



An
Bord
Pleanála

Inspector's Report ABP-314220-22

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| Development | Alterations to and extension of the previously approved residential development (Reg. Ref. 2800/20 & ABP Ref. 309742/21) |
| Location | Sandymount Avenue, Sandymount, Dublin 4. |
| Planning Authority | Dublin City Council South |
| Planning Authority Reg. Ref. | 3420/22 |
| Applicant | Klairon Construction Limited |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellants | Jeremy And Miranda Humphries |
| Observers | Vincent Ryan Maura Doyle Sandymount and Merrion Residents Association |
| Date of Site Inspection | 22 nd August 2023 |
| Inspector | Margaret Commane |

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1.0 Site Location and Description

- 1.1. The area surrounding the subject site, at Sandymount Avenue, Sandymount, Dublin 4, is a mature residential area featuring a mix of two and three storey detached and semi-detached dwellings (some of which are Protected Structures) in a variety of architectural styles, interspersed with more recent infill residential developments.
- 1.2. The appeal site is 4,210sqm in size and located on the northern side of Sandymount Avenue, c. 65 metres west of the junction of Sandymount Avenue and Guilford Road and c. 170 metre south-west of Sandymount Village and Green. More specifically, the appeal site comprises a 3,652sqm parcel of land with no apparent existing use on which it is proposed to construct a residential development, approved under Reg. Ref 2800/20/ABP Ref. 309742-21, and a 558sqm parcel previously comprising part of the rear gardens of Nutgrove House and Nutgrove Lodge (Nos. 58A and 58B Gilford Road).
- 1.3. The westernmost part of the site's southern boundary adjoins Sandymount Avenue and includes a hoarding style gate and splayed entrance and a c. 2m high block decorative wall (hit and miss style) and a plastered elevation wall to an electricity substation style structure. The easternmost part of the site's southern boundary abuts the rear boundaries of Nos. 80, 82, 84 and 86 Sandymount Avenue which comprise of two pairs of double storey semi-detached dwellings. The northern and western boundaries of the site abut the grounds of the Enable Ireland Sandymount Centre which comprise 2 storey buildings with some three storey elements, an access road, a garden centre and a car park. The eastern boundary of the site abuts the revised rear garden associated with Nutgrove House and Nutgrove Lodge (Nos. 58A and 58B Gilford Road), a storage building and carparking area associated with No. 15D Guilford Road, and the side boundary of No. 80 Sandymount Avenue's rear/side garden.
- 1.4. The site is c. 400 metres north-east of the Sandymount Dart Station and Dublin Bus Stop No. 7599, which is served by Bus Route No. 18, is located to the front of the site on Sandymount Avenue. The site is c. 3.5 km south-east of Dublin City Centre.

2.0 Proposed Development

2.1. Permission is sought for alterations to and extension of the previously approved residential development permitted under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, comprising of the following:

- Alterations, internal reconfiguration, and extension of Block A.02, from ground to third floor level, to provide 5 no. additional residential units (2 no. 1 bed apartments and 3 no. 2 bed apartments);
- Provision of a new 2 storey residential block, Block A.03, comprising 6 no. apartment units (4 no. 1 bed apartments and 2 no. 2 bed apartments);
- Provision of a new landscaped courtyard to cater for the additional residential units;
- Minor alterations to the permitted basement layout to provide a total of 130 no. cycle spaces; and
- Extension of the development boundary of permission Reg. Ref. 2800/20 & ABP Ref. ABP-309742/21, to accommodate the proposed alterations and extension of the permitted residential development.

2.2. The proposed alterations and additional Block A.03 increase the total number of residential units from 58 to 69 no. units. The overall proposed unit mix is 14 no. 1 bed apartments, 53 no. 2 bed apartments and 2 no. 3 bed apartments.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council granted planning permission on 4th July 2022 subject to 13 no. conditions, including Condition No. 5 which reads as follows:

5. The proposed development shall comply with the following requirements:

- (i) The proposed set-down space / loading bay on Sandymount Avenue shall be omitted and the sycamore tree to the front of the site retained as per the parent permission Reg. Ref. 2800/20.*

(ii) The boundary railings to the front of the site shall be entirely located to the south of Block A.01 and the area to the side (east) of Block A.01 incorporated into the communal open space for the development.

(iii) The proposed vertical louvers on the first floor east facing windows of Block A.03 shall be installed and spaced so as to prevent overlooking impacts on adjoining properties and maintained in place thereafter.

(iv) The proposed privacy screens as indicated on the drawings submitted by way of further information on 07/06/2022 shall be installed and permanently maintained in place thereafter.

Prior to the commencement of development, the applicant/developer shall submit a revised site layout plan drawing complying with the requirements of items (i) and (ii) above.

Reason: *To provide for an acceptable standard of residential amenity and protect the amenities of adjoining properties.*

3.2. Planning Authority Reports

3.2.1. Initial Planning Report (28th April 2022)

- The stated plot ratio (1.7) and site coverage (40%) of the overall development, as amended, are below the City Development Plan limits for Z1, Z2 and Z12 lands. The proposed density of 164 dwellings per hectare is also acceptable given the accessible location of the site. Notwithstanding the third-party observations, the overall quantum of development proposed is considered acceptable.
- It is proposed to extend the permitted area of public open space to the front of the site around the eastern side of Block A.01 in order to satisfy the 10% public open space requirement. Whilst acceptable in quantitative terms, the additional space would have limited amenity value as public open space and would be better utilised as communal open space in this instance. It is recommended that the proposed boundary railings extend across the front of Block A.01 in the event of a decision to grant permission.

- The proposed mix of unit types, quantity of dual aspect units, internal space, storage space and private amenity space provided comply with the applicable Apartment Guidelines requirements.
- The submitted Daylight and Sunlight Assessment indicates that a good standard of daylight and sunlight would be achieved throughout Blocks A.02 and A.03, compliance with the BRE sunlight standards is particularly high for what is a constrained infill site.
- The separation distance between Block A.02 and A.03 and the location of windows is such that no adverse overlooking impacts would arise between habitable rooms. The proximity of the balcony serving Unit Type 2X to a bedroom window serving Unit Type 2Z (c. 2.5m) on the first and second floors of Block A.02 is, however, a concern. Revised design proposals / mitigating measures should be sought in this respect.
- The scale and massing of the proposed eastern gable of Block A.02, albeit more oppressive than the permitted stepped gable profile, would not have an adverse impact on the streetscape or the visual amenity of the area generally.
- The proposed amendments to Block A.02 and proposed Block A.03 would have a negligible impact on all other views from the public domain as depicted in the submitted Verified Photomontage document.
- The design and finishes of Block A.03 are considered to be of an acceptable standard.
- Whilst the loss of existing trees (21 no. existing trees on the overall site) is regrettable from a visual and ecological perspective, this impact would, in part, be offset by the proposed planting in the longer term. The additional amenity value of the proposed south facing communal courtyard for future occupants is also noted. Notwithstanding, there may be potential to retain existing trees to the south of the proposed courtyard space which would provide immediate landscape screening to the adjoining dwellings to the south. Furthermore, it is now proposed to remove a mature sycamore tree on Sandymount Avenue to facilitate a set down area for vehicles, which the applicant indicates is a requirement of Condition 2(d) of the parent permission. This is not the case as Condition No. 2(d) relates to

emergency and waste vehicle access only. The Transportation Planning Section has also concerns regarding the location of the proposed set down area and the impact of same on the public footpath. The retention of this tree should also be considered in light of the foregoing.

- The submitted Conservation Assessment states that the proposed alterations to the gable of Block A.02 will have no appreciable impact on the character of the adjoining Sandymount Village and Environs Architectural Conservation Area (ACA). This is accepted given the discreet location of the gable relative to the streetscape. With regard to proposed Block A.03, the submitted Conservation Assessment highlights that the house is not a protected structure and has a large two-storey extension of mid-twentieth century date to the rear, which separates the original house from the garden. Having regard to the character and special interest of the ACA as described in the Sandymount Village and Environs ACA report, it is considered that Block A.03, which would not be visible from the public domain, would not have an adverse impact on the ACA. The removal of background trees would have a minor impact on the setting of the ACA only and is considered acceptable in this instance.
- The proposed additional south facing balconies on Block A.02 would be located c.18m from the common boundary with Nos. 80 and 82 Sandymount Avenue, which is sufficient for the purposes of safeguarding the privacy of these residential properties. Proposed Block A.03 incorporates vertical louvers within the first floor rear /east facing windows. Clarification should be sought regarding the balconies serving Unit Type 2V on the eastern corner of Block A.02.
- The submitted Daylight and Sunlight Assessment indicates that the proposed amendments to Block A.02 and proposed Block A.03 would not give rise to adverse overshadowing impacts on the rear gardens of the adjoining dwellings to the south and east. The assessment also demonstrates that adverse daylight and sunlight impacts on adjoining properties, as defined in the BRE guidelines; Site Layout Planning for Daylight and Sunlight, would not arise.
- Having regard to the height and profile of Block A.02 as amended and Block A.03, it is considered that adequate separation distances to the adjoining dwellings on Sandymount Avenue and Nutgrove House would be achieved. The revised

massing and façade treatment of Block A.02, as seen from the south, would provide for an acceptable interface with the adjoining properties. The proposed soft landscaping along the site boundaries would further mitigate any perceived overbearing impacts.

The report recommends a request for further information in respect of the following:

- Item 1: In response to concerns regarding the proximity of the balcony serving apartment Unit Type 2X to the bedroom window of apartment Unit Type 2Z on the first and second floors of Block A.02, the applicant was requested to submit revised design proposals or introduce mitigation measures.
- Item 2: The applicant was requested to consider retaining existing trees on the south side of the proposed communal courtyard space adjoining the rear garden of No. 80 Sandymount Avenue and at the entrance to the site, given their maturity and screening value.
- Item 3: The applicant is requested to address the following discrepancies/issues in respect of the submitted architectural and landscape drawings:
 - The site boundary of Nutgrove Lodge, as permitted under Reg. Ref. 2217/20, does not correlate with the boundary shown on the submitted 'Proposed Site Layout Plan' drawing.
 - The east and west elevations of proposed Block A.03 are incorrectly labelled in respect of their orientation.
 - A north facing elevation of Block A.03 has not been provided.
 - The submitted floor plan drawings indicate that the balconies on the eastern gable of Block A.02 are open ended whilst the submitted elevation drawing and Design Statement indicate a brick pier.
 - All proposed privacy screens should be clearly labelled / identified as such on the plan drawings.
 - A detailed dimensioned section drawing of the proposed boundary treatment to the rear of Block A.03 has not been provided.

- The species of the proposed trees surrounding Block A.03 and along the common boundary with No 80 Sandymount Avenue are not indicated on the submitted landscape masterplan drawing.
- **Item 4:** The applicant was requested to address the following requirements of the Transportation Planning Section (in summary):
 - Address concerns regarding the proposed set down / loading bay arrangement to the back of the public footpath on Sandymount Avenue.
 - Review the autotracking drawing for fire engine vehicles and ensure that the proposed emergency access route does not conflict with landscape proposals including visitor bicycle parking.
 - Review/provide revised details and drawings which clearly demonstrate the proposed 130 no. bike parking provision (including cargo bike spaces), safe access routes for cyclists within the basement and the necessary operational dimensions within each of the proposed compounds.
 - Review and auto track the basement car parking layout to address concerns regarding restricted access, specifically in relation to car parking spaces no. 38, 36, 13 and 22.
 - Provision of 2 no. of the permitted 39 no. spaces for car share parking to address reduced car parking provision within the development and facilitate an improved mobility strategy.

3.2.2. **Subsequent Planners Report (5th July 2022)**

The Planners report dated 5th July 2022 recommends a grant of permission subject to conditions. The following provides a summary of the points raised:

- In the context of FI Item 1: - The applicant has submitted revised proposals which recess the balcony serving apartment Unit Type 2X into the building so that potential overlooking impacts of the bedroom window of apartment Unit Type 2Z would be greatly reduced. The revised floor area (75.4sq.m) and layout of the apartment would be of an acceptable standard and, as per the updated Daylight and Sunlight report, this unit would continue to receive ample daylight in accordance with the BRE standards. The revised proposals are acceptable.

- In the context of FI Item 2: - The applicant has submitted a revised landscape proposal which provides for the retention of existing tree No. 1568 adjoining the rear garden of No. 80 Sandymount Avenue. The existing tree to be retained has a stated overall height of 15m and a spread ranging from 2m (west) to 4m (east). The retention of same will provide immediate screening value to the adjoining properties to the south and is welcomed. The applicant proposes to plant a further 5 no. birch trees along the shared boundary with No. 80-82 Sandymount Avenue which would screen the gable of proposed Block A.03. The applicant maintains the position that the removal of the sycamore tree to the front of the site (tree No. 7206) is necessary to accommodate the adjacent proposed vehicle set down parking space. The Transportation Planning Section is not satisfied that safe access / egress to the set down space has been demonstrated and recommends that the space be omitted. As such, there is no justification for the removal of this tree which contributes to the streetscape. Given the overall number of trees to be removed on the site, it is recommended that the sycamore tree be retained as per the parent permission. This matter shall be dealt with by way of condition.
- In the context of FI Item 3: - The applicant has submitted an updated site layout plan drawing showing the footprint of the permitted dwelling at Nutgrove Lodge; updated elevation drawings of proposed Block A.03 including correctly orientation labels and a north facing elevation; updated floor plan drawings show a pier to the end of eastern gable of Block A.02 as per the elevation drawing previously submitted; updated floor plan drawings clearly indicate the location of all privacy screens to be provided; an updated landscape masterplan drawing indicating the extent of the capped masonry wall proposed/the location of existing boundary treatments to be retained as well as a section drawing of the same; and an updated landscape master plan indicating the size and species of the trees to be provided around the perimeter of proposed Block A.03 and along the common boundary with No. 80 Sandymount Avenue. The revisions made/additional information provided in response to this item were considered acceptable.
- In the context of FI Item 4: - The Transportation Planning Section's FI report deals in detail with the applicant's response to the above items. It is noted that Item No. 4(i) has not been satisfactorily addressed; the TPD has recommended the omission of the proposed set-down / loading bay on Sandymount Avenue. This

is considered reasonable in the interest of traffic and pedestrian safety. The TPD has also recommended the omission of 2 no. car parking spaces in respect of Item No. 4(iv), owing to the overprovision of car parking for 2 no. units. The remaining matters have broadly been addressed to the satisfaction of the TPD or can be dealt with by way of condition.

- Overall, having regard to the revised proposals and further information submitted, it is considered that the proposed amendments to the permitted development would provide for an acceptable standard of residential amenity and would not seriously injure the amenities of adjoining properties or the Sandymount Village Architectural Conservation Area.

3.2.3. ***Other Technical Reports***

Drainage Division (16/03/2022): No objection, subject to conditions.

Environmental Health Officer: No objection, subject to conditions.

City Archaeologist (12/04/22): No objection, subject to conditions.

Transportation Planning (initial report dated 21/04/22): Recommended that the following further information be requested: - correct permitted drawings in relation to Reg. Ref. 2800/20; clarification regarding the proposed loading bay arrangement to the back of the public footpath on Sandymount Avenue; a review of the auto tracking for fire engine vehicles; review/revision of the proposed cycle parking layout; and a review/auto tracking of the basement car parking layout.

Transportation Planning (subsequent report dated 29/06/2022): In light of the revisions/information included in the further information response, no objection, subject to conditions requiring the following: - omission of the loading bay; control of vehicular traffic access/egress to the basement by traffic light system; treatment of the public footpath at the vehicular access/exit point to the development; provision of 130 no. standard bike parking spaces/3 no. cargo bike parking spaces within the basement for residents and 36 no. short term spaces (including 2 no. cargo bike spaces) at grade; omission of car parking spaces 35 and 37; preparation of a Car Parking Management Strategy; provision of electrical charging points; costs incurred by Dublin City Council regarding road repairs etc.; and compliance with the Code of Practice.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

11 no. third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Boundaries with abutting properties/separation distances inaccurately reflected on the plans submitted. Provision of a survey is requested.
- Overlooking, overshadowing and overbearing impacts.
- Elevation labels inaccurate.
- Traffic issues.
- Under provisions of car parking and resultant reliance on on-street parking.
- Overdevelopment and excessive density.
- Provision of communal space compromised in a bid to comply with public open space requirements. Public open space proposed creates space for anti-social behaviour.
- Proposed development is contrary to the previous An Bord Pleanála decision for the site.
- Loss of light.
- Removal of trees/associated loss of wildlife.
- Insufficient verified views prepared.
- Fire truck access/fire safety concerns.
- Overlooking from new apartment block and extended block.
- Height/Massing unsuitable.
- Design and materiality of proposed block/extension is unsuitable, particularly given the proximity to the ACA.
- Unit types proposed are unsuitable.

- Part of site comprising former part of neighbouring garden should be retained as is for use by residents.
- Impact on properties to the north has not been appropriately considered.
- Inconsistencies in plans.
- Inappropriate daylight to apartments proposed proximate to trees featuring along the boundary.

4.0 Planning History

4.1. Subject Site

4.1.1. The following previous application pertaining to the subject site, or part thereof, are of relevance:

PA Reg. Ref. 2800/20 (ABP Ref. ABP-309742-21) – Parent Permission

This application relates to an application for (in summary): - demolition of existing wall fronting onto Sandymount Avenue and all associated site clearance; construction of 58 no. apartments (8 no. 1 beds, 48 no. 2 beds and 2 no. 3 beds) in a part three to part five storey building over basement, served by 39 no. car parking spaces and 92 no. cycle parking spaces; and provision of 625sqm of public open space fronting Sandymount Avenue.

Permission was granted by Dublin City Council on 23rd February 2021. The Planning Authorities decision has been appealed to An Bord Pleanala by a no. of third parties (ABP Ref. ABP-309742-21). The Board granted permission on 28th October 2021.

PA Reg. Ref. 3649/23 (ABP Ref. ABP-317485-23)

This application relates to an application at Sandymount Avenue, and including part of the side garden/rear garden of No. 80 Sandymount Avenue, and the adjacent ESB substation, for (in summary): - provision of a two storey resident's communal amenity pavilion building (GFA of c. 189 sq.m.) to serve the residential development permitted under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21; the addition of a switchroom (GFA of 4.3sq.m.); recladding of the facades/provision of a cantilevered roof to the

ESB substation; provision of 1 no. disabled car parking space; and new boundary treatment/alterations to the curtilage of No. 80 Sandymount Avenue.

Permission was granted by Dublin City Council on 21st June 2023 subject to 10 no. conditions. The Planning Authorities decision has been appealed to An Bord Pleanala by a third party and the applicant (ABP Ref. ABP-317485-23). A determination had not been made on this appeal at the time of writing this report.

4.2. **Adjacent Sites**

4.2.1. There has been 2 no. recent applications on sites adjacent to the subject site that are pertinent to the current proposal. This is summarised below.

No. 58B Gilford Road, Sandymount, Dublin 4 (immediately east of the subject site)

PA Reg. Ref. 4244/22

Permission granted by Dublin City Council in August 2022 for alterations to previous grant of permission Reg. Ref. 2217/20, comprising provision of an additional bedroom in the proposed house (increasing it from 3 no. bedrooms to 4 no. bedrooms).

PA Reg. Ref. 2217/20 – Parent Permission

Permission granted by Dublin City Council in June 2020 to demolish the single storey outbuildings behind the two storey building at No. 58B Gilford Road, Sandymount, Dublin 4, in order to construct a new contemporary style 2/3 storey 4 bedroomed dwelling house. The permitted works have commenced on site.

5.0 **Policy Context**

5.1. **Dublin City Development Plan 2016-2022**

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

5.2. **Dublin City Development Plan 2022-2028**

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

5.2.1. **Land Use Zoning**

The majority of the site (westernmost part) is zoned 'Z12 – Institutional Land (Future Development Potential)' in the Dublin City Development Plan 2022-2028 with a stated objective to '*ensure existing environmental amenities are protected in the predominantly residential future use of these lands*'. The remainder of the site (north-eastern corner and easternmost part) are zoned 'Z1 - Sustainable Residential Neighbourhoods' and 'Z2 - Residential Neighbourhoods (Conservation Areas)' with stated objectives to '*protect, provide and improve residential amenities*' and to '*protect and/or improve the amenities of residential conservation areas*', respectively.

In the context of the 'Z12 – Institutional Land (Future Development Potential)' zoned land, Section 14.7.12 states that '*in considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding.*' Section 15.8.6 requires that where lands zoned Z12 are to be developed, a minimum of 25% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site. A requirement of 10% applies in the context of Z1 and Z2 zoned land. Section 15.8.7 states that in some instances it may be more appropriate to seek a financial contribution towards the provision of public open space elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a neighbourhood park or pocket park) or the upgrading of an existing park.

5.2.2. **Other Relevant Sections/Policies**

The easternmost part of the subject site falls within the Sandymount Village and Environs Architectural Conservation Area and the site is identified as being within Flood Zone B in the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028.

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

Section 4.5.3 – Policy SC11: Compact Growth

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

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

Section 4.5.3 – Policy SC12: Housing Mix

To promote a variety of housing and apartment types and sizes, as well as tenure diversity and mix, which will create both a distinctive sense of place in particular areas and neighbourhoods, including coherent streets and open spaces and provide for communities to thrive.

Section 5.5.2 – Policy QHSN6: Urban Consolidation

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

Section 5.5.2 – Policy QHSN10: Urban Density

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

Section 9.5.3 – Policy SI16: Site-Specific Flood Risk Assessment

Proposals which may be classed as ‘minor development’, for example small-scale infill, extensions to houses and small-scale extensions to existing commercial and industrial enterprises in Flood Zone A or B, should be assessed in accordance with the Guidelines for Planning Authorities on the Planning System and Flood Risk Management and Technical Appendices (2009), as revised by Circular PL 2/2014 and any future amendments, with specific reference to Section 5.28 and in relation to the specific requirements of the Strategic Flood Risk Assessment. This will include an assessment of the impact of climate change and appropriate mitigation. The policy shall be not to increase the risk of flooding to the development or to third party lands, and to ensure risk to the development is managed.

Section 11.5.2 - Policy BHA7: Architectural Conservation Areas

- (a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.*
- (b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.*
- (c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.*
- (d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*
- (e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.*

(f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.

All trees which contribute to the character and appearance of an Architectural Conservation Area, in the public realm, will be safeguarded, except where the tree is a threat to public safety, prevents universal access, or requires removal to protect other specimens from disease.

Section 15.5.1 Brownfield, Regeneration Sites and Large Scale Development

Dublin City Council will seek to ensure the following considerations are incorporated in proposals for large-scale, regeneration and brownfield development:

- To encourage innovative, high quality urban design and architectural detail in all new development proposals.*
- To analyse and review the surrounding built environment to ensure the new development is consistent with the character of the area.*
- To respect and enhance existing natural features of interest.*
- To contribute to the streetscape creating active and vibrant public realm.*
- To create animation and create activity at street level and vertically throughout the building.*
- To provide for appropriate materials and finishes in the context of the surrounding buildings.*
- To ensure land contamination is appropriately dealt with and mitigated against.*
- To provide high-quality new streets and open spaces connecting into the surrounding street pattern/ open space network.*
- To create new compositions and points of interest.*
- To provide an appropriate mix of uses comprising retail, residential, recreational, cultural, community- and/or employment generating uses to improve the existing range of uses and facilities in the area.*
- To carefully integrate appropriate landscape planting and trees and retain and ecological features on the site.*
- To prioritise pedestrian and cycle movements in connection with public transport infrastructure.*

- *To retain existing and create new features to make an easily navigational urban environment, including active building frontages with clearly defined edges and safe public routes.*
- *To build in capacity to incorporate services to meet changing demands including pipe subways and infrastructure to allow future connection to district energy networks.*
- *Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts on users of highways in the surrounding neighbourhood.*

Section 15.5.5 Density

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

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

Section 15.6.9 Trees and Hedgerows

Trees and hedgerows add a sense of character, maturity and provide valuable screening, shelter and privacy and will often have a useful life expectancy beyond the life of new buildings. Dublin City Council will seek to protect existing trees and hedgerows when granting planning permission for developments and will seek to ensure maximum retention, preservation and management of important trees, groups of trees, and hedges as set out in Section 10.5.7 of the plan.

Section 15.15.2.1 Architectural Conservation Areas

Development in these zones must respect the existing character of the area and protect and enhance the setting and appearance of the streetscape and / or protected features.

Appendix 3 – Section 3.2 Plot Ratio and Site Coverage

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

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

Appendix 3 – Section 4.0 Density

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

Appendix 3 – Section 4.0 Height

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

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

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

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

A minimum bicycle parking rate of 1 long term space per bedroom and 1 short stay space per 2 apartments is specified for residential apartment developments.

Appendix 5 - Section 4 Car Parking Standards

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

5.3. Sandymount Village and Environs Architectural Conservation Area Report - Character Appraisal And Policy Framework (2013)

The site is located in Sandymount Village and Environs Architectural Conservation Area. Sandymount Village is described as having '*a particularly well-developed sense of place in the heart of Dublin City. It boasts an attractive seaside location, variety of architectural styles, and a renowned 'village' character making it a special place to live*'. Section 8.1 outlines criteria regarding new development within the ACA. It states that:

'In considering the design and impact of all new development within the ACA, Dublin City Council will have regard to the effect of the following criteria and the impact of any development on the immediate surrounding of the site, the broader streetscape or its landscape setting:

- a. The height, scale and orientation of the proposed development.*
- b. The bulk, massing and density of the proposed development and its layout in relation to any building line and the surrounding plan form.*
- c. The quality and type of materials to be used in the construction of the development; any boundary treatments and landscaping.*
- d. The design and detail of the proposed development.*
- e. The retention of the traditional plot boundaries of the village.*
- f. The retention and maintenance of historic street furniture, surfaces and boundary treatments.'*

Section 9.2 outlines the following guidelines for new development within the ACA:

All applications for development within the ACA area will be consistent with the following:

- *Development will be sympathetic in design and/or materials to the original building and/or ACA area as a whole.*
- *Development will not adversely affect the setting or views to and from the ACA.*
- *Development allows for the reinstatement of features where the original and historic features have been lost or replaced.*
- *Demolition of historic buildings within ACAs to be avoided as the removal of a historic building either in whole or in part, may seriously detract from the character of the area.*

5.4. National Policy/Section 28 Ministerial Guidelines

5.4.1. Project Ireland 2040 National Planning Framework

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

- National Policy Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs.
- National Policy Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.
- National Policy Objective 13 is that, in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

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

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

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

5.4.3. **Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual**

These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50/ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

In the context of institutional lands and 'windfall' sites, Section 4.20 makes the following recommendation: - *'any proposals for higher density residential development must take into account the objective of retaining the "open character" of these lands, while at the same time ensuring that an efficient use is made of the land. In these cases, a minimum requirement of 20% of site area should be specified; however, this should be assessed in the context of the quality and provision of existing or proposed open space in the wider area. Whilst the quantum of open space may be increased vis-à-vis other sites, the amount of residential yield should be no less than would be achieved on any comparable residential site. Increasing densities in selected parts of the site subject to the safeguards expressed elsewhere may be necessary to achieve this'*. In the context of institutional lands, Section 5.10(e) also states that *'in the event that planning authorities permit the development of such land for residential purposes,*

it should then be an objective to retain some of the open character of the lands, but this should be assessed in the context of the quality and provision of existing or proposed open space in the area generally.'

Section 4.21 encourages a more flexible approach to quantitative open space standards with greater emphasis on the qualitative standards. Close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution in lieu of public open space within the development.

5.4.4. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022)

These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

Central and/or Accessible Urban Locations - such 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, including:

- Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;
- Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and
- Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.

These guidelines provide a range of requirements in the context of apartment developments, including the following which are relevant to the subject proposal:

- **Specific Planning Policy Requirement 1:** Developments may include up to 50% one bed/studio units. Studio units to not exceed 20-25% of the total. No minimum requirements for three or more units. 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).
- **Specific Planning Policy Requirement 2:** The housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 1 to 49 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha. For schemes of 50 or more units, SPPR 1 shall apply to the entire development.
- **Specific Planning Policy Requirement 3:** The following minimum apartment floor areas are specified: - Studio apartment - 37sq.m; 1-bedroom apartment - 45sqm; 2-bedroom apartment (4 persons) - 73sq.m; and 3-bedroom apartment (5 persons) 90sq.m. 2-bedroom apartment (3 persons) may also be considered, particularly in the context of certain social housing schemes such as sheltered housing. They must have a minimum floor area of 63sq.m. Minimum floor areas are also outlined at Appendix 1 in relation to minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms; minimum bedroom floor areas/widths; and minimum aggregate bedroom floor areas. Pursuant to paragraph 3.8, the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%). For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, where between 10 to 49 residential units are proposed, it shall generally apply, but in order to allow for flexibility, may be assessed on a case-by-case basis and if considered appropriate, reduced in part or a whole, subject to overall design quality.

- **Specific Planning Policy Requirement 4:** Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.
- **Specific Planning Policy Requirement 5:** Specifies minimum ground level apartment floor to ceiling heights of 2.7 metres. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.
- **Specific Planning Policy Requirement 6:** Specified a maximum of 12 apartments per core. This maximum provision may be increased for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, subject to overall design quality and compliance with building regulations.
- The following minimum requirements for storage areas are set out in Appendix 1:
 - Studio apartment - 3sq.m; 1-bedroom apartment - 3sqm; 2-bedroom apartment (3 persons) - 5sq.m; 2-bedroom apartment (4 persons) - 6sq.m; and 3-bedroom apartment - 9sq.m. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, the storage requirement may be relaxed in part, on a case-by-case basis, subject to overall design quality.
- The following minimum requirements for private amenity space are set out in Appendix 1:
 - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 7sq.m; and 3-bedroom apartment - 9sq.m. Further to this, paragraph 3.37 of the Apartment Guidelines states that balconies should have a minimum depth of 1.5 metres. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.

- The following minimum requirements for communal amenity space are set out in Appendix 1: - Studio apartment - 4sq.m; 1-bedroom apartment - 5sqm; 2-bedroom apartment (3 persons) - 6sq.m; 2-bedroom apartment (4 persons) - 76sq.m; and 3-bedroom apartment - 9sq.m. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.
- The following requirements regarding bicycle storage are set out at paragraph 4.17: - 1 cycle storage space per bedroom (for studio units, at least 1 cycle storage space shall be provided) and 1 visitor cycle parking space per 2 residential units.

5.4.5. Urban Development and Building Heights - Guidelines for Planning Authorities (2018)

These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

These guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. There is a presumption in favour of buildings of increased height in town / city cores and in other urban locations with good public transport accessibility. SPPR 1 of the Building Height Guidelines states that in accordance with Government policy to support increased building height and density in locations with good public transport accessibility, particularly town/ city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively

pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

Section 3.1 of the Building Height Guidelines present the following three broad principles which Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights:

- Does the proposal positively assist in securing National Planning Framework objectives of focusing development in key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?
- Is the proposal in line with the requirements of the development plan in force and which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?
- Where the relevant development plan or local area plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?

Section 3.2 of the Building Height Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town; at the scale of district/neighbourhood/street; at the scale of site/building, in addition to specific assessments.

5.4.6. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011)

Part of the subject site is within the Monkstown Architectural Conservation Area. Therefore, the 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act, 2000 (as amended). Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives: a) for protecting structures, or parts of structures, which are

of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and b) for preserving the character of architectural conservation areas.

The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures or within an Architectural Conservation Area. Section 3.10 of the Guidelines relates to proposals within an Architectural Conservation Area and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation Area. When dealing with applications for works outside the curtilage and attendant grounds of a protected structure or outside an ACA which have the potential to impact upon their character, similar consideration should be given as for proposed development within the attendant grounds.

5.5. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European site is the South Dublin Bay SAC (Site Code 000210)/the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) located c. 475 metres east.

5.6. EIA Screening

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

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

5.6.2. It is proposed to provide an additional 11 no. dwellings on the subject site, increasing the overall total no. of apartments on site to 69 no. The cumulative number of dwellings proposed on site is well below the threshold of 500 dwelling units noted above. The

site has an overall stated area of 0.42Ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The part of the site to which this appeal pertains is surrounded by residential uses. The provision of additional residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as concluded below under Section 7 of this report) and there is no hydrological connection present such as would give rise to significant impact on nearby watercourses. 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.

5.6.3. Having regard to the nature and scale of the proposed development and its location in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been submitted by Jeremy and Miranda Humphries. The main points raised therein can be summarised as follows:

- The reconfiguration of Block A.02 will allow for overlooking of properties to the south. There is no stepping down proximate to the boundary with neighbouring properties and the top floor terraces have not had screening applied to them as required in the original design.
- It is requested that existing trees on the southern boundary be retained as opposed to being replaced by smaller hedges/deciduous trees as they provide

a degree of privacy/residential amenity. Removal of existing trees will negatively impact upon trees on the common boundary/destabilize the existing boundary wall.

- It is requested that existing trees on the eastern boundary, along the original western boundary of the garden of Nutgrove House, also be retained. Removing these trees is unnecessary and they provide substantial privacy/amenity value to our property/future residents of the development as well as a nature-scape for the development.
- The trees proposed for removal are sufficiently distanced from the proposed buildings so as not to impact on their construction.
- The site is being overdeveloped.
- The top floor terrace featuring in the extended Block A.02 is devoid of screening contrary to the requirements of the Board (included in Condition No. 2 of ABP Ref. ABP-309742-21) in the context of Apartment Type 2PD in the original design (which is noted sat further back and had the benefit of tree protection which the developer is now planning to remove).
- The Block A.02 and Block A.03 are too close to each other and proposed screening does not adequately address resultant issues.

6.2. Applicant Response

6.2.1. The applicant's response to the appeal can be summarised as follows:

- The proposed development is consistent with the Dublin City Development Plan 2016-2022 and the Draft Dublin City Development Plan 2022-2028. Appendix 2 includes an assessment against the Draft Development Plan should the appeal be decided after the new Dublin City Development Plan 2022-2028 comes into effect.
- The proposed alterations/extension to the permitted residential development allows for the provision of an additional 11 no. units which reinforces the objectives of the National Planning Framework for increased residential density and intensification of land use on an infill site proximate to public transport.

- The site is suitable for additional units given its proximity to public transport and services/amenities, the site would be categorised as central/accessible under the Apartment Guidelines.
- The proposed modifications will not result in any significant adverse impact on the residential amenity of permitted/existing residential dwellings in the area.
- In respect of the third party appeal submitted by Desiun Architects, on behalf of Robert Byrne Olias¹ of Nutgrove, Gilford Road, a letter of support accompanies the appeal response from Steven Byrne of Nutgrove House confirming the sale of the lands subject to this application and in support of residential land on the subject site.
- In the context of claims made regarding overlooking to No. 82 Sandymount Avenue, it is noted that a number of design measures have been incorporated to ameliorate an adverse impact on adjacent residential properties. The proposed height/orientation of Block A.03 and outlook/internal reconfiguration of units within Block A.02 results in no direct overlooking or loss of privacy to neighbouring properties. While the reconfiguration of Block A.02 results in some additional windows, it is submitted that there is sufficient separation distanced from the adjoining properties. to mitigate against any potential significant impacts on their residential amenity. There is c. 40m from the extended Block A.02 (previously 46m in the permitted scheme) and between 20-25m from the southern gable of Block A.03 to Nos. 80 and 82 Sandymount Avenue. There are no windows from the south elevation of Block A.03 and therefore there will be no overlooking to any of the properties to the south on Sandymount Avenue.
- In the context of Block A.02, it is considered that, at three storeys plus a setback floor, is appropriate for this location on an infill site in close proximity to the DART station, in accordance with national and local planning policy. The proposed Block A.03 would be two storeys in height and in keeping with the scale of the adjoining buildings to the south and east.

¹ The appeal referred to was subsequently withdrawn pursuant to Section 140(1)(a) of the Planning and Development Act, 2000 (as amended).

- The screening required pursuant to Condition 2 of the Board's Order is reflected in drawings.
- With regards to the Appellants request that additional verified views be required, it is submitted that verified views cannot be taken from aerial locations but from public footpath. The Photomontage Brochure prepared by Digital Dimensions demonstrates the existing, permitted and proposed views from key viewpoints from the public footpath and how the revised scheme fits within the context of Sandymount Avenue and the surrounding area.
- It is submitted that there are sufficient separation distances from the adjoining properties to the proposed development to mitigate against any potential significant impacts on their residential amenity. In this regard, the appeal is accompanied by additional sections with No. 82 Sandymount Avenue which include site lines from the critical vantage points within the proposed balconies to illustrate that the proposed development will not give rise to significant overlooking. Also illustrated in these sections is the mitigation provided by the proposed boundary along the boundary.
- With regard to the appellants concerns regarding the amenity impacts of the new block/extended block on each other due to the balcony angles, the applicant notes that mitigating measures were introduced at FI stage.
- In response to the claims regarding the impact of proposed tree removal, the applicant notes that a no. of trees need to be removed to facilitate the erection of scaffolding/construction access/fire tender access and the majority of trees being removed are currently unmanaged and are trees of a low quality/value. With regards to the appellants request that Trees 1570-1572, 1569 and 1571 be retained in the absence of sound reasoning for their removal, the applicant notes that their removal is required to facilitate fire tender access and no alternative route can be provided which would allow their retention given the nature of the site. The issue of tree removal was queried in the FI request and the justification provided was accepted by the Planning Authority.
- With regards to claims made that the removal of existing trees will destabilize the existing boundary wall, quoting a letter of response to landscape items raised

in the appeal, prepared by Stephen Diamond Associates, the applicant argues that not removing the trees will destabilise the applicable wall.

- The finished floor level of Block A.03 is required facilitate accessibility in accordance with Part M Regulations and the request, by Robert Byrne Olias, that it be reduced cannot be accommodated.
- With regards to claims regarding overlooking of gardens to the east from Block A.03, the applicant argues that due to the level difference that exists between the applicable sites overlooking from ground floor will be appropriately restricted by boundary treatments while the eastern façade is devoid of fenestration at first floor level.
- The proposed development provides an additional 11 no. apartments reinforcing the objectives of the national and local planning policy and will not result in any significant adverse overlooking to neighbouring properties.

6.2.2. As part of the applicant's response to the appeal, they have submitted a Statement of Consistency with the Draft Dublin City Development Plan 2022-2028, prepared by John Spain Associates; a Statement of Response to Arboricultural and Landscape Items, prepared by CMK Horticulture and Arboricultural; a letter of response to landscape items raised in the appeal, prepared by Stephen Diamond Associates; and additional drawings responding to concerns raised in the third party appeal. More specifically, these drawings (Drawings No. 19067-OMP-00-00-DR-A-1006 and 19067-OMP-00-00-DR-A-1007, prepared by O'Mahoney Pike), provide additional sections illustrating the relationship between the proposed development and the dwellings featuring to the south and east (No. 82 Sandymount Avenue and Nutgrove, Gilford Road). The applicants ask that they be read in conjunction with the original material submitted with the planning application. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 3rd March 2022 as amended by further plans and particulars received by the Dublin City Council on 7th June 2022 and the Board on 26th August 2022.

6.3. Planning Authority Response

- The Planning Authority requests that the Board uphold their decision and if permission is granted the following conditions be applied: - a condition requiring

payment of a Section 48 development contribution, a condition requiring payment of a bond, a condition requiring payment of a contribution in lieu of open space requirements not being met and a social housing condition.

6.4. Observations

6.4.1. Observations on the third-party appeal were lodged from the following parties:

- Vincent Ryan;
- Maura Doyle; and
- The Sandymount and Merrion Residents Association.

6.4.2. The issues raised can be summarised as follows:

- The proposal constitutes overdevelopment/unsuitable densification of the site.
- The proposed development has negative amenity impacts on neighbouring properties/is unsuitable given its relationship with neighbouring properties.
- Block A.02 is much more bulky than previously approved due to the omission of its stepped profile.
- The proposal is partly visible from the Sandymount Architectural Conservation Area. It is inconsistent with the character of the area and buildings within the Sandymount Architectural Conservation Area.
- The removal of trees/planting to accommodate the new block is not supported and will have an impact on adjacent boundary walls. Existing trees on site should be retained.
- The new block proposed increases the impact of the entire development on the surrounding residences.
- The east and west elevations of Block A.03 are incorrectly referenced.
- The proposal is unsuitable from a fire safety perspective.
- The resultant density exceeds that originally approved. Apartment nos. in the subject proposal should be reduced to match the original density/plot ratio approved.

- The no. of units per core exceeds the 8 units per core per floor outlined in Section 16.10.1 of the Dublin City Development Plan 2016-2022.
- The location and entrance door area into Block A.02 will not provide occupants and visitors with a sense of safety/security.
- Vegetation removal works were carried out on site during bird nesting season and has also had negative impacts on foxes, grey squirrels and bees featuring on the site.
- Resultant dust impacts on surrounding properties. A regular cleaning programme should be required.
- The play area on site has not been increased in size to reflect the additional unit provision.
- No bin storage area provided for the new Block A.03.
- Car parking provision is unsuitable and will result in overspill to the surrounding area.

6.5. Further Responses

6.5.1. A response to the applicants' response to the third party appeal was lodged by Vincent Ryan and Maura Doyle. The responses received can be summarized as follows:

- The applicants/development consortium have the upper hand on surrounding residents given their expertise and they stretch the planning law/regulations to the limits/beyond to force through an unsafe, overdeveloped, poorly designed group of units.
- A height increase has been covertly introduced on the revised drawings submitted with the appeal response.
- The purchase of No. 80 Sandymount Avenue and land to the rear of Nutgrove House/Nutgrove Lodge and subsequent increase in the development site is unfair and will have a devastating impact on neighbouring properties.
- The revisions to the original scheme result in a no. of conflicts with neighbouring properties as well as units within the scheme.

- The separation distances from Nos. 80 and 82 Sandymount Avenue and the proposed development outlined in the appeal response are misleading and incorrect.
- Part of the extended site falls within the ACA. This has not been correctly identified in the appeal response/application material.
- The applicants are attempting to modify floor level height dimensions in their favour. This results in increased overlooking. It also begs the question, where have other covertly introduced dimensional changes occurred. The application should be refused until all drawings are re-examined to establish what anomalies exist in the submission.
- Daylight/sunlight has been incorrectly calculated. The applicant should be asked to reassess taking in to account more factors that might impact upon the result (adjacent boundary walls, proposed tree planting etc.).
- Block A.02 inaccurately detailed in the thumb nail sketches included in the revised drawings submitted with the appeal response.
- The secondary amenity space surrounding Block A.03 varies in width and will be dark, windy, cold and not welcoming.
- Revised Block A.02 will overlook proposed new Block A.03.
- The increase in apartment nos. bends the rules set out to the benefit of the developers.
- The development shouldn't be approved as it deviates from the standards set out in the 2016-2022 Development Plan regarding density, plot ratio, site coverage etc.
- The recessing of the balcony adopted in the revised plans helps to reduce but does not eliminate the overlooking issue.
- The error made in referencing a '*proposed office and café/restaurant development*' is indicative that the developer is not serious about submitting accurate information.

- The third party appeal lodged by Robert Byrne Olias is legitimate and John Spain Associates should not imply otherwise².
- Contrary to the implication made by the applicant, upwards of 18 no. new windows are proposed which is not a small number as suggested.
- The enlarged Block A.02 will encroach on the ACA boundary. Given this, the applicable part of the site should not be built on or should only be 2 storeys maximum.
- The increase in buildings on site reduces the available area for rain soakage which means water run-off will result in severe flooding of the site and neighbouring properties.
- The planting of Birch trees is unsuitable as they have negative features (height, deciduous nature, crown spread etc.). If tree and hedge planting is to be allowed, it is asked that the Board attach a condition requiring that long term future tree/hedge maintenance costs be covered for neighbouring properties.
- In terms of the visual impact of the proposed development, verified photomontages should be prepared displaying the view from the rear private amenity spaces of adjoining properties.
- There are the following discrepancies in the revised drawings submitted: - No. 82 Sandymount Avenue's rear extension is not shown, the rear extension to Nutgrove Lodge which is under construction is not shown and the 42.5 metre separation distance detailed between apartment 2Z and No. 82 Sandymount Avenue is inaccurate.
- Appendix 3 referenced in the appeal submission was empty.
- The development has reduced property values.
- There will be an increase in overshadowing/overbearing impacts on No. 84 Sandymount Avenue.

² The appeal referred to was subsequently withdrawn pursuant to Section 140(1)(a) of the Planning and Development Act, 2000 (as amended).

- In terms of compliance with the 2022-2028 Development Plan, a no. of the guiding principles outlined in Chapter 15: Development Standards are bent to shoehorn this huge development.
- A no. of drawings incorrectly illustrates the outline of existing property boundaries/omit new extensions. In some instances, there is just a 2 metre gap between the existing properties and new Block A.03. Only a 1.5-2 metre wide gap is provided around this block.
- Block A.03 sit higher than adjacent houses, contributing to greater overlooking and possible flooding of back gardens.
- The installation of brick piers to act as privacy screens indicates that the blocks are too close together.
- Public and communal open space provision is unsuitable, and the proposed areas are of poor quality.
- The claims made by the applicant regarding the ACA are refuted.
- Car parking overspill will have a negative impact on the surrounding residents.
- It is asked that the Board examine the tree removal/planning proposals for the site.

7.0 Assessment

As part of their appeal response, the applicant submitted additional information and plans in response to the third party appellant's grounds of appeal and in anticipation of the adoption of the Dublin City Development Plan 2022-2028. This additional information/plans included the following:

- A Statement of Consistency with the Draft Dublin City Development Plan 2022-2028, prepared by John Spain Associates;
- A Statement of Response to Arboricultural and Landscape Items, prepared by CMK Horticulture and Arboricultural;
- A letter of response to landscape items raised in the appeal, prepared by Stephen Diamond Associates; and

- Additional drawings (Drawings No. 19067-OMP-00-00-DR-A-1006 and 19067-OMP-00-00-DR-A-1007), prepared by O'Mahoney Pike. These drawings provide additional sections illustrating the relationship between the proposed development and the dwellings featuring to the south and east (No. 82 Sandymount Avenue and Nutgrove, Guilford Road).

The applicants ask that they be read in conjunction with the original reports/plans submitted with the planning application/FI response. It is noted that the additional plans submitted with the appeal introduce no new elements or issues which may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 3rd March 2022 as amended by further plans and particulars received by the Dublin City Council on 7th June 2022 and the Board on 26th August 2022.

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

- Principle, Quantum and Density of Development
- Layout and Design
- Residential Amenity
- Open Space and Tree Conservation
- Built Heritage
- Access and Parking
- Other Matters
- Appropriate Assessment

As previously discussed, the subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired and in the intervening period, the Dublin City Development Plan 2022-2028 has been adopted by the elected members and came into effect on 14th December 2022. In light of this, the subject application will be assessed having regard to the Dublin City Development Plan 2022-2028.

7.1. Principle, Quantum and Density of Development

7.1.1. The appeal site is located within an established residential area within easy walking distance of Sandymount DART Station/a no. of Dublin Bus routes. 'Residential' is identified as a 'permissible use' under zoning Objectives Z1, Z2 and Z12 in Section 14.7 of the Dublin City Development Plan 2022-2028. The proposed development consists of alterations to existing Block A.02 and provision of additional Block A.03 to provide 11 no. additional residential units. The principle of a residential development on these lands was assessed and deemed acceptable by the Board, under ABP Ref. ABP-309742-21 which granted permission for the construction of 58 no. apartments in a part three to part five storey building over basement. Given that An Bord Pleanála has recently granted permission for apartments on this site, it is my opinion that the principle of apartment development has been established on the subject lands. With regards to the requirements that a masterplan be prepared/submitted, I note that the application is accompanied by a Masterplan document, prepared by O'Mahoney Pike, which demonstrates how the proposed amendments integrate with the previously permitted development. I consider this to have satisfied the applicable requirement. Compliance with the public open space requirements associated with the Z12 zoned land will be considered in Section 7.4 of this report.

7.1.2. The appellant and observers have raised concerns in relation to overdevelopment of the site and the excessive density of the proposed development. National Policy Objective 35 contained in the National Planning Framework seeks an increase in residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights. National policy, including the Sustainable Residential Development in Urban Areas (2009), promotes residential densities in urban areas in close proximity to services and public transport. This sentiment is echoed in the Dublin City Development Plan, 2022-2028, with Policy SC11 promoting compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors. In this regard, the appeal site is currently well served by public transport being proximate to the Sandymount Dart Station and Dublin Bus Stop No. 7599. Moving forward, with the roll out of the Bus Connects Network, Bus Route S2 will run along

Sandymount Avenue. In light of this, under the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities, 2022, (the Apartment Guidelines), the site would be categorised as a 'Central and/or Accessible Urban Location' Such locations are deemed to be suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments. Appendix 3 of the Dublin City Development Plan outlines density, plot ratio and site coverage standards. For outer suburbs a density range of 60-120dpha is set and for Outer Employment and Residential Areas the development plan sets indicative requirements of 1.0-2.5 for plot ratio and 60% for site coverage.

7.1.1. The applicants propose a plot ratio of 1.7 and site coverage of 40%. These are in accordance with the indicative plot ratio and site coverage standards as outlined in the Development Plan. The 11 no. additional apartments proposed results in a total of 69 apartments on a 0.421Ha site, providing an increased density of 164 units per hectare. Given the site's location in a serviced residential area, its proximity to public transport services and the infill nature of the subject site, a modest increase in the no. of apartments on site from 58 to 69 and a consequent increase in density from 159 units per hectare to 164 units per hectare is considered appropriate in this instance. The proposed density for the application site complies with the provisions of the Development Plan and Government policy seeking to increase densities and, thereby, deliver compact urban growth. I am satisfied that the development as proposed does not represent overdevelopment of the site. In addition, and as will be documented in the subsequent sections, I am of the view that the proposed increase in density could be achieved on this site without compromising amenities of adjoining properties or compromising the adjacent Architectural Conservation Area.

7.2. **Layout and Design**

7.2.1. The appeal site is located on the northern side of Sandymount Avenue. The permitted development on site consists of two blocks, a 5-storey block located to the front of the site (Block A.01) and a 2-5 storey block (Block A.02) located to the rear of the site. It is proposed to extend the easternmost part of previously approved Block A.02 from ground to third floor level, to provide 5 no. additional apartments and construct a new block, Block A.03, to the east of Block A.02 in an area of land previously forming part of the rear gardens of Nutgrove House and Nutgrove Lodge which has been

subsumed into the development site following an alteration to the application boundary. Block A.03 will be 2 storeys in height and accommodate 6 no. apartments. A new landscaped courtyard will feature in the intervening space between Block A.02 and Block A.03. The application is accompanied by Verified Photomontages, prepared by Digital Dimensions, illustrating the proposed and previously permitted development in the context of the surrounding area.

7.2.2. Extended Block A.02 and proposed Block A.03 are located to the rear and easternmost part of the subject site, respectively. There will be limited views from Sandymount Avenue of the easternmost part of Block A.02, which is to be extended, and new Block A.03 due to the unusual shape of the subject site (the applicable part of the site being tucked behind Nos. 80, 82 & 84 Sandymount Avenue), the limited length of the subject site's street frontage, the distance these blocks are setback from the front boundary and the height/positioning of Block A.01 to the front of the site. This is clearly illustrated in the verified photomontages taken from viewpoints No. 6, 7, 8 and 9.

7.2.3. Due to the unusual shape of the subject site, the easternmost part of the subject site is proximate to Gilford Road to the east. One of the observers contends that Block A.02 is much more bulky than previously approved due to the proposed extension omitting its stepped profile. As illustrated in the verified photomontages taken from viewpoint No. 5, Block A.02 will be visible from the Gilford Road, via the access road featuring between 15D Gilford Road and the Sandymount Pet Hospital. Although the easternmost part of Block A.02's original stepped profile has been altered as part of the proposed extension, its third and fourth floors maintain some degree of setback from the eastern boundary and a similar level of tree retention/planting is maintained in the intervening space between this block and the site's eastern boundary. Further to this, views of the resultant Block A.02 from Gilford Road are oblique due to the narrow nature of the applicable access road, the presence of buildings to the north/south of the access road and the fact that Block A.02 is setback c. 50 metres from the road edge. As is evidenced by the verified photomontages taken from viewpoints No. 4 and 6, Block A.02 is not visible once you travel further north or south along Gilford Road.

7.2.4. Having regard to the foregoing, I would be of the view that provision of an additional block, Block A.03, and an extension to previously approved Block A.02 could be

accommodated on site without any significant visual impact being felt in the surrounding area, particularly given the concealed nature of the applicable part of the site. The extension to Block A.02 increases the height of this part of the block to four-storeys, which is still not as high as the 5 storey elements of the scheme. The design of the extended block and new block fits in well with architectural character of the originally permitted scheme. I would be of the view that overall visual impact of the amendment development proposed can adequately be absorbed at this location and would be acceptable in the context of the visual amenities of the area. The overall increase in scale is modest in the context of permitted development does not constitute a significant alteration to the relationship between the development on the appeal site and the adjacent Sandymount Avenue and Gilford Road streetscapes.

7.2.5. There is one aspect of Block A.03's layout/design that merits further consideration, the provision of bin storage facilities to serve residents of this block. I note that this issue was raised by one of the observers in their submission. Block A.03 is not provided with a specific bin storage area within the block's footprint. Instead, residents are required to utilise the 2 no. bin storage areas featuring within the basement car parking area which are accessible via a lift/stairs featuring in Blocks A.01 and A.02. Upon review of the plans, I am satisfied that the bin storage areas, particularly that featuring adjacent to Block A.02's lift/stairwell, is sufficiently proximate to serve residents of proposed Block A.03 and that the absence of a designated bin storage area for this block will not have a detrimental impact on residents.

7.3. Residential Amenity

Neighbouring Properties

7.3.1. The primary issue raised by the third party appellant and third party observers alike is that the proposed development will have a negative impact on the residential amenities of the adjacent properties.

7.3.2. Before considering the proposed development's potential impacts on the amenities of neighbouring properties, I think it necessary to clarify a no. of matters raised by the third parties regarding the accuracy of the plans submitted. Firstly, it is contended that the rear extension being constructed at Nutgrove Lodge and the existing property boundaries to the east are not accurately reflected on the plans. In response to Further Information Request Item No. 3(i), the applicant submitted updated plans showing the

footprint of the permitted dwelling under Reg. Ref. 2217/20 at the site boundary of Nutgrove Lodge. Having visited the site and upon review of the application material submitted under Reg. Ref. 2217/20, I am satisfied that the subject application drawings accurately reflect the buildings/site boundary featuring to the east. I note that the dwelling permitted under Reg. Ref. 2217/20 has subsequently been amended, under Reg. Ref. 4244/22, in the intervening period since the subject application was decided. However, upon review of the plans approved under Reg. Ref. 4244/22, the building footprint outlined in the subject application drawings remains the same as that of the amended dwelling. Secondly, it is contended that No. 82 Sandymount Avenue's rear extension is not accurately reflected on the application drawings. Upon review of the plans accompanying the application, I would agree. The applicant's appeal response is accompanied by additional drawings (Drawings No. 19067-OMP-00-00-DR-A-1006 and 19067-OMP-00-00-DR-A-1007, prepared by O'Mahoney Pike). These drawings provide additional sections illustrating the relationship between the proposed development and the dwellings featuring to the south and east (No. 82 Sandymount Avenue and Nutgrove, Guilford Road). I am satisfied that the double storey extension featuring to the rear of No. 82 Sandymount Avenue has been accurately reflected in these drawings.

Properties to the South

- 7.3.3. The site is bounded to the south by Nos. 80, 82, 84 and 86 Sandymount Avenue which comprise of two pairs of double storey semi-detached dwellings. More specifically, the subject site flanks the rear gardens associated with these properties. Before considering the proposed development's potential impacts in terms of overlooking, overbearing and overshadowing, I think it beneficial to discuss the subject site in the context of its interface with the neighbouring properties to the south in light of suggestions made by third parties that amenity impacts are exacerbated due to Block A.02 sitting higher than adjacent properties. As illustrated in the elevations/site sections, submitted with the planning application and appeal response, the subject site sits slightly (0.3 metres) higher than its southern abutments. The difference in level is minor.
- 7.3.4. With regards to potential overlooking, in the context of proposed Block A.03, which sit the southern facade is devoid of habitable room windows at first floor level so there are no opportunities for overlooking of directly opposing first floor windows or adjacent

open space areas to the south. A privacy screen features on the southern edge of Block A.03's southernmost first floor balcony which limits potential overlooking of these properties. In the context of extended Block A.02, a minimum separation distance of c. 40 metres to the nearest north-facing window associated with No. 82 Sandymount Avenue and c. 20 metres from the common boundary is provided. The separation distances proposed are sufficient to obviate potential unreasonable overlooking of windows and the private amenity space areas associated with Nos. 82 and 84 Sandymount Avenue. With regards to potential overlooking from extended Block A.02, the appellant argues that the top floor terrace is devoid of screening, contrary to the requirements of the Board (included in Condition No. 2 of ABP Ref. ABP-309742-21). In response to Further Information Request Item No. 3(v), the applicant submitted updated plans indicate the location of all privacy screens to be provided. Further to this, the applicant's appeal response is accompanied by additional drawings which provide additional sections illustrating the relationship between the proposed development and the dwellings featuring to the south and east (No. 82 Sandymount Avenue and Nutgrove, Gilford Road), including proposed screening. Upon review, I am satisfied that the upper floor terraces are appropriately screened so as to restrict unreasonable overlooking.

7.3.5. Although proposed Block A.03 is to be introduced in an area previously forming part of Nutgrove House/Lodge's rear gardens/devoid of development, I do not consider this aspect if the proposed development would result in unreasonable overbearing of properties to the south. Block A.03 is two storeys in height, extends to a maximum height of 6.8 metres (7.1 metres when viewed from the southern abuttals which sit slightly lower), adopts a flat roof form, flanks the southern boundary for a length of 11.5 metres and is setback c. 1.7 metres from the common boundary. Given the positioning/scale/design of this block, I am of the view that it will sit comfortably in this back garden context, particularly having regard to the subject site's central urban location. In the context of extended Block A.02, this aspect of the proposed development is setback c. 20 metres from the common boundary and will partially shielded from view by proposed Block A.03.

7.3.6. Given the orientation of adjacent dwellings to the south of the proposed development and the separation distances that exist between the proposed development and these dwellings, I do not consider the proposed development would result in any negative

impacts on the residential amenity of adjacent properties to the south by way of overshadowing. The Daylight & Sunlight Assessment, prepared by Digital Dimensions, which accompanies the application confirms as such.

7.3.7. With regards to potential impacts on daylight/sunlight received by the dwellings to the south, the Daylight & Sunlight Assessment, prepared by Digital Dimensions, includes a daylight/sunlight assessment of the neighbouring properties. It concludes that Nos. 82 and 84 Sandymount Avenue (which sit immediately south of the proposed development) will comply with the applicable BRE Guidelines irrespective of the proposed development being introduced.

Properties to the East

7.3.8. In terms of residential abuttals, the eastern boundary of the site flanks the revised rear garden associated with Nutgrove House and Nutgrove Lodge (Nos. 58A and 58B Gilford Road). In light of the aforementioned suggestions made by third parties, again I think it beneficial to discuss the subject site in the context of its interface with the neighbouring properties to the east. As illustrated in the elevations/site sections, submitted with the planning application and appeal response, the subject site sits slightly (0.4 metres) higher than its eastern abuttals. The difference in level is minor.

7.3.9. With regards to the potential overlooking of the dwellings to the east, upon review of the plans submitted with the application, the eastern façade of proposed Block A.03 is devoid of habitable room windows at first floor level (the two windows featuring serving a landing) so there are no opportunities for overlooking of directly opposing first floor windows or adjacent open space areas to the east.

7.3.10. Turning my attention to the matter of potential overbearing impacts on the dwellings to the east. A minimum separation distance of 11.5 metres to the nearest west-facing window associated with these properties (serving Nutgrove House) and 3 metres from the common boundary with the eastern abuttals is provided in the context of proposed Block A-03. Although proposed Block A.03 occupies an existing garden area which is devoid of development, given the separation distances provided and the double storey height/flat roof adopted in the context of the proposed block, I do not consider this aspect of the proposed development would result in unreasonable overbearing of properties to the east. In the context of extended Block A.02, this aspect of the proposed development is setback c. 16.5 metres from the common boundary and will partially

shielded from view by proposed Block A.03 and the storage building associated with No. 15D Gilford Road, which sits to the east of Block A.02.

7.3.11. Given the orientation of adjacent dwellings to the east of the proposed development, the separation distances that exist between the proposed development and the eastern boundary and the double storey height/flat roof adopted in the context of the proposed block, I do not consider the proposed development would result in unreasonable overshadowing of adjacent private amenity spaces to the east. The Daylight & Sunlight Assessment, prepared by Digital Dimensions, which accompanies the application confirms as such.

7.3.12. With regards to potential impacts on daylight/sunlight received by the dwellings to the east, the Daylight & Sunlight Assessment, prepared by Digital Dimensions, includes a daylight/sunlight assessment of the neighbouring properties. It concludes that Nutgrove House and Nutgrove Lodge will comply with the applicable BRE Guidelines irrespective of the proposed development being introduced. This assessment was based on the dwelling permitted at Nutgrove Lodge under Reg. Ref. 2217/20, as opposed to the amended dwelling permitted under Reg. Ref. 4244/22 (this amendment application having been lodged following this application's lodgement/a decision being issued on the same). However, based on the results achieved in the context of the windows featuring at ground and first floor level, I am satisfied that the window serving bedroom 4, introduced at second floor level under Reg. Ref. 4244/22, which sits further west than the window assessed will receive an appropriate level of daylight/sunlight irrespective of the proposed development being introduced.

Proposed Development

Unit Mix

7.3.13. The proposal would entail alterations, internal reconfiguration, and extension of Block A.02, from ground to third floor level, to provide 5 no. additional residential units (2 no. 1 bed apartments and 3 no. 2 bed apartments) and provision of a new 2 storey residential block, Block A.03, comprising 6 no. apartment units (4 no. 1 bed apartments and 2 no. 2 bed apartments). The overall proposed unit mix of the resultant 69 no. apartments is 14 no. 1 bed apartments, 53 no. 2 bed apartments and 2 no. 3 bed apartments. This complies with the 50% one bed/studio units specified in relation to unit mix in Specific Planning Policy Requirement 1.

Floor Areas and Apartment Layout

7.3.14. As detailed in the floor plans accompanying the application³, the additional 1-bed units proposed would have a floor area of between 45.6sqm and 55sqm, the additional 2-bed (3P) units proposed would have a floor area of between 63.7sqm and 71.5sqm and the additional 2-bed (4P) units proposed would have a floor area of between 75.4sqm and 106.5sqm. With respect to minimum floor areas, the proposed apartments exceed the minimum overall apartment floor areas specified in Specific Planning Policy Requirement 3 as well as generally complying with the associated minimums set in relation to aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. In addition, there is a requirement under Section 3.8 for *'the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)'*. In this case this standard is also met. Further to this, having reviewed the proposed floor plans, I am satisfied that the additional/new apartments proposed are suitably laid out internally to provide an adequate level of residential amenity to future residents.

Dual Aspect/Floor to Ceiling Heights/ Apartments per Core

7.3.15. Specific Planning Policy Requirement 4 requires that a minimum of 33% of apartments proposed are dual aspect units in more central and accessible urban locations, Specific Planning Policy Requirement 5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres and Specific Planning Policy Requirement 6 specifies a maximum of 12 apartments per core. With regards to dual aspect, upon review of the plans submitted with the application, 45 of the 69 apartments resulting from the subject proposal constitute dual or triple aspect units. At 65%, the proposed development complies with the requirements of SPPR 4. With regards to north facing apartments, upon review of the plans submitted with the

³ I note there are minor discrepancies between the areas detailed in the Housing Quality Assessment and the plans accompanying the application, so my assessment has been informed by the plans.

application, I deem there to be 5 north facing single aspect apartments in the proposed development. This is considered appropriate in this instance given the unusual shape of the site and the minimal no. proposed.

7.3.16. The floor ceiling height at ground floor level would be 2.7 metres and a maximum of 10 apartments per core is proposed, thus complying with the requirements of these two standards.

Storage

7.3.17. As detailed in the floor plans accompanying the application, the 1-bed units would be provided with between 2.4sqm and 3sqm of storage, the 2-bed (3P) units by between 6sqm and 6.3sqm of storage and the 2-bed (4P) units by between 6sqm and 8sqm of storage which complies with the numerical storage requirements specified in Appendix 1 of the Apartment Guidelines, 2022, save for in the context of a small no. of the 1-bed units. Further to this, upon review of the plans, it would appear that a no. of storage spaces serving the proposed apartments is provided in the form of an individual utility room >3.5sqm within the apartment which is contrary to the following stipulation set out in Paragraph 3.31 of the guidelines: - *'as a rule, no individual storage room within an apartment should exceed 3.5 square metres.'* However, I am satisfied that compliance with this aspect of the requirements as well as an increase in the amount of storage serving the proposed 1-bed units could be addressed by way of condition should the Board be inclined to grant planning permission.

Private Amenity Space

7.3.18. Turning to private amenity space. As detailed in the floor plans accompanying the application, the 1-bed units would be served by balconies between 5sqm and 9.3sqm in size, the 2-bed (3P) units by between 6.5sqm and 16.1sqm in size and the 2-bed (4P) units by between 7.0sqm and 16.3sqm, which have a minimum depth exceeding 1.5 metres, thus complying with the quantitative requirements set out in relation to private amenity space. With regards to the quality of the private amenity space provided, I note the appellant has raised concerns about Block A-02 and Block A-03 being too close to each other and argues that the screening adopted at FI stage does not adequately address potential overlooking issues from balconies in close proximity to each other. Upon review of the plans, I am satisfied that the privacy

screens utilised, as well as the recessing of the balcony serving Unit Type 2X, ensure a sufficient degree of privacy is afforded residents of the proposed development. Therefore, I contend that the proposed private amenity areas also satisfy the qualitative requirements of the Apartment Guidelines given their orientation, the separation distance provided between the blocks, screening provided and their positioning relative to each other/proposed windows.

7.3.19. I note that the Planning Authority saw fit to include a condition (Condition No. 5) requiring that the privacy screens indicated on the drawings submitted by way of further information be installed and permanently maintained in place thereafter. In the interest of ensuring residential amenity is maintained for residents of the proposed apartment, I am recommending that a similar condition be adopted by the Board should the Board be inclined to grant planning permission.

Communal Amenity Space

7.3.20. In accordance with Appendix 1/paragraph 4.13 of the Apartment Guidelines, a minimum of 453sqm of communal amenity space would be needed to serve the entire apartment development and in light of the no. of 2+ bedroom apartments proposed, this is required to contain a small play space (about 85–100 sq. metres) to serve the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. The proposed development complies with the broad numerical communal amenity space requirements, providing 819sqm, inclusive of a 92sqm play area adjacent to the site's western boundary. Further to this dedicated play area, 4.24273 Wild Boar and 6.0600 jumping disk play equipment are also provided in the communal open space area in the eastern part of the site. From a qualitative perspective, I am satisfied that the proposed communal amenity space is appropriately overlooked and conveniently located relative to the apartment blocks proposed as well as being of an appropriate size/design so as to be usable. The Apartment Guidelines require that designers '*ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year*'. The application is accompanied by a Daylight and Sunlight Assessment Report, prepared by Digital Dimensions, which includes an assessment of the proposed open space areas (communal and public) against the BRE guidelines. It concludes that the proposed communal amenity spaces will receive sunlight on 50% of the area well in excess of

the minimum recommendations of the BRE Report – Site Layout and Planning for Daylight and Sunlight. In light of the foregoing, the proposed communal amenity spaces are also considered appropriate from a qualitative perspective.

Daylight/Sunlight

7.3.21. The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards. In this regard, the application is accompanied by a Daylight and Sunlight Assessment (which was updated on foot of the changes made at FI stage), prepared by Digital Dimensions, which among other things includes an assessment of the proposed apartments in terms of daylighting to habitable rooms. I am generally satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units.

Conclusion

7.3.22. In conclusion, subject to the aforementioned conditions, I am satisfied that the proposed development would provide quality apartments which provide a suitable level of amenity for future residents.

7.4. Open Space and Tree Conservation

Open Space

7.4.1. The resultant development will continue to provide an area of public open space along the Sandymount Avenue frontage, as previously approved under ABP Ref. ABP-309742-21. The granting of permission for the original application under ABP Ref. ABP-309742-21 involved a material contravention of the Dublin City Development Plan 2016-2022 in terms of public open space provision. More specifically, the area of public open space provided fell short of the minimum of 20% specified in relation to Z12 zoned land. The Board saw fit to grant permission for the original proposal, in particular the resultant material contravention, having regard to Section 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended). The Board stating that *‘the proposed development should be granted having regard to the guidelines under Section 28, that is, the provisions of Section 4.20 and 5.10(e) of the “Sustainable Residential Development in Urban Areas (Cities, Towns and Villages (Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities” issued*

by the Department of the Environment, Heritage and Local Government in 2009 and the proximity of other public open spaces to the site.' The Board were also satisfied that the proposal complied with the Z12 zoning objective, the proposed development providing '*an accessible area of 'open character' to Sandymount Avenue*'.

7.4.2. The subject proposal continues to materially contravene the development plan requirements in terms of public open space provision on Z12 zoned lands. The proposed development provides 734sqm of public open space to the front of the site (in the same location as the original proposal under ABP Ref. ABP-309742-21 but extended further north to provide additional sqm), according to the application material submitted, which equates to approximately 17% of the overall site area of 0.421ha. This falls short of the quantitative development plan requirements. I note that the subject application was lodged prior to the adoption of the Dublin City Development Plan 2022-2028. Under this new Development Plan there are more onerous requirements for residential development applications on Z12 zoned land in terms of public open space provision, Section 15.8.6 requiring that a minimum of 25% of the site be retained as accessible public open space (a 5% increase on the 20% requirement previously specified in the Dublin City Development Plan 2016-2022). A requirement of 10% continues to apply in the context of Z1 and Z2 zoned land. The total site area is 4,210sqm comprising of 3,120sqm of Z12 zoned lands and 1,090sqm of Z1 and Z2 zoned lands. This would equate to a requirement of 889sqm of public open space (780sqm in the context of the Z12 zoned lands and 109sqm in the context of the remaining Z1 and Z2 zoned lands).

7.4.3. Irrespective of the increase in the numerical requirement regarding public open space on Z12 zoned land resulting from the adoption of the Dublin City Council Development Plan 2022-2028, I would argue that the same justification for a shortfall in public open space provision exists in the context of the subject site as outlined in the Inspectors Report/Board's Order pertaining to ABP Ref. ABP-309742-21. In summary, the site does not have or provide 'open character' in its current condition (being enclosed by private property on three sides and a hoarding style high gate/high walls/a plastered elevation wall to an electricity substation style structure along its Sandymount Avenue frontage), the subject proposal will 'open' the site to the Sandymount Avenue streetscape/provide space suitable for relaxation and children's play and the site remains proximate to high quality public amenity spaces (such as Dublin Bay,

Sandymount Strand, Sean Moore Park and Sandymount Green). Therefore, I am satisfied that the subject application would continue to meet the criteria set out in Section 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended) and should be granted accordingly.

7.4.4. There is one qualitative aspect of the proposed public open space, that merits further consideration – its extension northwards around the eastern side of Block A.01 (the public open space area previously approved under ABP Ref. ABP-309742-21 stopped short of Block A.01's front façade). The Planning Authority considered the northernmost section of the proposed public open space area to be better suited as communal open space in this instance and saw fit to include a condition (Condition No. 5(ii)) requiring that the boundary railings to the front of the site be entirely located to the south of Block A.01 and the area to the side (east) of Block A.01 incorporated into the communal open space for the development. Having reviewed the plans/visited the site, I would form a similar view that such a condition is merited in this instance. The northernmost part of the public open space proposed, due to the subject site's unusual shape, is tucked behind the side boundary wall associated with No. 80 Sandymount Avenue and narrows in parts to accommodate the building entry associated with Block A.01/Block A.01's projection eastwards. The positioning of the western boundary wall associated with No. 80 Sandymount Avenue, as well as the electricity substation style structure featuring along the Sandymount Avenue frontage and Block A.01 itself, obscure the northernmost section of the proposed public open space area from view of passers-by along Sandymount Avenue.

7.4.5. Given its dimensions/layout, positioning on site and the degree of passive surveillance of this space available, in my view the northernmost part of the proposed public open space is not fit for purpose and should instead form part of the communal open space. Therefore, it is recommended that the Board include a suitably worded condition requiring that the boundary railings to the front of the site be relocated to the south of Block A.01 and the northernmost area be incorporated into the development's communal open space area. Although this amendment would result in a reduction in the amount of public open space provided on site, I am satisfied that the revised public open space is appropriate having regard to its southerly aspect, generous dimensions and frontage to Sandymount Avenue, as well as the site's existing character.

- 7.4.6. Further to the above condition, it is also recommended that a condition be attached requiring a financial contribution be made towards the provision of public open space elsewhere in the vicinity, in accordance with the Dublin City Council Development Contribution Scheme 2020-2023. It is noted that in the context of development contributions more broadly, the proposed Part V units to be provided as part of the development fall under the exemptions listed in the development contribution scheme and the subject site is located outside the applicable catchment areas relating to the Section 49 Supplementary Development Contribution Schemes (LUAS Cross City and Luas Docklands Schemes).
- 7.4.7. Having regard to the foregoing and the inclusion of the aforementioned conditions, public open space provision is considered appropriate in this instance. The appropriateness of communal amenity space provided as part of the proposed development has been considered previously in Section 7.3 of this report.

Tree Conservation

- 7.4.8. The application was accompanied by an Arboricultural Assessment and Impact Report & associated drawings, prepared by CMK Horticulture + Arboricultural Ltd. A total of 25 no. trees were surveyed in August 2021. In the context of the 21 no. trees featuring in the eastern part of the site which comprises the focus of the subject application, it was originally proposed to retain 3 no. or 13% of the total (Trees No. 7209, 7210 and 7211 which were retained under the parent permission also). Further to this, as illustrated in the Landscape Plan (Drawing No. 20-537-PD-01, prepared by Stephen Diamond Associates) submitted with the application it was proposed to plant 35 no. additional small trees (c. 2 metres in height) in this part of the site as part of the subject proposal. Upon initial review of the application, the Planning Authority also expressed some concerns regarding the extent of tree removal proposed and saw fit to ask, as part of their further information request, that the applicant reconsider retaining existing trees on the south side of the proposed communal courtyard space adjoining the rear garden of No. 80 Sandymount Avenue and at the entrance to the site, given their maturity and screening value. In response to this aspect of the further information request, the applicant submitted a revised landscape proposal which retained existing tree No. 1568 adjoining No. 80 Sandymount Avenue's rear garden and proposed to plant a further 5 no. birch trees along the southern boundary. They also argued that the remaining trees were either unsuitable for retention due to their proximity to the

proposed buildings or are categorised 'C2' – of low quality or value. Upon review, the Planning Authority deemed the proposal acceptable with regards to tree removal, save for in the context of the sycamore tree featuring along the Sandymount Avenue frontage.

7.4.9. The third party appellant and observers have raised concerns about the level of tree/vegetation removal required to facilitate the proposed development being excessive and contend that the trees featuring in the eastern part of the site should be preserved, both those featuring along the southern and eastern boundaries of this part of the site, as they provide privacy/amenity value to neighbouring properties and their removal is not required to facilitate the proposed development. They also contend that removal of existing trees on site will destabilise the adjacent boundary walls. In response to the concerns raised by third parties in this regard, the applicants appeal response included a Statement of Response to Arboricultural and Landscape Items, prepared by CMK Horticulture and Arboricultural; and a letter of response to landscape items raised in the appeal, prepared by Stephen Diamond Associates. The Statement of Response to Arboricultural and Landscape Items notes that Trees No. 1569-1572 need to be removed to facilitate emergency vehicle access, as illustrated in Arboricultural Impact Drawing No. TSAN005 102 Rev C, and to facilitate construction of Block A.03. Tree No. 1568 is an early mature birch which is considered to be of a suitable age and species for retention as well as falling outside the emergency vehicle path.

7.4.10. I note that there are no special designations pertaining to the site and no Tree Preservation Orders under the Planning and Development Act, 2000 (as amended), applying to the subject site. The proposed development, as indicated on the revised arboricultural/landscape plans submitted with the further information request response, would necessitate the removal of 17 no. trees as well as some hedgerows, in the eastern part of the site where proposed Block A.03 and the communal courtyard space are to be located. 4 no. trees are proposed to be retained. The Arboricultural Assessment and Impact Report submitted with the further information request shows that none of the trees being removed are classified as 'Category A' trees. It is proposed to carry out compensatory planting with 36 no. additional trees, including a substantial no. of Downy Birch along the southern and eastern boundaries, are to be introduced in this part of the site as part of the subject proposal.

7.4.11. Based on the arboricultural material/landscape proposals submitted with the application, the absence of tree-specific objectives/orders applying and my own site visit, I am satisfied that the level of tree retention/loss required to facilitate the proposed extension of Block A.02 and construction of Block A.03 is acceptable in this instance. The trees being removed in the eastern part of the site are only partly visible from the streetscape. 4 no. of the existing trees featuring in this part of the site are to be retained, including an existing birch tree (Tree No. 1568) adjoining the rear garden of No. 80 Sandymount Avenue which has a stated overall height of 15 metres and a spread ranging from 2 metres (west) to 4 metres (east). The retained trees on site and proposed supplementary planting will appropriately soften the subject site's interface with adjacent residential properties.

7.4.12. With regards to the potential destabilisation of the adjacent boundary walls resulting from removal of existing trees on site, the letter of response to landscape items raised in the appeal, prepared by Stephen Diamond Associates, argues that if trees currently featuring along the neighbouring boundary are allowed to remain growing, they will in fact destabilise the wall due to their proximity to it. They contend that the replacement birch trees/evergreen hedge proposed along the southern boundary are to be planted in a more appropriate location relative to this boundary. The Statement of Response to Arboricultural and Landscape Items, prepared by CMK Horticulture and Arboricultural, accompanying the applicant's appeal response notes that when it comes to removing trees/the hedge abutting the neighbouring boundary wall '*stumps can be ground out or treated with herbicide to allow minimal disturbance of existing soil and no contact with the wall foundations*'. I consider the proposed tree removal should be feasible without causing damage to the structural integrity of the boundaries of the adjoining properties. Notwithstanding such, the onus is on the applicant to ensure such and deal with such if it arises, it is not a reason or grounds for the proposed development in this case.

7.4.13. There is one further aspect of the tree removal involved in the subject proposal that requires consideration, this is the proposed removal of the sycamore tree featuring along the Sandymount Avenue frontage. The applicant contends that its removal is necessary to accommodate the adjacent proposed vehicle set down parking space. As previously mentioned, the Planning Authority considered the proposed removal of this tree, which contributes to the streetscape, to be inappropriate and recommended

that it be retained as per the parent permission. I would agree, particularly given the issues that arise in the context of the vehicle set down parking space which it is being removed to facilitate (the suitability of which will be assessed in Section 7.6 of this report). Therefore, it is recommended that a condition, similar to Condition No. 5(i) included on the Planning Authority's Notification of Decision to Grant Permission, requiring that this sycamore tree be retained on site be included in the event that permission is granted.

7.5. Built Heritage

7.5.1. A small part of the subject site, more specifically the 558sqm parcel previously comprising part of the rear gardens of Nutgrove House and Nutgrove Lodge which now forms part of the subject site, is located within the Sandymount Village and Environs Architectural Conservation Area. Proposed Block A.03 is located within the part of the site falling within the boundary of the applicable ACA. Therefore, consideration of the impact of the proposed development on the character and special interest of the Sandymount Village and Environs Architectural Conservation Area, is required in this instance. Although the Dublin City Development Plan 2016-2022 has expired in the intervening period since this application was determined, I note the part of the subject site continues to form part of the Sandymount Village and Environs Architectural Conservation Area and similar policies pertaining to new development within an ACA feature in the recently adopted Dublin City Development Plan 2022-2028, in Section 11.5.2 (Policy BHA7 more specifically). Therefore, the impact of the proposed development being constructed on site still requires consideration under the Development Plan in the context of the subject application. Further to this, the appropriateness of the proposed development requires consideration in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

7.5.2. Observers contend that the proposal is partly visible from the Sandymount Architectural Conservation Area and is inconsistent with the character of the area and buildings within the Sandymount Architectural Conservation Area. The application is accompanied by a Conservation Assessment, prepared by Rob Goodbody. This report, having considered the proposed development in the context of Section 8.1 'New Development' of the Sandymount Village and Environs Architectural Conservation Area Report - Character Appraisal And Policy Framework (2013),

concludes as follows: - *“in view of the height, design and location of the proposed additional apartment building A.03 and additions to apartment building A.02, the nature of the buildings and uses on the land within the ACA, the proposed additions to the approved development would have little impact on the character of the ACA and no impact on any Protected Structures. In light of these findings, the proposed development would have no adverse impact on architectural heritage”.*

- 7.5.3. Proposed Block A.03 falls within the ACA boundary and Block A.02, which is proposed to be extended, is located immediately north-west of the ACA. Block A.03 will be 2 storeys in height and extend to a maximum height of 6.8 metres. It will be located in the easternmost part of the site, to the north of Nos. 80, 82, 84 and 86 Sandymount Avenue and west of Nutgrove House and Nutgrove Lodge (Nos. 58A and 58B Gilford Road). The extension to Block A.02 will see the previously permitted building footprint pushed eastwards at second and third floor levels and slightly southwards at ground to third floor levels. The extension to Block A.02 will sit adjacent to a storage building and carparking area associated with No. 15D Gilford Road. Both the extension and new building proposed are contemporary in design, featuring brick finishes, flat and pitched roof form elements and in the context of Block A.02 pyramid style roof lights.
- 7.5.4. Verified Photomontages, prepared by Digital Dimensions, were submitted with the application. I am satisfied they accurately reflect the visual impact of the proposed development. The proposed development is best illustrated, in the context of the adjacent ACA, in the images taken/produced from viewpoints 1, 2, 3, 4 and 5. As can be seen from these verified photomontages, proposed Block A.03 is not visible when standing within the ACA given its positioning, tucked behind a no. of houses/buildings on Sandymount Avenue and Gilford Road, and its height, at 2 storeys it sits lower than the buildings featuring on the western side of Sandymount Green and Gilford Road. As illustrated by the verified photomontage taken from viewpoint 5, Block A.02 is visible from the Gilford Road, via the access road featuring between 15D Gilford Road and the Sandymount Pet Hospital. Although more visible than Block A.02 as originally approved under ABP Ref. ABP-309742-21, I do not consider the extension will have a negative impact on the ACA as the views of the resultant Block A.02 will be oblique due to the narrow nature of the applicable access road, the presence of buildings to the north/south of the access road and the fact that Block A-02 is setback c. 50 metres from the road edge. Further to this, although the proposed extension to Block A.02

involves a pushing of the building footprint eastwards at upper floor levels, the mass and scale of the resultant block is broken down through the continued adoption of setbacks at upper floor levels, the use of flat roof elements proximate to the site's eastern boundary, as well as the contemporary design/pallet of materials used.

7.5.5. Having regard to its height/design of the proposed works, their positioning within the ACA/proximity to Protected Structures (the subject site is on the extreme south-western edge of the ACA and is somewhat removed from Protected Structures featuring in the ACA, the nearest one being No. 15 Sandymount Green) and the limited views available from the Sandymount Green streetscape, I am satisfied that the character/the special interest of the Sandymount Village and Environs Architectural Conservation Area will remain unchanged and unaffected by the proposal. I, therefore, have no objections to the proposed development in terms of potential impacts on built heritage. I consider the proposed development would be consistent with the applicable policies of the Development Plan as well as the criteria/guidelines set out in the Sandymount Village and Environs Architectural Conservation Area Report - Character Appraisal and Policy Framework (2013) .

7.6. Access and Parking

7.6.1. The resultant development will continue to be served by a basement carpark accessible off Sandymount Avenue via a vehicular access in the south-western corner of the site, as previously approved under ABP Ref. ABP-309742-21.

7.6.2. In terms of quantum of car parking, the proposed basement car park contains 39 no. car parking spaces (as per the original approval under ABP Ref. ABP-309742-21), 2 no. of which will be reserved for car share parking in light of changes made at FI stage to address concerns raised by Dublin City Council's Transportation Planning Section. This equates to a car parking rate of 0.56 car parking spaces per apartment (a reduction from the 0.67 car parking rate achieved in the original approval for 58 no. apartments). The observers contend that the car parking provision is unsuitable and will result in overspill to the surrounding area.

7.6.3. The site is located within Zone 2 as identified within Map J of the Dublin City Development Plan 2022-2028, and a maximum of 1 space per houses & apartments/duplexes is specified in Table 2 for this zone. The revised car parking

provision is below the parking space requirements specified. Section 4 of Appendix 5 of the Development Plan states that '*a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location.*' Similarly, the Apartments Guidelines (2022) state that, in central and/or accessible urban locations, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The subject site is deemed to be in a central and/or accessible urban location as it is proximate to Sandymount Dart Station and Dublin Bus services running along Sandymount Avenue. Further to this, it is highly accessible by bicycle and foot, the subject site being within 1.7km of the canal which marks the boundary to the area considered to be Dublin City Centre. In addition to providing multiple options for sustainable travel (via public transport, walking and cycling), there is also a choice of retail and services provision in the nearby Sandymount Village. Further to this, the proposed development incorporates 2 no. dedicated car club parking spaces. It is considered that 1 no. car sharing vehicle could replace up to 15 no. private cars. While the concerns of the observers are noted, it is my view that having regard to the site's central and/or accessible urban location, its proximity a range of services and amenities, the provision of 2 no. dedicated car club parking spaces and the sites proximity to public transport, I am satisfied that sufficient car parking has been provided in this instance and complies with the provisions of the Development Plan/the Apartments Guidelines and would not result in overspill onto the surrounding road network.

7.6.4. In terms of the design of the carpark serving the development, the layout of the basement carpark remains generally the same as that considered in the context of the original application under ABP Ref. ABP-309742-21, with limited alterations to the layout proposed to accommodate the provision of 130 no. cycle spaces. One aspect which has been the subject of change is the layout of car parking spaces in the south-eastern corner of the proposed basement carpark. More specifically, car parking spaces Nos. 35-38 inclusive, with car parking spaces No. 35 and 36 and 37 and 38 now being provided in tandem. Dublin City Council's Transportation Planning Section recommended that car parking space Nos. 35 and 37 be omitted to remove the need for double manoeuvring/queuing within the basement and to address the over provision of car parking spaces to two units (the FI response submitted outlining that

these spaces will be assigned to residents of the 2 no. 3-bed apartments proposed). In light of this, Condition No. 6(v) included in the Planning Authority's Decision required that car parking spaces 35 and 37 be omitted, reducing the permitted no. of car parking spaces to 37. I do not consider the omission of car parking spaces No. 35 and 37, as suggested by Transportation Planning Section, is necessary in this instance. The assigning of the applicable car parking spaces to the residents of the proposed 3-bed apartments will reduce potential conflicts while maintaining the extent of car parking provided on site. In the rare instances where conflicts do arise, upon review the plans lodged with the application, I am satisfied that such occurrences will cause limited disruption to access to/functioning of the carpark due to the positioning of the tandem car parking spaces in the south-eastern corner, removed from the carpark entrance/exit and proximate to a limited no. of the overall carparking spaces. To ensure that the car parking spaces are assigned in the manner outlined in the applicant's FI response, I am recommending that a condition be attached specifically requiring that car parking spaces No. 35/36 and 37/38 be assigned to the proposed 3-bed apartments.

7.6.5. With regards to bicycle parking provision, the resultant development will feature 130 no. bike parking spaces/3 no. cargo bike parking spaces in the basement for residents and 36 no. bike parking spaces/2 no. cargo bike parking spaces, at grade for visitors. The quantum of bicycle parking provided is in excess of the Apartment Guidelines (2022) standards, which require 1 no. resident cycle space per bedroom and 1 no. visitor cycle space for every 2 no. units, and the standards set out in Section 3.1 in Appendix 5 of the Development Plan, which require a minimum of 1 long term space per bedroom and 1 short stay space per 2 apartments. The proposed visitor spaces are considered to be in appropriate locations in terms of accessibility and passive surveillance, provided within the public open space area to the front of the site or adjacent to entry paths to the various blocks/play area.

7.6.6. In addition to the aforementioned basement carpark, the proposed development includes a set down / loading bay area along its Sandymount Avenue frontage. Dublin City Council's Transportation Planning Section have raised concerns regarding this set down / loading bay area as it requires dishing of the public footpath and vehicles to manoeuvre across the public footpath for access and egress which may cause

obstruction of/conflicts with pedestrians. In light of these concerns, the Planning Authority saw fit to include a condition (Condition No. 5(i)) in their notification of decision to grant permission requiring omission of the proposed set-down space / loading bay/retention of the sycamore tree to the front of the site. I would share the concerns of the Transportation Planning Section regarding pedestrian safety and would also think it appropriate that the sycamore tree be retained given its contribution to the Sandymount Avenue streetscape. Further to this, the positioning of the set-down space/loading area centrally along the Sandymount Avenue frontage detracts from/restricts pedestrian access to the public open space area being provided at the front of the site (I note that the electricity substation style structure featuring along the Sandymount Avenue frontage already creates a significant physical/visual barrier to accessing this open space area). I note that the Transportation Planning Section in their commentary acknowledged that potential exists for the proposed vehicular access/the area adjacent at the front of the site to be utilised for servicing/deliveries to the subject development. Upon review of the plans submitted with the application, I would concur with this conclusion. Therefore, it is recommended that the proposed set-down space/loading area be removed by way of condition and that a condition requiring that the vehicular entrance layout be revised to facilitate a set down area within the site, be included in the event that permission is granted.

7.7. Other Matters

7.7.1. *Flood Risk* – an observer has raised concerns regarding the increase of flooding on the subject site and neighbouring properties as a result of the increase in buildings on site. The subject site is located c. 500 metres west of Dublin Bay and c. 700 metres south-east of the River Dodder. It is identified as being within Flood Zone B in the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028. This application, as well as the original application this application looks to amend, was lodged prior to the adoption of the Dublin City Development Plan 2022-2028 and considered in the context of the Dublin City Development Plan 2016-2022. The Dublin City Development Plan 2016-2022, more specifically the Strategic Flood Risk Assessment included in Volume 7 of the same, placed the subject site within Flood Zone A. The application is accompanying by a Flood Risk Assessment, prepared by Barry & Partners. This assessment assessed the subject proposal having

regard to the site being located within Flood Zone A, adopting a conservative approach. In light of this, it recommended that the development be constructed to a minimum FFL of +2.60mOD so as to be above the 0.5%AEP tidal flood event, provide a 0.5m allowance for the effects of climate change and a further freeboard of 0.3m. The proposed development adopts these recommended FFLs. Having considered the information available/provided by the applicant, subject to the adoption of the FFLs outlined in the Flood Risk Assessment, I am satisfied that, given the small scale of the additional block/extension to the existing block and location within an established residential area, the proposed development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

7.7.2. *Fire Safety* – One observer contends that the proposal is unsuitable from a fire safety perspective. The requirement of obtaining a fire safety certificate is assessed under a separate regulatory code to that of planning, and as such is not a matter for the Board in its deliberations of this application. However, the application is accompanied by an autotracking drawing for fire tenders, prepared by Barry & Partners Consulting Engineers, which illustrates how fire tender access is provided for on site.

7.7.3. *Devaluation of Property* - I note that one of the observations on the appeal received raise concerns in respect of the devaluation of properties in the immediate surrounds. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity, subject to condition.

7.8. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, it is recommended that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below.

9.0 Reasons and Considerations

Having regard to the zoning objectives applying to the site in the Dublin City Development Plan 2022–2028, the site’s central and accessible location, existing/proposed public transport links serving the area, the pattern of development in the area and the layout of the scheme, it is considered that, subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height, density and design for the site, would be acceptable in terms of the amenities of adjoining properties, would not seriously injure the visual amenities, built heritage or character of the area and would be acceptable in terms of traffic and road safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on 7th June 2022 and by the further plans and particulars received by An Bord Pleanála on 26th August 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
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| 2. | <p>The terms and conditions of the permission for the original development, which was issued under ABP Ref. ABP-309742/21 shall be fully complied with, except where modified by this permission.</p> <p>Reason: To provide for an acceptable standard of development.</p> |
| 3. | <p>The proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> a) The proposed set-down space / loading bay on Sandymount Avenue shall be omitted and the sycamore tree to the front of the site be retained, as per the parent permission Reg. Ref. 2800/20/ABP Ref. ABP 309742/21. b) The vehicular entrance layout shall be revised to facilitate a set down area (used for servicing, deliveries, emergency and waste collections and not private car parking) within the site. c) The boundary railings to the front of the site shall be entirely located to the south of Block A.01 and the area to the side (east) of Block A.01 incorporated into the communal open space for the development. d) The internal layouts of the proposed apartments shall be amended so that no individual storage room within an apartment exceed 3.5 square metres. e) The amount of storage provided to serve 1-bed apartments shall be increased to comply with the requirements of the Apartment Guidelines, 2022. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of pedestrian safety and residential amenity.</p> |
| 4. | <p>Car parking spaces No. 35/36 and 37/38 shall be assigned to the proposed 3-bed apartments unless otherwise agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of traffic, cyclist and pedestrian safety, to promote sustainable transportation and to protect residential amenity.</p> |

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| 5. | <p>The privacy screens, indicated on the drawings submitted by way of further information and accompanying the applicant's appeal response, shall be installed and permanently maintained in place thereafter.</p> <p>Reason: In the interest of residential amenity.</p> |
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Margaret Commane
Planning Inspector

15th November 2023