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs;
- The Urban Development and Building Height Guidelines (2018), state that increasing prevailing building heights has a critical role to play in addressing the delivery of more compact growth in our urban areas through enhancing the scale of development. It is further set out that building heights must be generally increased in appropriate urban locations, subject to the specific criteria as set out in Section 3.2 of the Guidelines, which the Board considers have been satisfactorily addressed in this instance, subject to a reduction in height of proposed Block B, of the order of two storeys, and subject to a reduction in height of proposed Block C, of the order of one storey.

## 15.0 Conditions

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

**Reason:** In the interest of clarity.

2. The proposal shall be amended as follows:
  - (a) The seventh and eight floors shall be omitted from Block B (Omission of Units B-52, B-53, B-54, B-55 and B-56).
  - (b) The seventh floor shall be omitted from Block C (Omission of Units C-54, C-55, C-56 and C-57). In addition, on the sixth floor of Block C, Units C-47, C-48 and C-49 shall be omitted, and the communal roof garden and communal space shall be accommodated within the resultant floor area.

The remaining quantum of units permitted therefore is 182 no. units.

Amended plans detailing the above amendments shall be submitted and agreed in writing with the planning authority prior to the commencement of the development.

**Reason:** In the interests of visual amenity.

3. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

**Reason:** In the interests of proper planning and sustainable development.

4. Prior to the occupation of the development, details of the proposed end user of the ground floor retail/commercial unit within Block A shall be submitted for the written agreement of the planning authority. Class 2 office or professional uses shall not be permitted without a separate grant of planning permission.

In addition, prior to the occupation of this unit, details of proposed opening hours, signage, lighting, shopfronts and layout and window treatment of the subject unit shall be agreed in writing with the planning authority.

5. Reason: In the interests of clarity and the proper planning and sustainable development of the area.
6. All mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Arboricultural Assessment, the Construction and Environmental Management Plan (CEMP), the Site Specific Flood Risk Assessment and subsequent reports submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

7. The following requirements in terms of traffic, transportation and mobility, and DMURS, shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
  - a. Prior to the commencement of the development, all works to the public road and footpath to facilitate vehicular access to the development shall be agreed in writing with DCC Environment and Transportation Department, including alterations to footpath and kerb dishing and line markings. Works and materials shall be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council.
  - b. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
  - c. The developer/applicant shall undertake to implement the measures outlined in the Mobility Management Plan and to ensure that staff and residents comply with this strategy.

- d. The applicant shall ensure that there is no conflict between the landscaping, street lighting and street furniture within the public realm and the routes required for emergency vehicle access throughout the sit
- e. A demolition management plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended demolition practice for the development, including traffic management, hours of working, noise and dust management measures and off-site disposal of demolition waste.
- f. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of development, shall be at the expense of the developer.
- g. The developer shall be obliged to comply with the requirements set out in the Code of Practice.

**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

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

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

- 9. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

10. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

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

12. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

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

**Reason:** In the interest of public health.

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of

the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

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

17. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise and vibration 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.

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

18. 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.

**Reason:** To protect the residential amenities of property in the vicinity.

19. 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.



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

20. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

21. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

**Reason:** To comply with the Councils taking in charge standards.

22. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) The applicant is required to engage the services of a suitably qualified archaeologist to co-ordinate and finalise the mitigation proposals contained in the Archaeological Assessment (Section 5, page 29) for archaeological testing in advance of construction works and Archaeological Monitoring of ground disturbance at construction stages across the development site.

(c) Should previously unidentified archaeological material be found during the course of testing and monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

(d) The archaeologist shall also assess the site and monitor all site development works. The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

23. 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 public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as

amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

25. 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 for Dublin City Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

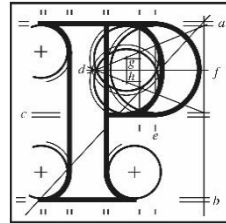
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Rónán O'Connor  
Senior Planning Inspector

03<sup>rd</sup> October 2022



## Appendix A: EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-314124-22
Development Summary		Demolition of existing buildings on site, construction of 194 no. apartments, creche and associated site works.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted with the application

<b>2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	<b>No</b>	
<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	<b>Yes</b>	Please see Section 11 of Inspector's report for details of same.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			

<p><b>1.1 Is the project significantly different in character or scale to the existing surroundings or environment?</b></p>	<p><b>No</b></p>	<p>The proposed development would not be unusual in the context of this location, given the existing uses on the site. While the proposed building heights would not be in character or scale with surrounding heights, the proposed development is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development, such as to warrant the submission of an EIAR.</p>	<p>No</p>
<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>The proposed development comprises of the demolition of all existing structures on site (c. 5,356 sqm) which include (a) 4 no. 3 storey duplex residential buildings (48 no. dwellings, c. 3,542m<sup>2</sup>) and 2 no. 1 storey residential buildings (c. 40m<sup>2</sup> &amp; 41m<sup>2</sup>) all within Harold's Bridge Court, (b) 3 no. 2 storey houses at Clare Villas (c. 331m<sup>2</sup>) and (c) an existing warehouse (c. 1,248m<sup>2</sup>) and ancillary structures (c.154m<sup>2</sup>) fronting onto Greenmount Lane. All demolition works will be carried out in accordance with best practice in accordance with the submitted Construction and Demolition Waste Management Plan and the Construction and Environmental Management Plan.. All demolition works will be carried out in accordance with best practice in accordance with the submitted Construction and Demolition Waste Management Plan and the Construction</p>	<p>No</p>

		and Environmental Management Plan. No likely significant impacts are likely to occur as a result of the proposed demolition works.	
<b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b>	<b>Yes</b>	Construction materials will be typical of such urban development. Development of this site will not result in any significant loss of natural resources or local biodiversity.	No
<b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b>	<b>Yes</b>	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No



<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p><b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains water and drainage services. Irish Water have not cited any capacity constraints in relation to the foul water connection.</p>	<p>No</p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts. Lighting is designed to avoid overspill to adjoining lands</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health.</p> <p>No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. Notwithstanding that the SFRA submitted with the application concludes that the site lies within Flood Zone B, I am satisfied that the proposed mitigation measures, including proposed Finished Floor Levels (FFLs) and the proposed</p>	<p><b>No</b></p>

		<p>surface water management measures outlined in the Infrastructure Design Report and associated drawings, are sufficient to ensure that the proposed residential and other uses on the site, and residents adjacent to the site will not be at an increased risk of flooding.</p> <p>There are no Seveso / COMAH sites in the vicinity of this location.</p>	
<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	<p>Redevelopment of this site as proposed will result in an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.</p>	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	<p>The site is a brownfield site with existing residential and artist studios uses on the site. The zoning of the site allows for a residential led development and the development of this site has been foreseen by the Dublin City Development Plan 2016-2022, which has undergone an SEA and has been subject to a Strategic Flood Risk Assessment (SFRA). Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	<b>No</b>

<b>2. Location of proposed development</b>			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li><b>1. European site (SAC/ SPA/ pSAC/ pSPA)</b></li> <li><b>2. NHA/ pNHA</b></li> <li><b>3. Designated Nature Reserve</b></li> <li><b>4. Designated refuge for flora or fauna</b></li> <li><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></li> </ol>	<b>Yes</b>	There are no conservation sites located on the site. I refer to Section 10.9 of this report in relation to potential impacts on NHA's or pNHA, and I have ruled out potential impacts on same. I have considered the impacts on European Sites in Section 12 of this report. In this section I have concluded that, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives. The site is not a place, site or feature of ecological interest which is referred to in the Dublin City Development Plan 2016-2022.	<b>No</b>
<b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b>	<b>No</b>	No such uses on the site and no impacts on such species are anticipated.	<b>No</b>

<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>Yes</b></p>	<p>The site is not designated for the protection of the landscape or of natural heritage. With mitigation measures in place, including pre-development testing and monitoring of groundworks, I am satisfied there will be no significant impact on archaeology (as set out in Section 10.10 of this report). The site is not located within an Architectural Conservation Area. There are a number of Protected Structures in the general vicinity of the site, including those on Parnell Road, to the north and north-west of the site. The Applicant's EIA Screening report does not highlight any significant impacts on same, although the Architectural Heritage Impact Assessment identifies slight (but not significant) negative impacts and I have concurred with same. However, I am satisfied that any significant impacts on the Protected Structures referred to above can be ruled out</p> <p>In conclusion I am of the view that there will be no significant negative impacts on any features of landscape, historic, archaeological, or cultural importance.</p>	<p><b>No</b></p>
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<b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b>	<b>No</b>		No
<b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b>	<b>No</b>	There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. It is concluded within the Hydrological and Hydrogeological Qualitative Risk Assessment Report submitted with the application (AWN, 2022) that surface water run-off from the proposed development will not result in any perceptible impact on water quality and there is no evidence on file to warrant a different conclusion and I therefore concur with same.	No
<b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b>	<b>No</b>	There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion.	No

<b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b>	<b>No</b>	The site is served by a local urban road network.	No
<b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b>	<b>No</b>	There are no sensitive land uses that could be affected.	No

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	<p>Appendix A of the Applicant's Environmental Report summarises the recent planning permissions granted in the immediate vicinity of the subject site and it is set out within the EIA Screening Report that, based on the assessment of the environmental sensitivities in the existing environment and consideration of potential cumulative impacts, it is concluded that there are no likely cumulative environmental impacts which would warrant preparation of an EIAR.</p> <p>In relation to same, I concur with the conclusions in the EIA Screening Report in relation to potential cumulative impacts</p>	<b>No</b>

		and I am of the view that no developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

C. CONCLUSION			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		



#### D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) The existing use on the site and pattern of development in surrounding area;
- (d) The availability of mains water and wastewater services to serve the proposed development,
- (e) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (f) 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),
- (f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction & Environmental Management Plan, the Ecological Impact Assessment, the Infrastructure Design Report, the Arboricultural Assessment, the Traffic and Transport Assessment and Mobility Management Plan, the Site Specific Flood Risk Assessment and the Hydrological & Hydrogeological Qualitative Risk Assessment, it is considered that the proposed development would not be likely to have significant effects on

the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

**Inspector:** \_\_\_\_\_ **Ronan O'Connor**

**Date:** 03<sup>rd</sup> October 2022