



An
Bord
Pleanála

Inspector's Report ABP-314309-22

Development

Demolition of existing dwelling on site and construction of mixed-use development of 88 no. Build to Rent residential apartments, commercial unit and café across 2 buildings and all associated site works.

Location

St. Michael's Hospital Car Park,
Crofton Road, Dun Laoghaire, County
Dublin, A96 TN26.

Planning Authority

Dun Laoghaire Rathdown County
Council

Planning Authority Reg. Ref.

D21A/1041

Applicant

Fitzwilliam DL Limited

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Parties vs. Grant

Appellants

1. Sean & Mary Dorgan
2. Thomas Lubliner
3. Ivan & Katherine Dempsey
4. Katherine Aylmer

- 5. Helen Shenton
- 6. Robert & Kate Dobbyn
- 7. Bernie Chamberlaine
- 8. John Murphy
- 9. Declan O'Regan
- 10. Henning Ringholz
- 11. Niamh McGowan
- 12. Crofton Buildings Management
CLG

Observers

None

Date of Site Inspection

15th January 2024

Inspector

Stephen Ward

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1.0 Site Location and Description

- 1.1. The appeal site (0.42ha) is located to the rear (north) of St. Michael's Hospital in the town centre area of Dun Laoghaire. It mainly comprises a surface level car park that is associated with the hospital but is operated by 'Best Car Parks'. It also includes a vacant 2-storey dwelling in the northeast corner of the site and extends over the full width of Crofton Road itself to the north and northwest of the car park. There are a limited number of small to medium sized trees and large shrubs on the grass verges between the car parking spaces. The site levels fall from south to north with a level difference of c. 3m between the northern and southern boundary.
- 1.2. The site is bound to the north by Crofton Road, from which access is gained and a right of way leads through the site to St. Michael's Hospital to the south. It is bound to the east by the Harbour View apartment development, and to the west by residential dwellings on Charlemont Terrace (protected structures), Charlemont Mews, and Charlemont Avenue (protected structures). On the opposite (north) side of Crofton Road is Dun Laoghaire DART station and Dun Laoghaire Harbour.

2.0 Proposed Development

- 2.1. The original application involved the demolition of the existing dwelling on site (c.79 sqm) and the construction mixed use development of 88 no. Build to Rent residential apartments, commercial unit and café across 2 buildings. The proposed development can be summarised as follows:
- Building 01 (part 5, 6 and 8 storeys) fronting Crofton Road provides 43 apartments with associated internal residential amenity at ground floor, first floor level and seventh floor level with external roof terraces at fifth and seventh floor levels (with flagpole at seventh floor level) and commercial unit (use falling within Class 1 (shop), Class 2 (financial/professional services), Class 8 (medical services)) and café at the eastern part of the building at ground floor level.
 - Building 02 (part 8, part 9 storeys) to the rear provides 45 apartments with external roof terrace at eight storey level with refuse, bicycle storage and storage at ground floor level.

- A central courtyard provides 378 sqm of communal amenity space, with a total of 681 sqm public open space provided within a landscaped area adjacent to the northern elevation of Building 01 and pedestrian route at the eastern perimeter.
- Access is taken from Crofton Road with a shared vehicular and cycle entrance at the western perimeter of the site providing access to 3 no. car parking spaces within the central courtyard and to St. Michael's Hospital to the south.
- All associated infrastructure, access, works to footpath and road markings at Croton Road, landscaping, cycle parking refuse storage, plant and ancillary works to enable the development.

2.2. As part of the response to a Further Information Request, the proposed development was reduced to a total of 74 no. units. This was achieved primarily through the omission of 2 no. intermediate floors from Building 2, resulting in the removal of 12 no. apartments. Two apartments were also omitted from an intermediate floor level in Building 1 to reduce the building height adjoining Charlemont Terrace by one floor.

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

Table 1 - Key Figures for the Proposed Development

	Original Application		Further Information	
Site Area	0.42 ha (gross) 0.33 ha (net)		No change	
No. of apartments	88		74	
Mix of Units	1-Bed	2-Bed	1-Bed	2-Bed
	67 (76%)	21 (24%)	55 (74%)	19 (26%)
Non-residential Uses	Commercial unit & Café (230m ²)		No change	
Resident Facilities/Amenities	499m ²		No change	
Gross Floor Area	7,656m ² Residential (including resident facilities/amenities)		6,687m ²	
Residential Density¹	274uph		232uph	
Plot Ratio	1.88 (gross) 2.38 (net)		1.64 (gross) 2.09 (net)	
Site Coverage	24.3%		No change	

¹ Net density calculated for mixed use scheme as per Appendix B of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

Height	Building 1 - 5 to 8 storeys Building 2 – 8 to 9 storeys	Building 1 - 4 to 8 storeys Building 2 – 6 to 7 storeys
Dual Aspect	35%	36%
Car / Motorcycle Parking	1 Disabled car space, 2 car club spaces, 2 motorcycle spaces.	1 Disabled car space, 1 layby/drop-off space
Bicycle parking	150 spaces (for residents and visitors). 8 spaces for visitors and commercial units.	No change
Communal Amenity Space	765 sqm	801 sqm
Public Open Space	681 sqm (c. 20% of net site)	651 sqm (c. 20% of net site)

2.4. In addition to the standard plans and particulars, the application was accompanied by the documents and reports as outlined below. Additional details were submitted as part of the further information response and the appeal response.

- Planning Report
- Draft BTR Covenant
- BTR Operational Management Plan
- Environmental Impact Assessment Screening Report
- Article 103(1A) Statement
- Appropriate Assessment Screening Report
- Hydrological and Hydrogeological Qualitative Risk Assessment
- Ecological Statement
- Bat Survey
- Design Appraisal
- Architectural Heritage Impact Assessment
- Housing Quality Assessment
- Outline Operational Waste Management Plan
- Construction and Environmental Management Plan
- Outline Construction and Demolition Waste Management Plan

- Site Investigation Report
- Archaeological Assessment
- Building Lifecycle Report
- Site Specific Flood Risk Assessment
- Quality Audit
- Outline Travel Plan
- Daylight & Sunlight Reports
- Landscape Rationale Report
- Arboricultural Report
- Landscape and Visual Assessment
- Engineering Planning Report
- Wind Microclimate Modelling Report
- Stage 1 Surface Water Audit
- Building Services and M&E Report
- Telecommunications Report
- Sustainability Report.

3.0 Planning Authority Decision

3.1. Decision

By order dated 13th of July 2022, the planning authority made a decision to grant permission for the proposed development, subject to conditions. Notable conditions can be summarised as follows:

7. The screening method for windows on the eastern elevation of Building 1 shall be as per Option 2 or 3 as per the FI response.
8. Boundary treatment to be agreed, including a gateway along eastern boundary.
10. Cycle parking and associated facilities to be agreed.

29. Payment of €2,000 per dwelling as a special contribution in lieu of public open space (under s. 48(2)(c) of the Act) to fund improvements to Myrtle Square.

3.2. Planning Authority Reports

3.2.1. Further Information Request

Following the initial consideration of the application, a Further Information Request was issued by DLRCC. The issues raised can be summarised as follows:

1) Planning

- (a) Address the visual impact of Building 1 to include removal of intermediate floor where it abuts Charlemont Terrace.
- (b) Address the height of Building 2 and its impact on visual and residential amenities, to include revision of northern elevation and omission of 2 no. intermediate floors.
- (c) Address the visual impact of the lift core to Building 1.
- (d) Modify pedestrian route along eastern site perimeter to provide direct permeability from Eblana Avenue to Crofton Road.
- (e) Provide screening on the western side of balconies on the south-facing side of Building 1.
- (f) Provide screening on the east & west-facing side of balconies (Building 2), and section details of windows screening (Buildings 1 & 2).
- (g) Proposals to screen the upper floor level amenity area (Building 1) and clarify hours of operation and access arrangements.
- (h) Clarify compliance with Part V obligations.
- (i) Provide wind modelling assessment of the balconies and roof terraces.
- (j) Submit revised daylight, sunlight, and overshadowing report to assess the revisions to the scheme and appropriately include and reference all relevant existing and proposed windows.
- (k) Submit additional shadow analysis of all external amenity areas.

(l) Clarify any alternative, compensatory design solutions for daylight deficiencies and confirm that the correct drawings were used for daylight/sunlight assessments.

2) Landscape

(a) Address concerns regarding the size and useability of the central ground floor communal space, and concerns about access and functionality for the roof top amenity areas.

(b) Clarify the hierarchy of open spaces.

(c) Provide additional trees with large canopies.

(d) Clarify the Planting Plan and Planting Schedule.

3) Traffic & Transport

(a) Confirm continuous footpath along road frontage.

(b) Confirm refuse collection will be contained within the site curtilage.

(c) Submit set down/pick up proposals along Crofton Road.

(d) Submit lighting design and confirm Taking in Charge proposals.

4) Drainage

(a) Confirm green roof proposals and compliance with CDP standards.

(b) Confirm surface finishes and compliance with GDSDS requirements.

(c) Clarification of flow control device and maintenance access.

(d) Clarification of the attenuation storage system design.

(e) Clarify that all SuDS measures have been designed in accordance with CIRA C753.

(f) Confirm that a utilities clash check has been completed.

(g) Clarify that all drawings are compatible with engineering drawings.

(h) Address concerns that the attenuation will lead to flooding of the site.

5) Waste Management

- (a) Submit a materials source and management plan, a CEMP, a Noise Management Plan, and Operational Waste Management Plan.

3.2.2. **Planning Reports**

The DLRCC assessment of the proposed development is outlined in the initial Planning Report (based on the CDP 2016-2022) and in the subsequent report on the FI Response (based on the CDP 2022-2028). The main issues raised in the reports can be cumulatively summarised under the following headings:

Principle of development

- Given the urban infill nature of the site and its proximity to public transport services, the proposed development would be in accordance with national and regional policy objectives.
- The proposed uses would be acceptable in accordance with the Major Town Centre (MTC) zoning objective and the provisions of the Dun Laoghaire Urban Framework Plan (UFP).
- Notwithstanding the policies and objectives introduced under the CDP 2022-2028, the principle of the development remains acceptable at this location.
- The application includes a shared right of way to St Michael's Hospital and the further information response satisfactorily addresses permeability along the eastern site boundary (subject to detailed agreement by condition).
- Despite the indications of the UFP regarding access at the northeast site corner, the proposed access arrangement is acceptable in principle.
- The absence of childcare facilities is acceptable given the nature and scale of this BTR development.

Density

- The proposed higher density (including site coverage and plot ratio) would support consolidation and intensification of an underutilised infill site and the further information response has satisfactorily addressed outstanding concerns regarding the height and scale of the proposal.

Residential Mix

- The first report notes that the proposal would not be in accordance with Section 8.2.3.3 (iii) of the CDP 2016-2022. However, it would be considered acceptable having regard to SPPR 8(i) of the Apartments Guidelines, which outlines that there shall be no restriction on unit mix in BTR development.
- The second report notes that, as per a Ministerial Direction, the section of the CDP 2022-2028 which placed a requirement for housing mix in BTR development has been removed.

Design & Built Heritage

- Concerns were raised that the original proposal would adversely impact on the scale and setting of Protected Structures, including Charlemont Terrace, Charlemont Avenue, the spires of St Michael's and Mariners Church, and the Clock Tower on County Hall. However, the FI Response reduced the height and scale of the proposed buildings, and this was considered acceptable despite the concerns of the Conservation Officer.
- The submissions received regarding the former use of the site as a Magdalene Laundry are noted, and suitable archaeological conditions would be attached to any grant of permission.

Building Height and Scale

- The original proposal was assessed against 'Appendix 9: Building Height Strategy' of the CDP 2016-2022; the DLUFP; and SPPR 3 of the Building Height Guidelines. Concerns were raised about certain aspects of the proposal. However, the FI Response reduced the height and scale of the proposed buildings, and this was considered acceptable.

Impact on existing Residential Amenity

- At the east side (Harbour View Apartments) the proposed setback and screening arrangements will satisfactorily prevent overlooking from apartments and balconies in Building 1. Concerns were raised about overlooking/disturbance from the roof top amenity area (Building 1) and the balconies in Building 2, but these were satisfactorily address in the FI Response.

- Concerns were raised about daylight/sunlight impacts on the Harbour View apartments associated with the original proposal. The FI Response reduced the height of the development, and the revised daylight/sunlight assessment was considered acceptable.
- Concerns were raised about the visual overbearing impacts associated with the original proposal on properties to the east and west. The FI Response reduced the height of the development and was considered acceptable.
- On the west side (Charlemont properties), concerns were raised about overlooking from apartment balconies (Buildings 1 & 2). These concerns were satisfactorily addressed in the FI Response.
- Concerns were raised about daylight/sunlight impacts associated with the original proposal on the Charlemont properties to the west. The FI Response reduced the height of the development, and the revised daylight/sunlight assessment was considered acceptable.

Apartment Standards and Amenities

- The first report notes that the standards outlined in the CDP 2016-2022 were superseded by the Apartment Guidelines (2020).
- The proposal is generally satisfactory in terms of the legal requirements for BTR applications and the provision of supporting communal/recreational amenities.
- The proposal satisfactorily addresses the requirements for floor space, stair/lift core, dual aspect, and ceiling heights, as per the flexibility that applies to BTR development in the Apartments Guidelines. 15 no. apartments will not have private amenity space but will be satisfactorily compensated by excellent views, full height windows, 'Juliet' balconies, and internal/external communal facilities.
- The revised daylight/sunlight report for the FI Response shows that there will be minor shortfalls in compliance with relevant standards. However, these are considered acceptable having regard to the nature and location of the scheme and the overall quality of the scheme.

Communal Open Space / Landscape

- The quantum of communal open space exceeds the requirements of the Apartments Guidelines. Concerns were raised about the quality of open space, including the absence of appropriate play facilities, micro-climatic impacts, and the inclusion of car parking in the central ground level open space. These issues were satisfactorily addressed in the FI Response.
- Given the reduction in outdoor communal open space (i.e., excluding rooftop terraces) a financial contribution in lieu shall apply as per s. 8.2.8.2 (iii) of the CDP 2016-2022.
- The loss of trees and hedgerows will be satisfactorily addressed through replacement planting.

Drainage

- The FI Request raised issues in relation to the drainage design and flood risk. These issues were satisfactorily addressed in the FI Response.

Traffic & Transportation

- Given the nature and scale of the development and its location in proximity to public transport, car parking proposals are acceptable.
- The FI Request raised queries in relation to the roadside footpath, refuse collection, and set down/pick up facilities along Crofton Road. The FI Response has satisfactorily addressed these issues.

Waste Management / Construction Management

- The FI Request raised queries in relation to materials source and management, construction waste management, noise management, and operational waste management. The FI Response has satisfactorily addressed these issues.

Part V

- The FI Request raised queries in relation to Part V obligations and it has been satisfactorily clarified that a rate of 10% applies.

Conclusion

- The DLRCC Planner's report concludes the FI response is acceptable subject to suitable conditions. The proposal would be in accordance with the pertinent policies of the CDP 2022-2028 and the proper planning and sustainable development of the area.
- It recommends to grant permission subject to 30 no. conditions, and this forms the basis of the DLRCC decision.

3.2.3. Other Technical Reports

Transportation Planning: The initial report requested further information on the issues as outlined in point 3 of the FI Request. The subsequent report on the FI response outlines that there are no objections subject to conditions.

Drainage Planning: The initial report raised concerns as outlined in point 4 of the FI Request. The subsequent report on the FI Response recommends conditions to be attached to any grant of permission.

Parks: The initial report raised issues but stated that there were no objections subject to conditions. The subsequent reports on the FI Response (including an addendum report) cite outstanding concerns about insufficient public open space as per s. 12.8.3.1 of the CDP 2022-2028. It recommends conditions to be attached to any grant of permission, including a special contribution (€2,000 per apartment) to fund improvements to Myrtle Square.

Environmental Enforcement: The initial report requested further information on the issues as outlined in point 5 of the FI Request. The subsequent report on the FI response outlines general satisfaction with proposals, although the Operational Waste Management Plan is considered to be seriously deficient. It recommends conditions to be attached to any grant of permission.

Housing: The Part V proposals (as per FI Response) are provisionally accepted, subject to agreement of details by condition.

Public Lighting: The initial report requested further information as per point 3(d) of the FI Request. The report on the FI Response requests amendments to the lighting design and specification.

Conservation Officer: The initial report highlighted concerns about the adverse impact of the development on the historic environment, including Protected Structures. The FI Response does not adequately address the concerns raised in the initial report and the proposed development cannot be supported.

Architects Department: The report highlighted concerns about the proposed design, as included in point 1 of the FI Request. There was no subsequent report.

3.3. **Prescribed Bodies**

EHO: The initial report requested further information on noise and waste management. There was no subsequent report on the FI Response.

Inland Fisheries Ireland: Recommends measures to protect water quality and ecological integrity.

Department of Housing, Local Government and Heritage: No objections subject to archaeological monitoring.

3.4. **Third Party Observations**

The planning authority received 46 no. submissions on the original application and 30 no. submissions on the further information response. The main issues raised are covered in the grounds of appeal (see section 6.1 of this report). Other issues that were raised can be summarised as follows:

- Concerns about the validity of the application and inadequate information.
- The previous ABP decision on the SHD application should not be a precedent.
- The quantity and quality of communal support facilities and youth facilities.
- The lack of active street frontage.
- Concerns about structural impacts on adjoining properties.
- Flooding and drainage-related concerns.
- Inadequate Part V proposals.
- Concerns regarding AA and EIA.
- Concerns about amending a right of way.

4.0 Planning History

ABP Ref. 309098-21: On the 28th of April 2021, the Board made a decision to grant this SHD application for the demolition of an existing house, construction of 102 no. Build to Rent apartments and associated site works. The development included two buildings, with Building 1 (along Crofton Road) being 5-13 storeys and Building 2 (to the rear) being up to 9 storeys.

The Board subsequently conceded a Judicial Review of that decision and the High Court (2022 IEHC 704) directed that the application be remitted to the Board. That High Court decision is now the subject of an ongoing Supreme Court appeal (Crofton Buildings v An Bord Pleanála & Ors 72/2023SAP).

ABP Ref. PL06D.226077: Permission was refused in 2008 for the demolition of a dwelling and the construction of 80 no. apartments and 2 no. retail units in a 6-8 storey building over 2 no. basement levels of car parking. The reasons for refusal were as follows:

- 1. The site is located in a sensitive and prominent position on Crofton Road, in an area of diverse architectural styles, with Charlemount Terrace, a terrace of protected structures to the west of it. The proposed development, by reason of its scale, bulk, massing and, in particular, the projecting building line forward of Charlemount Terrace, would constitute an overly dominant and oppressive appearance on the streetscape and would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the existing use of the site for car parking, the parking needs of the proposed development and for other development in the area, it is considered that the proposed development, which entails the loss of an existing car park, would result in an under provision of car parking space in the area. The proposed development would, therefore, add to traffic congestion in the area, would seriously injure the amenities of property in the area and be contrary to the proper planning and sustainable development of the area.*

3. *Having regard to the siting, design and layout of the proposed development and its relationship to adjoining properties, it is considered that the proposed development would result in overlooking and loss of privacy to adjoining properties and would seriously injure the amenities of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

5.0 Policy Context

5.1. National Policy

- 5.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the reports and submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (the 'Compact Settlement Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (i.e. 'the Apartments Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection Guidelines for Planning Authorities (2011), (the 'Architectural Heritage Guidelines').

Other relevant national guidelines include:

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003).

5.1.2. ‘Housing for All - a New Housing Plan for Ireland (September 2021)’ is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to 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 in the right place.
- Offering a high quality of life.

5.1.3. ‘Project Ireland 2040 – The National Planning Framework (NPF)’ is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.

- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

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

5.2. **Regional Policy**

5.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

5.2.2. The site is located within the identified 'Dublin City and Suburbs' area and Dún Laoghaire is recognised as a Level 2 town centre in the Retail Hierarchy for the region. The Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The 'North – South Corridor' is based around the existing DART line and its planned expansion.

5.2.3. The following RPOs (summarised) are of relevance:

RPO 4.3 supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within Dublin City and suburbs and ensure that future development areas are co-ordinated with infrastructure.

RPO 5.4: Development of strategic residential development areas shall provide for higher densities and qualitative standards set out in national guidance documents.

RPO 5.5: Residential development shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner.

- 5.2.4. The Greater Dublin Area Transport Strategy 2022-2042 (NTA) sets out a framework aiming to provide a sustainable, accessible, and effective transport system for the area which meets the region's climate change requirements, serves the needs of urban and rural communities, and supports the regional economy.

5.3. **Local Policy**

Dun Laoghaire Rathdown County Development Plan 2022-2028

- 5.3.1. Dun Laoghaire is designated as a 'Major Centre' in accordance with the Core Strategy. Major Town Centres are considered 'Strategic Employment Locations' with potential for the development of key strategic urban regeneration sites for employee-intensive development on strategic transport corridors, aligning employment growth with both existing and new residential communities. Core Strategy objective CS11 aims to deliver 100% of all new homes that pertain to Dublin City and Suburbs within or contiguous to its geographic boundary.
- 5.3.2. Chapter 3 'Climate Action' outlines how the creation of a climate resilient county is an overarching strategic outcome of the plan and that this theme permeates the entire plan. This includes the Core Strategy approach of promoting compact growth and development along public transport corridors.
- 5.3.3. Chapter 4 'Neighbourhood – People, Homes and Place' aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning.
- 5.3.4. Section 4.2 deals with 'People' and aims to facilitate a balance between additional housing units, community facilities, and quality of life. Relevant policies/objectives can be summarised as follows:

PHP3: Ensure that supporting neighbourhood infrastructure/land is provided in conjunction with, and as an integral component of, residential development.

PHP4: Promotes the concept of sustainable urban villages and '10-minute' neighbourhoods.

- 5.3.5. Section 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

PHP18: Promotes increased density on suitable sites subject to suitable design which respects the character of the surrounding area.

PHP20: Ensure the residential amenity of existing homes is protected where adjacent to proposed higher density and greater height infill developments.

PHP27: Encourages an appropriate mix of housing.

PHP28: Facilitate Build-to-Rent residential development in suitable locations in accordance with the 'Apartments Guidelines' (2020) and any amendments. A proliferation of Built-to-Rent should be avoided in any one area.

- 5.3.6. Section 4.4 'Place' promotes quality design and healthy placemaking in accordance with national policy and guidance. It sets out policies/objectives aimed at achieving a high quality of design and layout in residential developments. Policy objective PHP42 aims to ensure high quality design of all new development and compliance with the Building Height Strategy for the County (consistent with NPO 13 of the NPF).

- 5.3.7. Chapter 5 'Mobility and Transport' outlines a range of policies and objectives which aim to integrate land use and transport policy, thus promoting compact sustainable growth, traffic demand management, and modal change towards increased use of public transport and active travel.

- 5.3.8. Chapter 7 'Towns, Villages and Retail Development' also deals with 'Major Town Centres'. The overall strategy for Dun Laoghaire aims for the consolidation of the Town Centre Quarter and encourages the incremental growth of secondary character quarters in the remainder of the Town Centre. It also supports comprehensive environmental improvement and upgrade of public realm. The relevant policies/objectives can be summarised as follows:

MFC1: Supports the development of Major Town Centres as multifunctional centres which provide a variety of uses for the community they serve.

MFC3: Supports proposals for development in towns and villages that provide for a framework for renewal where relevant and ensure the creation of a high-quality public realm and sense of place.

RET5: Maintain the two Major Town Centres - Dún Laoghaire and Dundrum – as the primary retail centres in the County and to support their evolving multifunctional role. The vitality of the towns will be enhanced by their mixed-use nature. In addition to retail, these centres must include community, cultural, civic, leisure, restaurants, bars and cafes, entertainment, employment and residential uses. Development shall be designed to enhance the creation of a sense of place.

5.3.9. Chapter 9 ‘Open Space, Parks and Recreation’ outlines the importance of such resources in terms of health and well-being, social interaction, connectivity, and biodiversity. Policy objective OSR4 promotes public open space standards in accordance with the ‘Sustainable Residential Development Guidelines’.

5.3.10. Chapter 11 ‘Heritage and Conservation’ aims to protect heritage by providing the appropriate tools and mechanisms to manage change in a positive way, so that it enhances the evolving character of the County. Relevant policy objectives can be summarised as follows:

HER1: To protect archaeological sites and National Monuments.

HER8: To protect structures included on the RPS from any works that would negatively impact their special character and appearance, including their setting.

5.3.11. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:

12.3 outlines guidance on criteria for residential developments and neighbourhood infrastructure. It aims for high quality design to improve the living environment and facilities for residents.

12.4 sets out Transport guidance, including standards relating to traffic management, road safety, and parking.

12.6 deals with towns, villages, and retail development, including s. 12.6.1 criteria for the assessment of development proposals in Town Centres.

12.8 deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.

5.3.12. In accordance with Chapter 13 'Land Use Zoning Objectives', the application site is zoned as 'MTC Major Town Centre', with the objective to '*protect, provide for and/or improve major town centre facilities*'

5.3.13. Chapter 14 'Specific Local Objectives' includes the following:

No. 32 - To retain the existing hospital uses at St. Michael's and to develop and upgrade the Hospital and Boylan Centre sites in accordance with the objectives of the Interim Dún Laoghaire Urban Framework Plan and the forthcoming Dún Laoghaire and Environs Local Area Plan.

Interim Dun Laoghaire Urban Framework Plan

5.3.14. Appendix 17 of the CDP intends to set out a clear and coherent vision to assist and guide the ongoing development and regeneration of Dún Laoghaire Town. The appeal site is identified as 'Opportunities / potential development to be explored'. There is an indication to 'upgrade and seek pedestrian cycle permeability and linkage' along the eastern site boundary.

5.3.15. Section 17.5.5 of the UFP outlines that the Hospital lands, the Boylan Centre and the former VEC building on Eblana Avenue represent one of the largest remaining potential redevelopment areas within the Town Centre. The main relevant aspects relating to this area can be summarised as follows:

- Retain the existing Hospital and community uses on site, together with a mix of complementary uses that will create/contribute to the vitality of the Town Centre.
- Development on the Hospital lands and Boylan Centre should create a network of new streets and public spaces to foster a distinct sense of place that creates an attractive living and working environment.
- Development fronting along new routes should have a tight urban grain, variety in its architectural language and design and unit sizes that will encourage and promote a variety of uses and functions.
- Any development must be of a high-quality design and should carefully address the scale and setting of Charlemont Terrace and the unique long-distance views and skyline of the Town Centre.

- Development is also required to take cognisance of the relevant performance-based criteria in relation to heights as set out in the Building Heights Strategy.

5.3.16. Section 17.6 'Placemaking and creating vitality' outlines an objective to preserve and maintain the existing hierarchical relationship between established landmark buildings and new infill development. New development should strive to be contextual, seek to re-establish streetscapes, be appropriately scaled and be rich in materials and details consistent with the existing typology of the Town Centre.

5.3.17. The appeal site is located within the 'Seafront Quarter'. It is an objective of the Plan to consolidate recent positive activity in the area and to continue to link this activity with the Waterfront and to the Town Centre Quarter. It is also an objective to continue to examine traffic movements in this area with a view to prioritizing increased pedestrian and cycle usage along the Waterfront.

5.3.18. Section 17.8 outlines 'objectives', and the main relevant objectives can be summarised as follows:

3. Enhance the range of uses along the waterfront and encourage activities which create increased attraction for the general public.

5. Encourage pedestrian and cycle permeability between George's Street and Crofton Road.

6. Identify and encourage redevelopment of key sites at present under-utilised e.g. Hospital Lands and the Boylan Centre.

15. Ensure balanced development and require appropriate uses at ground floor level and at corner sites which contribute to the vibrancy of the town centre.

5.4. **Natural Heritage Designations**

The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA, which generally bounds the West Pier of Dun Laoghaire Harbour, c. 600 metres northwest of the appeal site.

5.5. Environmental Impact Assessment Screening

Introduction

- 5.5.1. The application includes an EIA Screening Report prepared by Enviroguide Consulting (updated in the response to the appeal). The purpose of the report is to identify and assess any potential for environmental impact associated with the proposed development and to determine if EIA is required. The methodology section of the report confirms that the report has had regard to 'The Environmental Impact Assessment of Projects, Guidance on Screening (European Commission, 2017)'. Section 2.29 of the report confirms that the criteria set out in in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended (the 2001 Regs) have been incorporated. This section outlines my assessment of the need for an Environmental Impact Assessment Report (EIAR), which will enable the Board to make a determination on the matter.

Mandatory Thresholds

- 5.5.2. Schedule 5 Part 2 of the 2001 Regulations provides that mandatory EIA is required for a range of development classes. Those with relevance to the proposed development are discussed in the following sections.
- 5.5.3. Under Class 10 (b)(i) the threshold relates to the construction of more than 500 dwelling units. The proposed development involves a maximum of 88 units (reduced to 74 units), which is significantly below the mandatory threshold.
- 5.5.4. Class 10(b)(iv) relates to *'Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use)'*. I consider that the application site is within a 'business district' where the 2ha threshold applies. The application site has a gross area of 0.42ha., which is significantly below the threshold.

Non-Mandatory Thresholds

- 5.5.5. Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have

significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.5.6. Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be required for *‘Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’.*

5.5.7. I am satisfied that the applicant's EIA Screening Report and the other information submitted with the application includes the information specified in Schedule 7A of the Regulations, and that the relevant information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations. I am also satisfied that the application has provided any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation have been taken into account. Accordingly, the Board is required under Art. 109 (2B)(a) of the Regulations to carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination regarding the likelihood of significant effects on the environment.

Submissions

5.5.8. The content of the third-party and prescribed body submissions is outlined in sections 3 and 6 of this report. The issues raised have been considered in this EIA Screening exercise and are dealt with in more detail in the ‘Assessment’ in section 7 of this report.

Screening Determination for EIA

5.5.9. In carrying out a screening determination under Art. 109 (2B)(a) of the 2001 Regulations, the Board is required to have regard to the criteria outlined in Article 109 (4)(a). As previously outlined, I am satisfied that the application contains sufficient information in accordance with these criteria, and I have completed an EIA screening assessment as outlined in Appendix 1 of this report.

5.5.10. The characteristics of the development would be consistent with the existing and planned uses in the area. I acknowledge that the proposal is of a significantly greater

scale compared to some surrounding development and that it will cause changes to the locality, but I do not consider that it would have significant effects on landscape / townscape character or the environment. The use of natural resources, materials, and substances would be typical of such development and would not result in significant effects for human health or the environment. The construction stage has the potential for contaminants, noise, dust, and other disturbances, but I am satisfied that these potential impacts will be satisfactorily addressed through the CMP, the Ecological Statement (ES), the RWMP, and the CEMP. There would be an increased local population, but I am satisfied that this has been appropriately planned in the Development Plan and would be adequately serviced by existing and planned physical infrastructure and social/community facilities.

- 5.5.11. The proposed development is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The ES and AA Screening Report has considered the proximity and potential for connections to such designated/ecological sites in the wider surrounding area and I am satisfied that there would be no significant effects on same. Similarly, I am satisfied that it has been demonstrated that there will be no significant effects on protected, important, or sensitive species of flora or fauna which use areas on or around the site. It is acknowledged that there are significant landscape, historic, and cultural features in the site vicinity, but it is not considered that they would be significantly affected by the development.
- 5.5.12. The site and surrounding area do not contain high quality or scarce resources and the surrounding water resources are not likely to be significantly affected. There would not be any significant congestion effects on key transport routes and the development would be suitably designed and managed to promote sustainable transport modes, thereby avoiding significant environmental problems such as excessive transport emissions etc. Surrounding land use and facilities have been considered and I do not consider that there would be any significant effects as a result of the proposed development.
- 5.5.13. The potential cumulative effects with existing, approved, and planned development have been considered, for both the construction and operational phase. The majority of existing/planned development is of a similar mixed-use / residential nature and includes potential cumulative effects at construction stage (e.g. traffic, noise, dust)

and operational stage (e.g. traffic, water services). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.

- 5.5.14. Having regard to the foregoing and Appendix 1 of this report, I have concluded that the proposed development would not be likely to have significant effects on the environment (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) and that the preparation and submission of an environmental impact assessment report is not therefore required.

6.0 The Appeals

6.1. Grounds of Appeal

- 6.1.1. The DLRCC decision to grant permission has been appealed by 12 no. third parties, as follows:

- Sean & Mary Dorgan, 62 Harbour View Apartments
- Thomas Lubliner, 53 Harbour View Apartments
- Ivan & Katherine Dempsey, 21 Mulgrave Terrace
- Katherine Aylmer, 5 Charlemont Terrace
- Helen Shenton, 6 The Mews, Charlemont Terrace
- Robert & Kate Dobbyn, 75 Harbour View Apartments
- Bernie Chamberlaine, 29 Harbour View Apartments
- John Murphy, 109 Harbour View Apartments
- Declan O'Regan, 85 Harbour View Apartments
- Henning Ringholz, 95 Harbour View Apartments
- Niamh McGowan, 59 Harbour View Apartments
- Crofton Buildings Management CLG, 13-18 City Quay, Dublin 2.

- 6.1.2. The specific concerns raised in relation to individual properties have been noted and will be considered in the context of the wider assessment of cumulative impacts on

surrounding properties. Otherwise, the individual appeals raise many common issues which can be collectively summarised under the following headings.

The Principle & Zoning

- There is general acceptance regarding the development of the site, but serious concerns are raised about the nature and scale of the proposal.
- The proposal appears to materially contravene the MTC zoning by its lack of non-residential uses.
- The proposal provides for only one demographic category of housing need and fails to provide community/neighbourhood facilities as envisaged in the UFP.
- The proposal conflicts with policy for transitional zoning areas, particularly those adjoining residential properties and the need to protect existing amenities.

Building Height, Density, and Scale

- The permitted density (224 uph) is excessive and has not been justified by the planning authority.
- The excessive density would have adverse impacts on neighbouring amenities, which would be contrary to the Sustainable Residential Development Guidelines and would materially contravene Policy Objectives PHP18, PHP20, RES3, and RES4 of the CDP.
- The drawings and details do not accurately show the building heights.
- The proposed height is excessive and 'remains outside' the Development Plan.
- The proposal represents serious overdevelopment of the site.
- The proposal would materially contravene the Building Height Strategy by reason of adverse impacts on the residential amenity of adjoining properties.

Built Heritage and Visual Amenity

- The height, scale, and position of the proposed buildings detracts from the character of protected structures adjoining the site and the relationship between these structures. It will detract from Charlemont Terrace and its relationship with the 'Crofton Esplanade', the Royal Irish Yacht Club, and the wider Dun Laoghaire Harbour area. This is contrary to CDP policy.

- The DLRCC internal Conservation Assessment highlighted the adverse impacts on the historic environment, including protected structures.
- The proposed height would be visually overbearing and inappropriate on the seafront and urban skyline.
- The proposal ignores UFP guidelines to protect long distance views and the skyline of the town centre.
- The east-west axis of the development blocks off views to/from the seafront, contrary to the established pattern of development in the area. The development should be concentrated along the western boundary and should incorporate a larger 'green lung' space adjoining Harbour View.
- The proposal does not protect the 'sense of place' in Dun Laoghaire.

Residential Amenities of existing properties

- The proposal fails to meet CDP separation distance standards and no adequate reason is provided as to why this would not be a material contravention.
- The proposed development (windows & balconies) would directly overlook the Harbour View apartment block to the east and the screening proposals are inadequate. The requirements of condition no. 7 would create an oppressive atmosphere within the proposed living rooms and would likely lead to requests for changes. There would be overlooking from the roof terrace on the 7th floor in the absence of screening.
- The balconies and terraces will lead to noise and disturbance for the Harbour View apartments and condition no. 14 does not adequately address the matter. There are concerns about the management of communal spaces and potential public use.
- The significant height and close proximity of the proposed buildings will adversely impact on the amenities of the Charlemont properties to the west, including overbearing impacts and overlooking from the windows/balconies/terraces.
- The development will cause noise and light pollution for the surrounding area.
- The development will detract from the view/outlook from Harbour View.
- The impacts would depreciate the value of surrounding properties.

- The pedestrian walkway and central open space will result in noise/disturbance.
- The construction stage will cause disruption.
- Concerns about a wind-tunnelling effect with the Harbour View building.
- The impacts on Harbour View will affect the mental health of residents.

Daylight & Sunlight

- 60% of all windows in Harbour View would receive skylight levels which fall below advisory minimums, with an additional 25 rooms finding it impossible to achieve reasonable daylight. It is not accepted that this is attributable to the recessed nature of the existing windows or that the impacts are unavoidable as alternative designs can be achieved on the site. There are few remediation options available to affected residents.
- For the habitable rooms in the proposed development, primary regard should be had to the Hollis EN17037 Report and only 60% of rooms would satisfy minimum daylight standards. The Hollis Report also failed to assess sunlight to the proposed units or to clarify the inputs/assumptions used in the assessment.
- Only 5 of the 8 outdoor areas or 37% of the total outdoor area would comply with BRE standards for sunlight (21st March). Only 6% of the outdoor recreation area at ground level would satisfy minimum standards. The improved standards for the 21st June should not be accepted as compliance with BRE standards.
- The daylight/sunlight standards fail to comply with SPPR3 of the Building Height Guidelines.
- The daylight/sunlight analysis shows severe material contraventions of BRE Guidelines and the Development Plan regarding impacts on surrounding properties and has ignored the windows to the side of No. 6 Charlemont Terrace. The impacts cannot be ignored or accepted on the basis of '*artificially inflated levels of daylight and sunlight*'.
- The existing residents have a legal right to light.
- The proposal will overshadow the balconies of Harbour View.
- The impact of the revised proposal cannot be justified on the basis of an improvement on the original proposal.

- The applicant's conclusions regarding the daylight/sunlight impacts on No. 6 The Mews are rejected. All roof windows and the garden area will be impacted, which will not be marginal. The property is longstanding and is worthy of protection.
- The VSC assessment of Harbour View shows that 78% of windows and 72% of flats have a VSC reduction that is non-compliant with BRE standards, while 62% of windows and 70% of flats have a major reduction. The Daylight Distribution (DD) assessment shows that 25% of rooms and 22% of flats have a reduction that is non-compliant with BRE standards, while 13% of rooms and 15% of flats have a major reduction.
- No VSC assessment has been carried out for the proposed development. However, the ADF, DD, and APSH assessments make it clear that Building 1 is seriously non-compliant with daylight and sunlight standards.
- No overshadowing analysis has been done for the courtyard and it is expected that it would not meet target values for sunlight.

Proposed Residential Standards

- There is an inadequate mix of units with a lack of family apartments. This will not respond to housing need or promote sustainable communities and would materially contravene the Development Plan (PHP 20 and PHP 27). The requirements for certain percentages of 3-bed units shall apply to BTR developments.
- The development would not provide a healthy amenity for the occupants.
- Together with another major build on Eblana Avenue (ABP Ref. 304249 - 200+ units), the proposal would represent an over-saturation of 1-bed rental-only units.
- There is inadequate outdoor space. The central ground level space is very enclosed, overshadowed, and overlooked, and is not useful as a social space.
- There are no balconies on some apartments.
- Many of the apartments are single aspect.
- The rooftop terraces would be dangerous, particularly during high winds.
- The proposed trees and furniture would not withstand the coastal climate.

Access, Parking & Transport

- Effectively zero parking is proposed, and this would lead to overspill demand.
- The development requires a minimum of 74 spaces as per Table 12.6 of the Development Plan, which would be materially contravened by the proposal.
- The existing car park spaces (90) are used daily by a range of users and will be eliminated.
- The car-parking proposals do not cater for older or less-abled people.
- The north-south pedestrian walkway will be inadequate, unattractive, and will lead to anti-social behaviour.
- There is inadequate emergency and servicing access/parking for the apartments and commercial units, which will lead to traffic congestion/safety concerns.
- Parking and vehicular access is needed as public transport and cycle facilities cannot be solely relied on.
- The Apartments Guidelines (SPPR8(iii)) provisions for minimal or significantly reduced parking cannot be interpreted as zero parking.

The Development Plan

- The Board is requested to uphold the provisions of the Development Plan as an agreement between the planning authority and the public.
- Many of the previous Development Plan provisions have been retained in the new Plan. The application is effectively the same as the previous SHD application (ABP Ref. 309098-21) and the concerns outlined in the DLRCC CEO Report for that application should continue to apply.

Other Matters

- Inadequate firefighting facilities have been included.
- This was the site of a Magdelene Laundry until 1963 and it would be morally wrong to build the development on this site. It should be developed as a memorial space/garden. There is also the possibility of an associated graveyard on the site.

- The combined sewer system is overloaded and there are concerns about pollution impacts on sea bathing.
- The development will result in the loss of green space and vegetation which provides nesting space for birds and other animals.
- The development may block mobile and broadband signals to adjacent buildings.

6.2. **Observations**

None.

6.3. **Prescribed Bodies**

None.

6.4. **Planning Authority Response**

The response refers the Board to the Planner's Report and contends that the appeal does not justify a change of attitude to the proposed development.

6.5. **Applicant's response to the Appeals**

The applicant's response to the 12 no. third-party appeals can be summarised under the following headings.

Zoning & Principle of BTR Development

- All of the proposed uses are 'Permitted in Principle' under the MTC zoning as per Table 13.1.11 of the CDP.
- The intended use of the commercial unit is clearly described in the public notices and will provide flexibility for the first occupant.
- The CDP does not set out a specific mix of uses for MTC lands, but the proposed development would appropriately contribute to the overall mix in the town centre.
- The appeals do not acknowledge Section 3 of the UFP, which outlines that the objective of increasing residential population in the town should underpin any new development.
- The DLRCC Planner's Report confirms that the proposal would provide an acceptable mix of uses in accordance with the zoning objective.

Mix and Size of Proposed Apartments

- The proposal includes an appropriate quantum of resident support services, facilities, and amenities in accordance with SPPR7 of the Apartments Guidelines and is located at an optimum location for BTR development. Therefore, the proposed mix is acceptable in accordance with SPPR8 of the Guidelines.
- The proposed mix of apartments is also consistent with the CDP. The CDP (s. 12.3.3) requirements regarding the mix of units in BTR development is subject to a draft Ministerial Direction and, as a result, has not come into effect.
- National policy and section 28 Guidelines take precedence over the CDP and the proposed mix was deemed acceptable in the DLRCC Planner's report.
- The apartment sizes comply with CDP/Apartments Guidelines standards and the 2-bed (4-person) apartments can accommodate families. The proposals would positively contribute to the mix of housing in the area.
- The proposal complies with the provisions of Policy Objective PHP28. It would be within 120 metres of a DART station and bus terminus and would be in close proximity to a range of facilities and services in the town centre. BTR development comprises a small element of housing in the area, with just one other similar scheme granted permission at Eblana Avenue (208 no. bed spaces under ABP Ref. 304249-19). Therefore, the proposed development would not result in a proliferation of such accommodation in the area.

SHD Application (ABP Ref. 309098-21)

- This previous application was for a significantly higher density/building with a greater number of apartments (102) and density.
- The current application has been assessed on its merits by DLRCC.
- Given that the previous permission was quashed, it is not appropriate to have regard to that decision or any assessment of that application.

Building Height & Visual Impact

- The building heights were reduced to ensure that they were below the height of adjoining buildings to the east (Harbour View) and west (Charlemont Terrace).

- It is incorrect to state that taller buildings (e.g. Harbour View) are limited to public use and CDP policy does not include any such provision. The proposal is not a 'taller building' given the height of existing buildings to the east and south.
- Concerns about adverse visual impacts are not elaborated in detail and the proposal respects its context in terms of colour and height. The Landscape and Visual Impact Assessment (LVIA) assesses the effects on the overall receiving environment as 'slight'.
- The appeals refer to lapsed provisions of the previous CDP 2016-2022.
- Regarding Policy PHP20, the proposal appropriately transitions from lower scale/density development (west) to the existing higher scale/density development (east), including suitable heights, building lines, and setbacks. It has been designed to protect the amenities of adjoining properties (including daylight/sunlight) and respects the forms of surrounding buildings and landscape.
- It is incorrectly stated that Building 2 is 31m higher than the adjacent Lisieux Mews. It is only 13.1m higher and appears as a 5-storey building (with 6th storey setback) against the backdrop of much taller development to the east.
- CDP Policy Objective PHP42 and the Building Height Strategy provide specific guidance and refer to the national Building Height Guidelines. The CDP does not provide any specific height limits for the site and the proposal is consistent with the CDP in respect of building height.
- The LVIA illustrates that the proposal integrates with surrounding development to the east and south, as well as the protected structures to the west. The proposed heights mitigate the impact from the surrounding area and longer views, while also protecting and enhancing existing/proposed residential amenity.
- The planning authority concluded that the amendments submitted at FI stage were acceptable in relation to height and visual impact.

Design & Overdevelopment

- The appeals reference provisions of the previous CDP 2016-2022 and aspects of the previous SHD application.

- The Crofton Buildings Management CLG appeal contradictorily cites concerns about impacts on Harbour View due to excessive scale and density, while also acknowledging that, in principle, there should be no upper limit on density.
- The building lines and heights have been carefully designed to align with surrounding development and have been deemed acceptable by DLRCC.
- The density (224 uph) is appropriate to this major town centre location in close proximity to public transport, services, facilities, and employment. This is consistent with the provisions of the UFP, the Sustainable Residential Development Guidelines, and s. 12.3.3.2 and PHP18 of the CDP.
- The CDP does not provide specific standards for plot ratio, site coverage, or density for the site, and there can be no material contravention in this regard. However, when compared to such standards for central Dublin (as per the DCC Draft Development Plan) the proposed development could not reasonably be considered overdevelopment.

Siting and Design

- The applicant includes a response to the suggested alternative design as contained in the appeal by Declan O'Regan, including reports from Rob Goodbody (Historic Building Consultants), ARC Consulting, and Reddy A+U. The response outlines that the proposal is consistent with the prevailing/historic grain of the town; would not interfere with the relationship with the seafront and associated buildings; would deliver public routes and public space in accordance with the UFP; and would result in only 'slight' effects as outlined in the LVIA.
- Concerns regarding privacy and noise impacts on the adjoining properties to the east and west have been addressed through design and screening proposals. As per the conditions of the DLRCC decision, the roof terraces would be inaccessible from 10pm onwards.
- The CDP allows for reduced separation distances in certain instances. A minimum of 11m is maintained from Harbour View, which is considered acceptable given the policy support for increased density in the urban context.

- The Apartment Guidelines recommend greater flexibility and the use of performance criteria in assessing separation distances, which is not fully reflected in s. 12.3.5.2(iv) of the CDP.
- The subject site is suitable for the allowance of reduced separation distances and no material contravention would occur in this regard.

Open Space & Pedestrian Route

- The proposal will provide 16% of the site as public open space (i.e. pedestrian route along eastern perimeter and an area to the northern perimeter of Building 1), which is consistent with s.12.8.3.1 of the CDP. Therefore, the requirement for a contribution in lieu of open space (as per condition no. 30 of the DLRCC decision) is not considered appropriate.
- The Ecological Statement submitted with the application notes a general lack of significance and this has been reflected in an updated EIA Screening report.
- The proposal will replace an underutilised car park, not existing green space.
- The northern open space (proposed) would benefit from attractive seafront vistas within an urban plaza, with access to the proposed pedestrian route to the east. The spaces/routes will be adequately lit to prevent anti-social behaviour and will promote permeability in accordance with the UFP.
- The pedestrian route would retain existing boundaries, would be wider (3m) than standard footpaths, and would benefit from passive surveillance and increased footfall/population to contribute to a safe environment.

Daylight / Sunlight and Overshadowing

- The response includes updated Daylight & Sunlight Reports (prepared by Hollis consultants) in accordance with the BRE Guide 3rd Edition (June 2022).
- A separate Hollis report also responds to the individual 3rd party appeals, as is summarised below.

Crofton Building Management CLG appeal (including BPG3 Report)

External Impact Report -

- The applicant's assessment contains adequate information to enable the identification of impacts on individual apartments.
- The baseline scenario should consider that the car park is zoned for development and that the existing apartments achieve high levels of daylight for a town centre location.
- The alternative design solution would result in greater effects on Nos. 5 & 6 The Mews and No. 6 Charlemont Terrace.
- It is well established that the BRE targets are derived from a suburban 2-storey housing model and are not mandatory as outlined in s. 2.2.3 of the Guide (s. 2.2.12 of the 3rd Edition). The targets should be interpreted sensibly and flexibly.

Internal EN17037 Report -

- While paragraph C15 of the BRE guide notes that the UK annex standards are intended for 'hard to light' dwellings, it also states that the UK annex provides '*guidance on minimum daylight provision in all UK dwellings.*'
- A Sunlight Exposure assessment was not undertaken as the 3rd edition of the BRE Guide was not available at the time. An assessment has now been included with the response to the appeal.
- The technical inputs for the Daylight Factor analysis have now been included in the updated assessment.
- Regarding overshadowing of open spaces, the Hollis report fully displays results for the 21st March and states that 3 of the areas will not meet the targets. The results for 21st June are shown for comparison and demonstrate that all 8 areas will exceed targets for the summer months when they are most likely to be used. The BRE Guide (s. 3.3.15) outlines that such summertime plots may be helpful.

Bernie Chamberlain appeal (29 Harbour View Apts (Flat 48 – 3rd floor))

- The assessment and Waldram diagram for the living room window shows that there will be a very reasonable amount of visible sky and a retained VSC of 28% (1% above the 27% BRE target).
- The Waldram diagram for the bedroom windows shows that there will be a reduction in VSC, but the sky will still be visible.
- Overall impacts are not considered material as the living room and main habitable space will meet the VSC and Daylight Distribution (DD) targets.

Declan O'Regan appeal (85 Harbour View Apts (Flat 100 – 7th Floor))

- No windows or rooms would be significantly affected in terms of VSC, DD, or Annual Probable Sunlight Hours (APSH), as they meet the BRE targets.

Henning Ringholz appeal (95 Harbour View Apts (Flat 39 – 3rd Floor))

- The living room window has an existing VSC of 38.6%. This would be reduced to 17.38%, which is reasonable for an urban context.
- The bedrooms would retain VSCs of 1-2%, reduced from existing levels of 16-17%. The impacts would be exacerbated by the inset balconies, which already prohibit light entering at higher angles.
- The living room will meet the DD targets by retaining 0.82 times the existing value (BRE target is 0.8 times). The bedrooms will fall short of DD targets, but the BRE guide (s. 2.2.10) states that they are less important.
- Overall, the reductions would not materially adversely impact the property.

Ivan & Katherine Dempsey appeal (84 Harbour View (Flat 86 – 6th Floor))

- The living room VSC would reduce from 16.65% to 11.38%, which would not meet the BRE target to retain 0.8 times the existing value.
- The DD reduction would be 2%, which meets the BRE target.
- Overall, the daylight impacts would not present a material adverse impact.
- The planning process does not consider legal rights to light. Any grant of permission does not authorise the infringement of any common law right to light, as is reflected in s. 34(13) of the Planning & Development Act, 2000.

John Murphy appeal (109 Harbour View (Flat 23 – 2nd Floor))

- Although 2 of the four living room windows fall short of the BRE targets for VSC, the room overall will meet BRE targets for DD. Therefore, there will not be a material adverse impact on the property.

Niamh McGowan appeal (59 Harbour View (Flat 91 – 6th Floor))

- The living room VSC would reduce from 16.29% to 15.62%, a 5% reduction which would meet BRE targets to retain 80% of existing value.
- There would be no DD reduction, which meets the BRE target.
- There would not be a materially adverse impact on the property.

Robert & Kate Dobbyn appeal (75 Harbour View (Flat 75 – 3rd Floor))

- The living room VSC would reduce from 13.76% to 3.29%, which would not meet the BRE target to retain 0.8 times the existing value. The impacts would be exacerbated by the inset balcony, which already prohibits light entering at higher angles.
- The DD reduction would be 46%, which does not meet the BRE target. The reduction impact is classed as moderate.
- In the context of this urban infill central location, the impacts would not materially adversely affect the surrounding properties. Such daylight impacts are expected given the design of surrounding properties and their reliance on the flat car park site for natural light.

Sean & Mary Dorgan appeal (62 Harbour View (Flat 102 – 7th Floor))

- Each window and room will comfortably meet BRE targets for sunlight and daylight. There would not be a materially adverse impact on the property.

Thomas Lubliner appeal (53 Harbour View (Flat 61 – 4th Floor))

- The living room VSC would be reduced from 15.9% to 9.38%, which would not meet the BRE target.
- However, the DD reduction (15%) meets the BRE target (<20%).
- Overall, there would not be a materially adverse impact on the property.

Helen Shenton appeal (6 The Mews)

- The Hollis report acknowledges that VSC impacts on one of the windows (retaining 64% of existing VSC) would be 'moderate'. The contention that additional windows would be affected is rejected. The concerns are subjective and lack any scientific testing.
- The historic nature of the building has no bearing on daylight results.
- In terms of sunlight, one window would fall short of the BRE targets, and the skylights would retain adequate levels of sunlight.
- 47% of the garden space will receive at least 2 hours of sunlight on 21st March, which is only marginally below the 50% target. The results for 21st June show that 93% of the area will meet the 2-hour target.

Katherine Alymer appeal (5 Charlemont Terrace)

- One ground floor conservatory window to the rear would not meet the BRE target for VSC. However, the conservatory will meet the BRE target for DD. Overall, the property will not be materially adversely affected.
 - The side elevation windows at 6 Charlemont Terrace have not been assessed as the property is in commercial/office use. As per BRE guidance, there is no recognised need for daylight in these rooms.
 - The applicant's analysis does not dismiss impacts on the Charlemont properties. It includes a detailed breakdown of results for 5 Charlemont Terrace and 5 & 6 The Mews.
 - The planning process does not consider legal rights to light. Any grant of permission does not authorise the infringement of any common law right to light, as is reflected in s. 34(13) of the Planning & Development Act, 2000.
- The DLRCC Planner's report acknowledges that the Harbour View apartments have a disproportionately high reliance on daylight over the application site, and that larger changes in daylight levels are inevitable if land is to be developed efficiently. It also acknowledges the improved VSC performance in the FI response; that 81% of surrounding windows would meet BRE targets for APSH; and that windows falling short of targets are secondary windows and would not result in material impacts.

- If the Harbour View development were to be imposed as a 'mirror image', it would result in more elevated impacts for the existing apartments.
- The DLRCC planner's report considered that 82% of the 11 outdoor amenity areas assessed would meet BRE targets for sunlight, with minor shortfalls noted at 2 areas which are already compromised. All amenity areas would meet targets for the 21st June, when they are more likely to be used.
- The planning authority concluded that the predicted impacts on surrounding properties are acceptable given the context of the site.

Conservation and Impact on Protected Structures

- The Architectural Heritage Impact Assessment (AHIA) submitted with the application addresses the interface with Charlemont Terrace. It outlines that the design measures will ensure that the contemporary design will reflect the traditional character and appearance of the protected structures, and that the rear building would sufficiently setback to avoid any compromise of Charlemont Terrace and its setting.
- The DLRCC planner's report confirmed that the height reduction included in the FI response would address visual concerns relating to Charlemont Terrace.
- The response is accompanied by reports from Rob Goodbody (Historic Building Consultants), ARC Consulting, and Reddy A+U. The reports outline that the proposal is consistent with the prevailing/historic grain of the town; would not interfere with the relationship with the seafront and associated buildings; would result in only 'slight' effects as outlined in the LVIA; and would not adversely impact on Charlemont Terrace or any other Protected Structures in the vicinity.

Previous Use of the site as Magdalene Laundry

- The Rob Goodbody report clearly demonstrates that the site was not occupied by a Magdalene Laundry building or any associated uses. Photography from 1956 shows that the appeal site was in use as a kitchen garden which was separated from the laundry building by a wall.

Views, Aspects, and Loss of Value

- The proposal has been carefully designed to respect existing properties. A mirror image development of the Harbour View development on this site would undoubtedly result in a greater loss of views for the existing residents.
- The site has been zoned/identified for development in plans dating back to 1998. It would be unrealistic for the appellants to expect that this central and accessible site would not be developed in due course.

Mental Health

- A letter prepared by Dr Martin Hogan of Corporate Health Ireland was submitted with the application. It considered the issues of dust, noise, and light, and concluded that human health impacts are extremely unlikely.

Drainage Infrastructure, Traffic, Car Parking, and Fire/Service Access

- The response includes reports from MUIR Associates Consulting Engineers. The reports outline that:
 - Surface Water - A separate network will discharge to the existing network in Crofton Road at a restricted rate of 1.4 l/s, thereby reducing runoff in extreme rainfall events. The design was subject to an independent audit by Punch Consulting Engineers.
 - Foul Water – Irish Water is satisfied that there is sufficient capacity in the network to accommodate the proposed development.
 - Car Parking – The proposals are consistent with the provisions of the Apartments Guidelines, which allow for parking to be wholly eliminated in central/accessible locations, and to be minimal or significantly reduced in BTR development. The Board has previously accepted reduced parking on this site and the DLRCC FI Request recommended the omission of spaces. There are several privately operated car parks in a short distance.
 - Fire/Service Access – The scheme has been designed with adequate fire access as required by the Building Regulations, and a Fire Safety Certificate application will be made prior to commencement. The submitted drawings show that large vehicles can access the St Michaels car park to

the rear, as well as the central courtyard within the site. The loading bay on Crofton Road will provide parking for service vehicles for the café. The planning authority accepted these proposals.

- Cycle Facilities – A Cycle Statement is included to demonstrate how the proposal meets the requirements of the DLRCC Standards for Cycle Parking and Associated Cycling Facilities for New Developments (2018).

Wind Tunnelling

- These concerns have been fully addressed in the Wind & Microclimate Assessment submitted at FI stage. The conclusion that there would be no negative or critical wind speed profiles has been accepted by DLRCC.

Telecommunications

- A Telecommunications Report was submitted with the application and concludes that the proposal would retain important channels to satisfy s.3.2 of the Building Height Guidelines. The building height was subsequently reduced at F.I. stage.

Noise & Public Lighting

- The response includes a Noise Assessment report which addresses concerns about noise from the roof terraces. Noise propagation calculations were developed using proprietary software to predict the levels at selected sensitive receivers when the roof terraces were fully occupied. The results indicate that levels would be less than 5 dBA above the daytime and evening-time background noise levels and would therefore be unlikely to lead to undue disturbance.
- A Lighting Report and plan was submitted at F.I. stage. It was prepared in accordance with best practice and was accepted by the planning authority.

6.6. Other Responses

All 12 appellants have commented on the applicant's response to the appeals. The appellants generally support the other appeals and contend that the applicant's response does not satisfactorily address their concerns. Accordingly, the responses reiterate many of the concerns outlined in the original appeals. Any additional issues can be collectively summarised under the following headings.

Zoning

- The applicant's reference (Section 3 of the UFP) to the underpinning objective of increasing residential population in the town cannot be found. This primarily residential scheme fails to provide a suitable mix of uses to address the CDP zoning objective and the opportunities and challenges identified in the UFP.

Residential Amenity

- The proposed density is achieved by locating the buildings in close proximity to the Harbour View apartments, resulting in serious loss of residential amenity due to overlooking and loss of daylight and sunlight.
- A separation distance of 11 metres is not acceptable because of the urban context of the site and does not appear to be supported in the CDP.
- The applicant's reference to mitigating/screening measures does not address the concerns outlined in the appeal.
- The rooflights on '6 The Mews' would need to be permanently screened to prevent overlooking, which will significantly impact on daylight and amenity.
- The applicant incorrectly states that views from Harbour View are over an existing car park. Views of the hospital, sea, and sky will also be affected.
- There are outstanding concerns about disturbance from the roof terraces and the management and accessibility of these spaces.

Daylight and Sunlight

- Notwithstanding the updated Hollis report, there would be serious consequences for natural light in many Harbour View apartments and it cannot be concluded that the scheme would provide new residents with adequate natural light.
- The applicant's response does not dispute many of the observations made in the BPG3 Report included in the Crofton Building Management CLG appeal.
- The VSC results and the WalDRAM diagrams submitted in the applicant's response illustrate the severity of impacts on various apartments in Harbour View. The impact on Apt no. 95 is cited as an example and it is submitted that impacts on lower levels would be more acute.

- While the existing site may represent an atypical (not artificial) baseline, it should not be used to undermine the validity of the impacts on existing properties.
- Modest refinements could be made to the western side of the alternative design presented in the Crofton appeal, which would address impacts on properties to the west while still achieving a substantial development. High level impacts on adjoining properties are not inevitable.
- As has been clarified by its author, the BRE guide targets are not derived from a suburban type housing model. It is incorrect to suggest that increased flexibility should be applied to the targets in this case.
- The National Annex to BS EN 17037 provides a strong indication that minimum standards should be interpreted firmly in general circumstances, and it would be sensible to expect high levels of conformity. The 60% conformity rate outlined in the Hollis report raises questions about the adequacy of natural light.
- The applicant's sunlight assessment shows that only 48% of rooms within the development would be capable of receiving 1.5 hours of direct sunlight on 21st March, and this would be much lower in practice.
- The Hollis report has used incorrect light transmittance values, resulting in higher levels of compliance (i.e. 60%).
- The BRE test for sunlight on the ground is based on 21st March as a representation of sunlight throughout the year. Implicit in the recommendation is that a much higher proportion would need to comply in the summer months. The BRE advice regarding the use of shadow casting plots for the 21st June is not intended to be relevant for the principal assessment method for the 21st March or compliance with BRE targets.
- The latest Hollis report is fundamentally the same as previous reports and does not justify such a severe material contravention of the CDP.
- The Hollis report (F.I. stage) does not adequately assess impacts on light to kitchen/living rooms at 5 The Mews and 5 Charlemont Terrace.
- The offices in 6 Charlemont Terrace will lose all their light.

- The latest Hollis report outlines that light to residential windows in a range of surrounding properties failed to satisfy BRE guidelines and s. 2.3.4.2 of the CDP.
- The response does not adequately address the impact on mental health as a result of loss of light.
- Building 2 seems to have moved more to the right-hand side of the original plans and will be directly in front of Apt 59 Harbour View. The Hollis report underestimates the effect of this relocated building.
- The latest Hollis report is a fabrication of real impacts which manipulates images for the benefit of the proposed development.

Building Height, Heritage, and Visual Impact

- The applicant's response does not include drawings/details to clarify/acknowledge the impact on Charlemont Terrace, the site topography, the separation distance from Charlemont Terrace, or the actual heights of the proposed buildings.
- The applicant's response underestimates the adverse impact of the development on the character of the Dun Laoghaire seafront, including the 'Crofton Esplanade', Charlemont Terrace, the Royal Irish Yacht Club, the Harbour, and the intervisibility of these and other heritage features.
- The design needs to be reconsidered to *inter alia* reflect the traditional morphology of Dun Laoghaire; provide a better relationship with the seafront; address light deficiencies and excessive noise; concentrate development along the western side of the site, with open space along the eastern side; and provide an improved frontage along Crofton Road.
- It is submitted that the entrance to the Magdalene Laundry was from Crofton Road and that the former 'kitchen garden' forms part of the laundry site.
- The Rob Goodbody report provides no evidence that the site was not an unofficial burial ground.
- This is not the only remaining site in Dun Laoghaire. The 'Ted Castle site' is more suitable for development of this scale.

Proposed Residential Standards

- The inclusion of so many 1-bed apartments will create a ‘slum’.
- The extent of common space requires significant administration and maintenance and will lead to substandard living conditions.

Car Parking

- Contrary to the applicant’s description of the existing car park as ‘underutilised’, it is in daily use and is frequently/always full to capacity.
- The other car parks referenced by the applicant have limited availability as spaces are reserved for other residents/users.

Fire Safety

- The proximity of the development to Harbour View and a gas tank in the hospital car park raises concerns about a potential gas explosion.

7.0 Assessment

7.1. Introduction

- 7.1.1. I have considered all the documentation and drawings on file, the planning authority reports, the submissions from prescribed bodies and third-party submissions, the statutory Development Plan, as well as relevant national policy, regional policy and section 28 guidelines.

Applicable Development Plan

- 7.1.2. It is noted that many issues raised in the appeals relate to specific provisions of the previous CDP 2016-2022. These provisions are no longer relevant and will not be considered in my assessment given that they have been superseded by the new CDP 2022-2028. However, in some instances I note that similar provisions have been incorporated into the new CDP and, where relevant, the substantive issue will be addressed in the context of the new plan.

Planning History

- 7.1.3. Many of the appeals also refer to details, documentation, and procedures associated with the previous SHD application (ABP Ref. 309098-21). While I have

acknowledged the planning history of the site, I confirm that this assessment is being carried out on a '*de novo*' basis without any reliance on the previous application.

The 'Apartments Guidelines' and BTR development

- 7.1.4. I acknowledge that the Section 28 Guidelines 'Design Standards for New Apartments' (July 2023) omit SPPRs 7 and 8 as contained in the 2020 version of the Guidelines. However, the 2023 Guidelines includes transitional arrangements which outline that all current appeals, or planning applications (including any outstanding SHD applications and appeals consequent to a current planning application), that were subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the previous version of the Apartment Guidelines that included SPPRs 7 and 8. I am satisfied that the current appeal case complies with these conditions and that, accordingly, the 2020 version of the Guidelines should apply, including SPPR 7 and SPPR 8.

Scheme Versions

- 7.1.5. The 'original application' (88 units) was revised by the 'further information response' which involved a reduced scheme of 74 units. Accordingly, my assessment will be based on the revised proposal for 74 units i.e., that being the scheme on which the DLRCC decision and the subsequent appeal were based.

Main Planning Issues

- 7.1.6. Having regard to the foregoing, I consider that the main planning issues arising from this appeal case can be addressed under the following headings:
- Principle of Development
 - Building Height and Quantum of Development
 - Transport, Parking, and Access
 - The Standard of Residential Development Proposed
 - Impacts on Surrounding Properties
 - Daylight and Sunlight
 - Design, Layout, Built Heritage, and Visual Amenity
 - Other Matters.

7.2. Principle of Development

Zoning

- 7.2.1. The site is zoned as 'MTC Major Town Centre', the objective for which is to '*protect, provide for and-or improve major town centre facilities*'. In accordance with Table 13.1.11 of the Development Plan, 'Residential – Build to Rent' use is 'Permitted in Principle' in this zone. The proposal also incorporates a range of other proposed/potential uses, namely Class 1 (shop), Class 2 (financial/professional services), Class 8 (medical services), and café. In this regard, the uses outlined in Table 13.1.11 do not correspond exactly with the proposed uses. However, section 13.1.1 of the CDP outlines that tables are intended as a general guideline and the uses listed are not exhaustive. In that context, uses which are also 'permitted in principle' include a range of shop types, Doctor/Dentist etc., Health Centre/Healthcare Facility, Hospital, Offices, Public Services, and Tea Room/Café. Having regard to the similarities between these uses and those proposed, I am satisfied that the proposed uses are 'permitted in principle' within the MTC zone.
- 7.2.2. As per s.13.1.2 of the CDP 'Transitional Zonal Areas', I note the need to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones, and that the appeal site abuts residential and 'neighbourhood infrastructure' areas. The impact of the development on adjoining properties will be considered throughout this assessment.

Mix of Uses

- 7.2.3. In addition to the permissibility of individual uses, the appeals raise significant concerns about an inadequate mix of uses, particularly an inadequate proportion of non-residential uses. In this regard, I note that the CDP promotes a suitable mix of uses in multifunctional Major Town Centres, as is outlined in provisions such as Policy Objective MFC1 and RET5. I also note that s.17.5.5, 17.6.5, and 17.8 of the UFP promote a mix of uses in the area that will create/contribute to the vitality of the Town Centre and the Waterfront area.
- 7.2.4. I have noted the applicant's reference to section 3 of UFP and the underpinning objective to increase residential population in the town. As outlined in an appellant's response to the applicant, I accept that this reference is not included in s. 17.3 of the

UFP. However, the UFP does make several other references to promoting increased residential population to create demand for local services and improve vitality.

- 7.2.5. The proposed development includes 74 no. apartments which are supported by 499m² of resident facilities and amenities. Building 1 includes a ground-floor Café and commercial unit (total of c. 230m²) which front onto open space along its northern, southern, and eastern facades. The central and western portions of the ground floor also include a reception area, work/study area, and gym (total of c. 160m²). While these areas are included as ‘resident facilities/amenities’, they would nonetheless contribute to street-level activity and the work/study area would also be made available for public booking. In addition to the internal space, public open space (651m²) is proposed in the combined form of a hard/soft landscaped area fronting onto Crofton Road and a pedestrian link along the eastern edge of the site.
- 7.2.6. Ultimately, I consider that the mix of uses should be considered in the context of the entire town centre and not just individual sites. In this regard, I note that the site adjoins a large hospital site to the south, which is a ‘neighbourhood infrastructure’ use that will be retained in accordance with CPD zoning policy. And while the adjoining uses to the east and west are predominantly residential, the site is in close proximity to a wide variety of commercial uses in the George’s Street/Marine Road areas, as well as the unique mixture of transport, recreational, and other uses in the harbour area. Having regard to the above, I am satisfied that the proposed development incorporates a suitable mix of uses within the site itself, which would positively contribute to the wider MTC zoning objective and the UFP and CDP objectives to promote Dun Laoghaire as a multifunctional Major Town Centre.

BTR Policy

- 7.2.7. With regard to Development Plan policy on BTR development, I note that section 4.3.2 and PHP28 facilitate BTR accommodation at locations within a 10-minute walking time of high frequency public transport routes, subject to avoiding a proliferation of BTR accommodation in any one area.
- 7.2.8. Regarding public transport, the appeal site is just c. 100 metres walk (i.e. less than 1 minute walk) from the Dun Laoghaire DART stop, which is described as a ‘high capacity’ service in the Apartments Guidelines and a ‘high capacity public transport node or interchange’ in the Compact Settlement Guidelines. The DART service

operates at a frequency of 5-10 minutes during peak hours, which is an improvement on the description of 'high frequency' services (i.e. 10-15 min peak hour frequency) as per Table 3.8 of the Compact Settlement Guidelines.

- 7.2.9. On the question of the proliferation of BTR developments, the applicant's response to the appeal outlines that there is only one other similar scheme permitted at Eblana Avenue (208 no. bed spaces), and correctly highlights that the Board has not yet made a decision on another proposed BTR scheme for 146 units on the former Ted Castles site at Dunleary Hill (ABP Ref. 312070). I have checked the planning register and there would not appear to be any more recent proposals for significant BTR development in the vicinity of the site. Accordingly, I would agree that BTR/shared-living development comprises only a small proportion of residential development in the area, and that the proposed development would not result in a proliferation of BTR developments. Therefore, I consider that the proposal can be accommodated in accordance with Policy PHP28 of the CDP.

Conclusion

- 7.2.10. In conclusion, I am satisfied that the proposed development would be consistent with the 'MTC' zoning objective for the site; that it would provide a suitable mix of uses for the town centre area; and that it would comply with the locational guidance and objectives for BTR development as outlined in section 4.3.2 and PHP28 of the CDP. Of course, further assessment is required in relation to all other matters raised in this appeal. However, consistent with the planning authority approach, I would have no objection to the principle of BTR development and the proposed uses at this location.

7.3. Building Height and Quantum of Development

- 7.3.1. The appeals have raised concerns about an excessive height and density that would constitute serious overdevelopment of the site. It has been submitted that this would not be in accordance with the Sustainable Residential Development Guidelines (now revoked) and would materially contravene the Development Plan (including Policy Objectives PHP18, PHP20, and the Building Height Strategy). One of the principal concerns is the impact of overdevelopment on the amenities of adjoining properties.
- 7.3.2. I note that some concerns have been raised about the clarity of the details and drawings submitted as they relate to building height. In this regard, I would clarify

that the proposal (i.e. the reduced F.I. response) comprises Building 1 (4-8 storeys) with a maximum height (excluding flagpole) of 26.275m (35.375mOD), and Building 2 (6-7 storeys) with a maximum height of 21.9m (30.8mOD). It contains 74 apartments and has a net density of 232 units per hectare, a net plot ratio of 2.09, and a site coverage of 24.3%. I would acknowledge that the proposed height and density is significantly greater than the established character of development to the west of the site. However, reflecting the evolving character of the area, there are consistencies with the increased height and density of development in the neighbouring Harbour View development to the east and the hospital buildings on higher ground to the south.

National Policy & Guidance

- 7.3.3. Chapter 3 of the *Building Height Guidelines* (2018) outlines a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development in key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.
- 7.3.4. Section 2.4 of the *Apartments Guidelines* (2020) states that 'Central and/or Accessible Urban 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.
- 7.3.5. More recently, the *Compact Settlement Guidelines* (2024) set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. It is intended that the Guidelines should be read in conjunction with other guidelines (including the Building Height Guidelines and the Apartments Guidelines) where there is overlapping policy and guidance. Where there are

differences between these Guidelines and Section 28 Guidelines issued prior to these guidelines, it is intended that the policies and objectives and specific planning policy requirements of these Guidelines will take precedence.

- 7.3.6. Policy and Objective 3.1 of the Guidelines recommends that the recommended residential density ranges set out in Section 3.3 are applied within statutory development plans and in the consideration of individual planning applications, and that these density ranges are refined further at a local level using the criteria set out in Section 3.4 where appropriate.
- 7.3.7. Having considered the various categories and area types outlined in section 3.3, I consider that the appeal site is within the 'City – Urban Neighbourhood' category of the Dublin MASP area as per Table 3.1 of the Guidelines. This is based on both the designation of the site within a 'major town centre' as per the CDP, and its location around an existing or planned high-capacity public transport nodes or interchange (i.e. as per Table 3.8 of the Guidelines, the site is within 1km walking distance of the Dun Laoghaire DART Station). It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in the urban neighbourhoods of Dublin. The proposed net density of 232 dph would, therefore, be within the recommended range. I acknowledge that it would be on the upper end of the recommended range and that section 3.4 of the Guidelines recommends that the density ranges should be considered and refined.
- 7.3.8. Step 1 in the refining process is the 'consideration of proximity and accessibility to services and public transport', which encourages densities at or above the mid-density range at the most central and accessible locations. Table 3.8 outlines further guidance on accessibility and I have already outlined my acceptance that the site is within a high-capacity public transport node or interchange based on its location within 1km walking distance of the Dun Laoghaire DART Station. Furthermore, the site is within c. 100m of the station, and therefore I am satisfied that it is effectively 'at the node or interchange' where the Guidelines recommend that 'highest densities should be applied'.
- 7.3.9. In addition to the DART services, the site is within 500m of several bus stops along Crofton Road, Marine Road, and George's Street. These stops provide a range of services with high capacity and high frequency, including the 46A route which runs at

frequencies of 8 minutes for the majority of the day. Accordingly, I am satisfied that the site is also within an 'accessible location' for bus services as defined in Table 3.8 of the Guidelines.

7.3.10. Step 2 in the refining process is the 'consideration of character, amenity and the natural environment'. This will be addressed throughout my report through an evaluation of impacts on:

- (a) local character (see section 7.8 of this report)
- (b) historic environments (see section 7.8 of this report)
- (c) the environment and on protected habitats and species (see sections 5.5 and 8 of this report)
- (d) the amenities of residential properties (see sections 7.6 and 7.7 of this report)
- (e) water supply and wastewater networks (see sections 5.5, 7.8, and 8 of this report).

Local Policy

7.3.11. The Development Plan (including Policy PHP18) generally supports proposals to optimise density on suitable sites, subject to suitable design. It does not prescribe a maximum density standard for the area/site but supports minimum densities of 50 units per hectare in central/accessible locations such as the appeal site.

7.3.12. CDP Appendix 5 contains the Building Height Strategy (BHS) for the County. Policy Objective BHS 1 supports increased height / taller buildings where appropriate in Dun Laoghaire MTC and in suitable areas well served by public transport links (i.e., 1000m / 10-min walk of LUAS stop). This is applicable to the appeal site. Policy Objective BHS 2 is to promote and support proposed heights as set out for certain areas, including the Dun Laoghaire UFP. BHS1 and BHS2 are subject to further assessment of height impacts, including the criteria outlined in table 5.1 of the strategy.

7.3.13. The DLUFP does not place any specific limits on density or building height for the appeal site location. It largely refers to the relevant performance-based criteria in relation to heights as set out in the CDP Building Heights Strategy.

Conclusion

- 7.3.14. Having regard to the foregoing, I am satisfied that CDP policy does not place any specific maximum limit on building height or density for this site. The CDP was adopted in advance of the Compact Settlement Guidelines which has provided more specific guidance on density. And having regard to the categorisation of the site as 'City – Urban Neighbourhood' within the Dublin MASP area; the availability of public transport services as previously outlined above; as well as the location of the site within a major town centre with a high level of employment, commercial, and community services; I consider that the site benefits from very close proximity to a high level of public transport and other services. On this basis, I would have no objection in principle to the proposed density (232 dph) at the upper end of the recommended density range (50-250 dph).
- 7.3.15. Of course, the proposed height and density requires further assessment of its suitability, with particular regard to the criteria outlined in section 3.4.2 (Refining Density 'Step 2') of the Compact Settlement Guidelines; the criteria outlined in table 5.1 of the CDP Building Height Strategy; and the protection of existing residential amenity as required under PHP20 of the CDP. These issues will be addressed in later sections of my report.

7.4. Transport, Parking, and Access

- 7.4.1. While I have outlined my satisfaction that the site is located at a 'high-capacity public transport node or interchange' (as per the Compact Settlement Guidelines) which is well served by public transport, the appeals raise concerns that the proposal would result in the loss of valuable car-parking spaces and that inadequate car parking has been included for the proposed development. There are concerns that the proposal would lead to overspill parking/congestion; that it would not accommodate older and less-abled residents; and that it would materially contravene CDP standards.

Loss of existing parking

- 7.4.2. I acknowledge the appellants' concerns about the loss of the existing car park. However, I consider that it represents an inefficient use of a central and accessible site that is zoned as 'Major Town Centre'. It is an unattractive and inactive use which fails to appropriately contribute to the vitality of the town centre and would be contrary to national and local policy which supports compact brownfield development

and alternatives to private car transport. Accordingly, I have no objection in principle to the replacement of the car park.

Proposed Car Parking

- 7.4.3. I note that the proposed development includes just one resident parking space (for less-abled needs), which effectively constitutes a ‘car-free’ development. The site is located within car-parking ‘zone 1’ as per the CDP, and the parking standards for the proposed uses (or analogous) are outlined in the table below.

Table 2 – Car Parking Standards

Unit Type	No. of Units / floorspace	Zone 1 Standard	Maximum Spaces
1-bed Apt	55	Max. 1 space per unit	55
2-bed Apt	19	Max. 1 space per unit	19
Commercial Unit	137m ²	Max. 1 space per 60m ² (i.e. for retail convenience > 100m ²)	2
Café	92m ²	None	0
Total (Max. spaces allowable)			76

- 7.4.4. I acknowledge that the proposal for just 1 space is negligible in relation to the maximum allowable of 76 spaces. However, section 12.4.5.2 of the CDP outlines that in Zones 1 and 2, the Planning Authority may allow a deviation from the maximum number of spaces specified in Table 12.5 or may consider that no parking spaces are required. Brownfield residential schemes in Zone 1 (i.e. as proposed) are cited as an example of such an instance, dependant on criteria outlined in section 12.4.5.2 (i). In response to those criteria, I would state the following:

- As previously outlined in this report, I am satisfied with the proximity to public transport services and level of service and interchange available.
- As outlined later in this report, I am satisfied that the site is adequately served by pedestrian/cycle connections and that the permeability of the proposed development would contribute to same.

- The 'car-free' proposal would promote modal shift and safeguard investment in sustainable public transport.
- There are 5 no. 'GoCar' car-sharing locations within c. 1km/10-min walk of the appeal site, including 2 no. locations within 100 metres. There is also a wide range of bike/e-bike sharing facilities in close proximity to the site.
- I have noted that existing on-site parking availability will be removed by the proposed development. However, there are several other car parks in the surrounding area. And while their use may be restricted by existing demands, I consider that there would be potential for some for dual use associated with the proposed development.
- Section 12.4.5.6 of the CDP accepts that BTR schemes may avail of lower car parking standards. Section 12.4.5.2 also outlines that brownfield residential schemes in Zone 1 may be allowed reduced/zero parking.
- The site is within a Major Town Centre with an excellent range of services, which reduces the need for car travel/parking.
- Given the limited extent of vehicular traffic associated with the proposal, there would be no unacceptable traffic safety, amenity, or capacity impacts.
- There would be no unacceptable impacts on the capacity of the road network.
- The absence of car parking facilitates more open space and active uses at street level. The proposed development is assessed from an urban design perspective in section 7.8 of this report.
- The application includes an Outline Travel Plan which suitably aims to reduce dependency on the private car.
- This is a town centre location where suitable on-street parking controls apply.

7.4.5. Having regard to the above, and consistent with the planning authority approach, I am satisfied that the proposed development satisfactorily addresses the criteria to warrant a deviation from the parking standards specified in the Development Plan.

7.4.6. The Apartments Guidelines also addresses the issue of car-parking requirements. The appeals contend that the SPPR 8(iii) reference to a default of minimal or significantly reduced car parking provision does not amount to zero parking.

However, I would highlight that section 4.19 of the Guidelines states 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, and section 4.24 states that 'car free' development is permissible. Therefore, I am satisfied that, in principle, 'car free' BTR development can be permitted at this central and accessible location.

7.4.7. In cases where reduced parking is accepted, the Apartment Guidelines states that it is necessary to comply with certain criteria, many of which have already been covered by the criteria in section 12.4.5.2 of the CDP. In relation to the other criteria, I would state the following:

- The scheme includes a designated drop-off space along Crofton Road. The central courtyard could also be used as an informal drop-off / turning area.
- In relation to servicing, I note that the drop-off space along Crofton Road will facilitate servicing/deliveries for the café unit. I also note that drawing no. D1960-MAL-00-XX-C-12 demonstrates that large service vehicles (e.g. refuse etc) can navigate through the site, including the potential for manoeuvring within the central courtyard.
- Table 12.5 of the CDP does not require any visitor spaces in this case.
- The scheme includes 1 no. space to cater for the mobility impaired, which addresses the Development Plan requirements for 4% of total spaces.

7.4.8. Following on from the Apartments Guidelines, SPPR 3 (i) of the Compact Settlement Guidelines outlines that in urban neighbourhoods such as this, car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling. This is consistent with the CDP standards as previously discussed. And consistent with the Guidelines recommendations for such instances, I have already outlined the rationale and justification for the proposed parking standards, and that the mobility needs of residents and workers can be otherwise satisfied.

Proposed Cycle Parking

- 7.4.9. The Apartment Guidelines state that reduced car-parking proposals should include facilities for cycle parking and storage, while the Compact Settlement Guidelines highlight the need for high quality cycle parking and cycle storage facilities for both residents and visitors in areas of high and medium accessibility. SPPR 4 (i) of the Compact Settlement Guidelines outlines that a general minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided but no specific ratio is stated.
- 7.4.10. The table below outlines a comparison between the requirements of the Development Plan (i.e. 'Standards for Cycle Parking & Associated Cycling Facilities for New Developments' (2018)), the Apartments Guidelines, the Compact Settlement Guidelines, and the proposed cycle provision as per the 'Cycle Statement' in the applicant's appeal response.

Table 3 – Cycle Parking Standards

Unit Type	Development Plan		Apartment Guidelines		Compact Settlement Guidelines		Proposed	
	Long term	Short stay	Long term	Short stay	Long term	Short Stay	Long term	Short stay
Residential	74 (1 per unit)	14 (1 per 5 units)	93 (1 per bed room)	37 (1 per 2 apts)	93 (1 per bed room)	Not stated	100	50
Café	1 (@ 1 per 5 staff	1 (1 per 100m ²)	N/A	N/A	N/A	N/A	12	
Commercial (Retail)	1 (@ 1 per 5 staff	1 (1 per 100m ²)	N/A	N/A	N/A	N/A		
Sub Total	76	16	93	37	93	Not stated	N/A	
Total	92		130		93		162	

- 7.4.11. As per the above table, I am satisfied that the proposed spaces significantly exceed the minimum quantum required (where standards are specified) as per the Development Plan, the Apartments Guidelines, and the Compact Settlement Guidelines. This includes the individual requirements for residential, commercial, and long/short-term use. I acknowledge that these are minimum standards which should be exceeded in 'zone 1' areas as per the CDP. I am satisfied with the exceedance proposed in this case, particularly given the town centre location; the proximity of bus/rail services; and the existence of other cycle stands in proximity of the site.

- 7.4.12. In addition to the quantum of spaces, I note that the planning authority was satisfied with the design of the proposed cycle parking and associated facilities, subject to the agreement of a Cycle Audit as per condition no. 10 of the DLRCC decision. I am also satisfied that the proposal addresses the design requirements in the Apartments Guidelines and the Compact Settlement Guidelines (including SPPR 4(ii)).
- 7.4.13. The applicant has included a 'Cycle Statement' in the appeal response. It clarifies that the vast majority of cycle spaces (128 spaces or 79%) will be internal covered spaces, while the external spaces will be Sheffield stands. Building 1 includes a changing room with 7 no. lockers, toilets, and a shower room, while Building 2 includes a bicycle repair area. The Outline Travel Plan includes suitable measures to encourage cycling and final details can be agreed by condition.
- 7.4.14. I note that there are no segregated cycle lanes along Crofton Road adjoining the site. However, the 'Active School Travel' map on the DLRCC website² shows the 'Existing Cycle Network' with an extensive range of 'Low Traffic Routes' and 'Pedestrian Cycle Routes' in close proximity to the site. Accordingly, I am satisfied that the site is served by an acceptable cycle network.
- 7.4.15. In conclusion, I consider that the replacement of the existing car park with more efficient and attractive uses would be acceptable in accordance with local and national policy guidance. And having regard to the nature and scale of the proposed development, the town centre location of the site and the range of facilities therein, and the extent of public transport and cycling/pedestrian facilities in the vicinity of the site, I consider that the proposal for a 'car-free' development is acceptable in this case. The proposal adequately provides for the limited vehicular needs associated with the development and would not adversely impact on the safety and free flow of traffic in the area. I am satisfied that the approach will promote a modal shift towards sustainable transport modes, which would be acceptable in accordance with the CDP and national policy guidance on land use and transportation.

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<https://dlrcocouncil.maps.arcgis.com/apps/webappviewer/index.html?id=31c9c5bfc0fb4da0a01ad7b89b262558> – Accessed on 25th January 2024.

7.5. The Standard of Residential Development Proposed

- 7.5.1. Section 12.3.3 of the Development Plan outlines quantitative standards for all residential development. Section 12.3.5 outlines standards for Apartments, while section 12.3.6 specifically addresses BTR development. The applicable standards cover *inter alia* unit mix, unit sizes and dimensions, open space, dual aspect ratios, storage and other supporting facilities/services, as well as access, privacy and security considerations. The standards are generally consistent with the Apartments Guidelines standards and Specific Planning Policy Requirements (SPPRs).
- 7.5.2. The planning authority has outlined satisfaction that the proposed development would comply with the relevant standards/guidelines, and I do not propose to revisit these matters in full. However, the planning authority and third-party submissions do raise concerns about certain standards and these matters will be addressed in the following paragraphs.

Housing Mix

- 7.5.3. Similar to the concerns about the BTR nature of the development, the appeals have also raised concerns about the proposed mix of units. It has been contended that there is an adequate mix of units and that there is a lack of larger/family apartments, which would not promote sustainable communities and would materially contravene the Development Plan (PHP 20 and PHP 27).
- 7.5.4. The development proposes 55 no. 1-bed units (74%), and 19 no. 2-bed units (26%). All of the proposed 2-bed apartments are larger 4-person apartments. Table 12.1 of the Development Plan sets out general apartment mix requirements. However, notwithstanding that section 12.3.3 of the CDP (as originally adopted) aimed to apply the apartment mix requirements of Table 12.1 to BTR developments, I note that this requirement has been removed as a result of a Ministerial Direction (28th September 2022). Accordingly, the CDP does not include a specific mix requirement for BTR developments.
- 7.5.5. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. The Apartments Guidelines also highlight the need for greater flexibility on apartment mix, including SPPR 8 (i) which states that no restrictions shall apply on

dwelling mix for proposals that qualify as specific BTR development. I am satisfied that the proposed development has been described and designed to qualify as BTR development in accordance with the requirements of SPPR 7(a) of the Guidelines.

- 7.5.6. As previously outlined in this report, I am satisfied that the proposed development would not result in a proliferation of the type of smaller units associated with BTR/shared-living development, and I would accept that the 2-bed (4-person) apartments can accommodate family needs. The proposed apartments would be suitable to this central and accessible location and would satisfactorily contribute to the diversity, range, and tenure of housing in the area, which would be acceptable in accordance with CDP and national policy guidance.

Resident Amenities and Facilities

- 7.5.7. Section 5.5 of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR development. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as ‘resident support facilities’ and ‘resident services and amenities’.
- 7.5.8. In this regard, the proposal is supported by an Operational Management Plan and the scheme includes the following main features:

Resident Support Facilities (m²)

- Reception / Concierge (56)
- Postal storage area (7)
- Storage space (32)
- Refuse storage (55)
- Bicycle repair area (9)
- On site management staff
- Cycle parking facilities (as previously discussed).

Resident Amenity Facilities (m²)

- Work/study area (62)

- Multi-purpose room (18)
- Gym (42)
- Games and social area (73)
- Kitchen, dining, lounge (86)
- Enclosed amenity space at roof level of Building 1 (77).

7.5.9. In total, the resident support and amenity facilities amount to c. 500m², which equates to c. 6.7m² per apartment. Neither the CDP nor the Apartments Guidelines specify a particular extent of such facilities to be provided. However, having reviewed BTR schemes previously permitted by the Board, I am satisfied that the proposals compare very favourably in this regard. Accordingly, I am satisfied that the proposed development includes a satisfactory quantum and range of internal residential facilities and amenities. Consistent with the planning authority approach, I consider that the enclosed rooftop amenity space should not be available to the public.

7.5.10. In addition to these resident facilities, the proposed scheme includes a café, commercial unit, and open space, which would further contribute to the quality of resident amenities. Consistent with the planning authority's view, I am satisfied that the nature and scale of the proposed development, and particularly the low number of units with 2-beds or more, would not require the inclusion of a childcare facility in accordance with the Apartments Guidelines or the Childcare Guidelines. The site is located within a major town centre where residents would have easy access to a wide range of community and commercial services.

Communal Open Space

7.5.11. The Development Plan standards for the quantum of communal open space are consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development (74 units) requires 408m² of communal open space. The proposed development includes a total of 801m² through a combination of the ground-level central courtyard (342m²) and a range of roof terraces (459m²). Accordingly, I am satisfied that a large majority of the requirement (i.e. 84% of 408m²) is met through surface level space which is usable and accessible. The balance of required space (i.e. 66m² or 16%) would not exceed 30% of the total requirement, which I consider to be consistent with section 12.8.5.4 of the

CDP regarding the proportion of requirements met by roof space. Accordingly, I am satisfied that the proposed quantum of communal open space significantly exceeds the CDP requirements.

7.5.12. The proposed courtyard and roof terraces contain a mix of hard/soft spaces that could accommodate a range of activities. The spaces would be suitably landscaped to a high standard in accordance with the proposed landscaping plans and would be adequately overlooked by surrounding apartments.

7.5.13. I note that concerns have been raised about the safety of the roof terraces and their exposure to the elements, particularly wind. However, I am satisfied that the spaces would be suitably enclosed to prevent any unacceptable safety risks. The applicant's F.I. response also included a 'Wind Microclimate Modelling' report. I am satisfied that the assessment has been carried out in accordance with best practice based on the industry-standard Lawson Criteria. It satisfactorily demonstrates that all roof terraces / balconies / amenity areas are safe and suitable for resident use for the intended purposes, i.e. recreation/sitting.

Private Amenity Space

7.5.14. The appeals raise concern that some of the apartments have no balconies. I note that 14 of the proposed apartments would not be served by private amenity space. However, both the CDP (s. 12.3.6 & 12.8.3.3 (ii)) and the Apartments Guidelines (SPPR 8(ii)) allow flexibility in the provision of private space for individual apartments, subject to the satisfactory provision of communal space and facilities.

7.5.15. Having regard to the BTR nature of the proposal and its central/infill location, I consider that it is acceptable to facilitate the limited number of units with no balconies. Furthermore, I am satisfied that this would be suitably compensated by the high standard of communal open space and other resident amenities as outlined earlier in this report, which would be acceptable as per s. 12.3.6 of the CDP.

Aspect

7.5.16. The appeals raise concern that a high proportion of the proposed units are single aspect. I note that 36% of the proposed units would be fully dual aspect, while the planning authority also accepted that a high proportion of units (66%) have additional fenestration that would significantly enhance the amenity of units.

- 7.5.17. Section 12.3.5.1 of the CDP classifies the entire county as a 'suburban or intermediate location' where 50% dual aspect is required as per SPPR 4 (ii) of the Apartments Guidelines. However, for the reasons previously outlined in this report, I am satisfied that this is a 'central and/or accessible location' where only 33% dual aspect is required as per SPPR 4 (i). Therefore, while I acknowledge the planning authority's ultimate acceptance that proposals (i.e., 66%) were acceptable in accordance with CDP standards, I am also satisfied also that the proposal for 'fully' dual aspect units (i.e., 36%) exceeds the appropriate threshold as per the Apartments Guidelines (i.e., 33%) and is acceptable in this respect.

Public Open Space

- 7.5.18. Section 12.8.3.1 of the CDP outlines that public open space is required as a minimum 15% of the site area. The CDP also acknowledges that these standards may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted. In this case, I note that condition no. 29 of the DLRCC decision requires payment of €2,000 per unit as a special contribution in lieu of public open space (s. 48(2)(c) of the Act) to fund improvements to Myrtle Square.
- 7.5.19. The Compact Settlement Guidelines also address the issue of public open space. Policy and Objective 5.1 outlines that development plan requirements should be within 10-15% of the net site area save in exceptional circumstances. In the case of sites that contain significant heritage, landscape or recreational features and sites that have specific nature conservation requirements, a higher proportion of public open space may need to be retained. The Guidelines also support circumstances where requirements might be set aside (in part or whole) in lieu of a financial contribution under section 48 of the Act.
- 7.5.20. The development proposes public open space in the form of a hard/soft landscaped area to the front (north) of Building 1 and a pedestrian route along the eastern perimeter of the site. The space amounts to 651m² or 20% of the net site area, which would comfortably exceed the CDP requirement.
- 7.5.21. In addition to the quantitative requirements, the CDP outlines that public open space must be designed and located to be publicly accessible and useable by all in the County; generally free from attenuation measures; and capable of being taken in charge. The northern open space would provide an attractive, usable, and

accessible public space consisting of landscaping, seating, and a café terrace. I acknowledge that the eastern pedestrian route would serve a more functional purpose rather than recreation/amenity, and that its further extension would require co-operation from 3rd party owners on adjoining lands. However, I consider that it would make a significant contribution towards improved public permeability between the town centre and the seafront area, as envisioned in the UFP. Accordingly, I am satisfied that the proposals qualify as public open space in accordance with CDP criteria and the definitions outlined in the Compact Settlement Guidelines.

- 7.5.22. In the event that the Board considers that there is an open space shortfall, I have outlined that a financial contribution can be accepted in lieu of any perceived shortfall. In this regard, it would appear that condition no. 29 of the DLRCC decision has been included based on a report from the 'Parks and Landscape Services' (11th July 2022). However, in calculating public open space requirements, I consider that the report conflates requirements for private amenity space, communal open space, and public open space.
- 7.5.23. Furthermore, I note that condition no. 29 has been applied under section 48(2)(c) of the Planning and Development Act 2000, as amended. This provision allows for special contributions where specific exceptional costs not covered by a development contribution scheme are incurred by a local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(12) also outlines that any such condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 7.5.24. Further guidance is contained in the Development Management Guidelines for Planning Authorities (DoEHLG, 2007). This states that it is essential that the basis for the calculation of the special contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.

7.5.25. The requirement for 15% public open space is a general and standard provision of the CDP and the planning authority has not specified/calculated the particular works that a special contribution may fund. Myrtle Square is a town centre space located c. 200m south of the appeal site. It serves the wider town centre area and I do not consider that it could be reasonably argued that costs for the park are incurred directly as a result of, or in order to facilitate, the development in question. Having regard to the legislation and guidance on special contributions, I do not consider that the basis for a special contribution (under s.48 (2)(c)) would be warranted on the basis that it would be neither 'specific' nor 'exceptional'. And, as outlined in the following paragraph, such costs are already covered under the 'normal' development contribution scheme.

7.5.26. The DLRCC Development Contribution Scheme 2023-2028 is the operating scheme in this case. Section 6 of the scheme outlines that contributions in lieu of Public Open Space would be charged at a rate of €7.5m per hectare on a *pro rata* basis. Having regard to the foregoing, and in the event that permission is granted and the Board considers that there is a shortfall in public open space requirements, I consider that any perceived shortfall could be addressed under the normal section 48 Development Contribution Scheme. However, as previously outlined, I am satisfied that public open space proposals are acceptable in accordance with the requirements of the CDP and the Compact Settlement Guidelines, and that no development contribution should apply for public open space.

Other Issues

7.5.27. The appeals raise concerns that inadequate firefighting facilities have been included, and that the development poses a safety risk given its proximity to Harbour View and a gas tank in the hospital car park. I would highlight that fire safety standards are outlined in the Building Regulations 2006 (Technical Guidance Document B) and compliance with TGD B will be assessed under a separate legal code. Therefore, I consider that the issues of fire safety and compliance with Building Regulations need not concern the Board for the purposes of this appeal.

7.5.28. Third-party concerns have been raised about the adequacy of Part V proposals. I note that this matter was raised in the DLRCC FI Request. The applicant's response clarified that the site was acquired on 19th November 2018. Accordingly, I am

satisfied that a Part V requirement of 10% applies in accordance with Section 96(3)(j) of the Act of 2000. The proposal consists of a 25-year lease of 7 no. units on site and it has been confirmed that Part V discussions have been held with the local authority. The DLRCC Housing Report states that the proposal is provisionally accepted, although alternative options may have to be considered. I am satisfied that proposals can be agreed as a condition of any permission.

Conclusion

- 7.5.29. I have considered the planning authority's assessment of the proposed development and the outstanding issues raised in the context of this appeal. Having regard to my assessment as outlined in the foregoing paragraphs of this section, I am satisfied that the proposed development would provide a suitable standard of residential amenity for prospective residents. The question of daylight and sunlight within the proposed development will be addressed separately in section 7.7 of this report.

7.6. Impacts on Surrounding Properties

- 7.6.1. The primary concern outlined in the appeals is the adverse impact of the proposed development on the amenities of the surrounding properties. Some of these concerns relate to traffic, parking, and daylight/sunlight impacts, and these matters are addressed elsewhere in this report. This section considers the potential overlooking, overbearing, and other disturbance impacts associated with the proposed development.

Overlooking and overbearing

- 7.6.2. Although primarily stated in the context of new apartment blocks, section 12.3.5.2 of the Development Plan outlines that developments should provide for acceptable separation distances. It states that a minimum clearance distance of circa 22 metres, in general, is required between opposing windows in apartments up to three storeys, while taller blocks may require a greater separation distance having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.

- 7.6.3. Consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines.
- 7.6.4. More recently, the Compact Settlement Guidelines outline that separation distances should be determined based on considerations of privacy and amenity, informed by the layout, design and site characteristics of the specific proposed development. SPPR 1 states that development plans shall not include an objective in respect of minimum distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. However, it also states that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.6.5. The appeal site is bounded by Crofton Road to the north, and there are no significant impacts in terms of separation distances for development on the opposite side of the road. To the south of the site is the hospital site, where Building 2 would be c. 17 metres from the nearest existing building. Given that this does not involve opposing residential properties, I am satisfied that the separation distance is acceptable and would not result in any significant overlooking or overbearing impacts.
- 7.6.6. To the west of the site are properties at Charlemont Terrace, The Mews, and Charlemont Avenue. The closest building is 6 Charlemont Terrace. This building contains several east-side windows which face towards Building 1. However, the building is in office use and the windows are not significant in size. No. 6 The Mews also bounds onto the appeal site and contains several rooflights. Otherwise, I note that there are several other properties, windows, and gardens to the west of the site.

- 7.6.7. The western end of Building 1 is 4 storeys high, with a roof terrace at 5th storey level. The western extremity ranges from c. 1-3m from the western site boundary. However, this 4-storey portion does not include any west-facing windows and the roof terrace would be screened by opaque glazing to prevent overlooking. The western end rises to 6 storeys at a setback of c. 8-10m from the western site boundary. Again, there would be only minimal fenestration at 5th and 6th floor levels, which would not directly oppose the lower building to the west.
- 7.6.8. I consider that impacts from Building 1 on properties to the west would primarily be on No. 6 Charlemont Terrace. And given the commercial use of this building, together with stepped height of Building 1 and the absence of significant opposing windows etc., I do not consider that there would be any unacceptable overlooking or overbearing impacts on No. 6 Charlemont Terrace. I acknowledge the residential nature of other adjoining properties at Charlemont Terrace and The Mews. However, these properties do not directly oppose the proposed development and would benefit from a greater separation distance. I also note that the applicant's F.I. response includes screening proposals for the west side of the south-facing balconies. Therefore, I do not consider that these properties and their associated gardens would experience any unacceptable overlooking or overbearing impacts associated with Building 1.
- 7.6.9. Building 2 ranges from c.11-12m from the western site boundary, including No. 6 The Mews. To the west, it primarily presents a 5-storey (over basement) façade with a setback 6th storey level and roof terrace. This façade does contain a significant number of windows and the aforementioned roof terrace within 11-12m of the site boundary. However, there are no directly opposing windows along this boundary. The windows within No. 6 The Mews are upward facing rooflights. The other windows within The Mews, Charlemont Avenue, and Charlemont Terrace are setback further and/or do not generally face towards Building 2 windows. I also note that the applicant's F.I. response includes screening proposals for the west side of the north and south-facing balconies. Therefore, having regard to the setback, design, and scale of Building 2, I do not consider that it would have any unacceptable overlooking or overbearing impacts on the properties to the west or their associated gardens.

- 7.6.10. To the east of the appeal site is the west-facing façade of the Harbour View development. This is an extensive façade which runs the full length of the appeal site. The building rises over 8 floor levels and the western façade mainly comprises glazing and balconies serving a large number of residential apartments. I acknowledge the significant concerns outlined by residents in relation to inadequate separation distances and associated overlooking and overbearing impacts.
- 7.6.11. Building 1 would have a separation distance of c. 10-11m. It contains bedrooms and living rooms on the upper levels which have east-facing windows and the potential impacts were raised by the planning authority in the F.I. Request. The bedrooms include angled windows, wherein the southeast-facing angles (i.e., towards the Harbour View apartment) would include translucent glazing and the other angle (i.e., clear glazing to the northeast) would face towards the Harbour itself. Consistent with the planning authority assessment, I am satisfied that this proposal would satisfactorily address any overlooking concerns.
- 7.6.12. In relation to the living rooms, the applicant's FI response presented three options, i.e., translucent glazing, vertical louvres, or horizontal louvres. The applicant expressed a preference for the use of translucent glazing on the basis that it would prevent overlooking; would allow light to penetrate; and would avoid the cleaning/maintenance difficulties associated with louvres. However, the planning authority conditioned the use of louvres on the basis of preventing potential overlooking and providing a level of visual detailing/relief to improve the visual impact of the development.
- 7.6.13. I would accept that the extensive use of louvres can result in maintenance difficulties. Furthermore, I note that some appellants express dissatisfaction with the louvre solution on the basis that it would create an oppressive atmosphere within living rooms. Subject to the agreement of detailed specifications and samples, I would have no objection to the applicant's preferred option of translucent glazing. It would satisfactorily prevent overlooking and would provide better standards of light. I do not consider that it would have any unacceptable visual impacts.
- 7.6.14. Building 1 also includes balconies to the north and south facades. I am satisfied that any potential for overlooking to the east can be satisfactorily addressed through the requirement for screening as a condition of any permission. The F.I. response also

addressed concerns about the proposed roof terrace through the provision of screening and the restriction of use after 10pm each day. Consistent with the planning authority view, I am satisfied that this satisfactorily addresses any overlooking concerns. The enclosed amenity space at the northern end of Building 1 is at a higher level than the Harbour View apartments and is setback from the roof perimeter, which would avoid any unacceptable overlooking impacts.

- 7.6.15. Building 2 would have a separation distance of c. 11-12m. It also contains east-facing living room windows and balconies on the northern and southern facades. The potential overlooking impacts from these windows and balconies were also raised in the F.I. Request. Consistent with my assessment of Building 1, I would have no objection to the use of translucent glazing instead of louvres in this case. I am also satisfied with the screening proposals for the proposed balconies.
- 7.6.16. In conclusion, I acknowledge the significant concerns of surrounding residents regarding the proximity of the development and its potential overlooking and overbearing impacts. However, I would accept that the potential for such impacts has been largely created through the design of the Harbour View development incorporating such extensive glazing and private amenity space over the full length of its western façade within 7-8m of the site boundary.
- 7.6.17. I have acknowledged CDP provisions regarding the 22m separation distance, but I do not consider that the proposed development would materially contravene this provision given that it specifically allows for reduced separation distances in appropriate circumstances (including daylight assessment as per section 7.7 of this report).
- 7.6.18. I also acknowledge that proposal would not meet the 16-metre separation distance referenced in Compact Settlement Guidelines. However, I am satisfied that it incorporates suitable privacy measures to prevent undue overlooking of habitable rooms and private amenity spaces, which I consider to be acceptable in accordance with the flexibility allowed under SPPR 1 of the Guidelines.
- 7.6.19. Unlike the Harbour View building façade, I would accept that the proposed development includes two well-separated blocks to reduce the impacts on adjoining properties. Furthermore, the east and west-facing elevations contain limited

glazing/openings, and I am satisfied that adequate mitigation measures have been included to prevent any unacceptable overlooking impacts.

- 7.6.20. In my opinion, it cannot be ignored that the absence of significant development on the appeal site has created a spacious atmosphere and a largely unobstructed outlook from the surrounding properties. And I would accept that this would be significantly altered by the proposed development. However, having regard to the central and accessible location of the site and the need to promote compact development in accordance with local and national policy; the scale and design of the proposed development and the separation distances proposed; I do not consider that the proposed development would result in any unacceptable overlooking or overbearing impacts for the surrounding properties.

Noise and Light Disturbance

- 7.6.21. The appeals raise concerns about noise from the balconies, roof terraces, and other open spaces, and they contend that condition no. 14 of the DLRCC decision does not adequately address the matter. Condition no. 14 would prevent public access to any of the roof top amenity areas. As outlined previously in my assessment, I would agree that all such amenities (including the enclosed space on the top floor of Building 1) should be limited to resident use. And on that basis, I do not consider that there is any basis to conclude that the noise impacts associated with the development would be significantly different to any such residential development.
- 7.6.22. The applicant's response to the appeal includes a noise assessment of the likely levels of environmental sound from the proposed roof terraces. Consideration has also been given to gatherings in the central courtyard. A baseline noise level survey was completed, and a noise prediction model was compiled based on full use of the outdoor spaces. The assessment demonstrates that noise levels would be less than 5 dB L_{Aeq} above background levels and significantly below ambient levels during the day and evening time. The assessment includes a range of management controls including no access outside the hours of 8am-10pm; music will be restricted to background level; CCTV monitoring; and the erection of signage. Having regard to the assessment, I am satisfied that the proposed mitigation measures can be satisfactorily implemented and that the proposed development would not result in any unacceptable noise impacts in this town centre location.

- 7.6.23. I note that the applicant submitted lighting proposals in the F.I. response. The DLRCC reports outlined the need for further amendments and condition no. 13 of the DLRCC decision requires agreement of proposals by condition. Having regard to the town centre location of the site, I would have no concerns in principle regarding the potential for light pollution. Therefore, I am satisfied that this matter can be satisfactorily agreed with the planning authority in the event of a grant of permission.

Anti-social behaviour

- 7.6.24. The third-party submissions also raise concerns that the proposed pedestrian route is inadequately designed and would lead to anti-social behaviour. I would acknowledge that such routes have the potential to lead to anti-social behaviour if they are not properly incorporated into and overlooked by surrounding development. In this case, I consider that the proposed route would facilitate a functional connection between the hospital lands (extending to the town centre) to the south and the seafront area to the north. The route would also connect directly with the central courtyard and the proposed public open space to the north of the site. It would benefit from extensive passive surveillance from the existing apartments in Harbour View and, notwithstanding the proposed screening measures, it would also be satisfactorily overlooked by the proposed development. Accordingly, I do not consider that there is any reasonable basis to conclude that the proposed route would encourage anti-social behaviour.

Construction Impacts

- 7.6.25. Concerns have been raised that the construction phase of the development will lead to disruption and adverse impacts on surrounding properties, including potential structural impacts.
- 7.6.26. I would accept that the construction stage would result in some level of disturbance and disruption for surrounding properties as a result of traffic and parking, noise & vibration management, excavation, and dust & dirt impacts. However, these are inevitable and common features of urban development projects, and they are clearly temporary in nature. The application includes an Outline Construction Management Plan (CMP), a Resource Waste Management Plan (RWMP) and a Construction and Environmental Management Plan (CEMP). I am satisfied that these proposals appropriately address the relevant matters in order to avoid any unacceptable

construction impacts on surrounding properties. The final details of same should be agreed by condition with the planning authority.

- 7.6.27. Regarding concerns about structural impacts, I note the proximity of the development to surrounding properties, particularly the protected structures at Charlemont Terrace and Charlemont Avenue. The proposed development inevitably includes groundworks and excavation, particularly associated with Building 2. However, this is not considered significant or uncommon in an urban setting. There is no reasonable indication to suggest that the proposed development would result in structural damage to any adjoining properties, and I am satisfied that the construction stage will be suitably managed and monitored subject to the agreement of final details.

Wind

- 7.6.28. Concerns have been raised that the proposed development would create a wind-tunnelling effect with the Harbour View building. As previously outlined, the applicant's F.I. response included a 'Wind Microclimate Modelling' report. I am satisfied that the assessment has been carried out in accordance with best practice based on the industry-standard Lawson Criteria. It satisfactorily demonstrates that the development would not give rise to negative or critical wind speed profiles at nearby roads or buildings, and that no critical conditions were found for 'frail persons or cyclists' or the 'general public'.

Telecommunications

- 7.6.29. The appeals raise concerns that the development may block mobile and broadband signals to adjacent buildings. I note that the application includes an assessment of the impact of the development on important telecommunications channels prepared by ISM Ltd. The assessment outlines a survey of all surrounding development and finds that there are no such links that would be impacted by the proposed development. It does not identify the need for mitigation measures but outlines that support structures could be accommodated on the building in the future if required. I consider that proposals are acceptable in this regard.

Conclusion

- 7.6.30. Having regard to the foregoing, I do not consider that the proposed development would result in any unacceptable impacts on the amenities of the surrounding

properties. As such, I do not consider it reasonable to conclude that there would be any significant impacts on the mental health of surrounding residents or the value of surrounding properties. The daylight and sunlight impact for surrounding properties will be assessed separately in the following section.

7.7. Daylight and Sunlight

- 7.7.1. As previously outlined, the appeals raise serious concerns about the impact of the proposed development on daylight/sunlight levels for existing properties, as well as the predicted levels of sunlight and daylight within the proposed development itself. This section of my report assesses these matters.

Policy

- 7.7.2. Section 3.2 of the Building Height Guidelines outlines that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.
- 7.7.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to guidance like the BRE (BR 209, (2011)) or BS (8206-2

(2008)) standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

- 7.7.4. More recently, the Compact Settlement Guidelines also acknowledge the importance of daylight and sunlight, both within the proposed development and in the protection of existing residential amenities. In cases where a technical assessment of daylight performance is considered necessary, regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. However, unlike the Apartments Guidelines and Building Height Guidelines, it does not include specific requirements to clearly identify daylight shortfalls or a rationale for any alternative, compensatory design solutions. And as previously outlined in this report, section 2.2 of the Guidelines confirms that they take precedence over earlier Guidelines where there are differences.
- 7.7.5. In drawing conclusions in relation to daylight performance, the Guidelines advise that planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 7.7.6. At local policy level, the Development Plan also acknowledges the importance of good levels of sunlight and daylight in relation to communal open space (s. 12.8.5.3), house design (s. 12.3), and block separation (s. 12.3.5.1). Section 12.3.4.2 requires a daylight analysis for all proposed developments of 50+ units, which should also consider the impact on existing habitable rooms. It states that development shall be

guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE Report, 2011) and/or any updated, or subsequent guidance.

Information & Methodology

- 7.7.7. The application/appeal documentation includes a range of different daylight and sunlight assessments (prepared by HOLLIS consultants). This includes the assessments submitted with the original application, those submitted in the ‘further information’ response, and those submitted in response to the appeals. The appeal response represents the applicant’s contemporary position and therefore, unless otherwise stated, this section of my report considers the ‘HOLLIS reports’ submitted in the appeal response. The reports and the assessment criteria therein can be summarised as follows:
- Cover letter outlining response to the individual appeals.
 - ‘Internal/new dwelling daylight and sunlight report’, which considers the BRE Guide (2nd Edition, 2011) and BS 8206-2.
 - ‘Daylight Report’, which considers the BRE Guide (3rd edition, 2022), the European Standard EN 17037:2018, and the UK National Annex BS EN17037:2018.
 - ‘External/Surrounding daylight and sunlight report’, which considers the BRE Guide (3rd edition, 2022).
- 7.7.8. The aforementioned Development Plan policy and national planning guidelines (Apartment Guidelines and Building Height Guidelines) refer to earlier versions of the BRE Guidance (2011) and British Standards (2008). I note the subsequent publication of the updated (3rd) edition of the BRE Guide in June 2022, and that BS EN 17037:2018 and the National Annex is the UK implementation of EN 17037:2018 (thereby superseding BS 8206-2:2008).
- 7.7.9. Having regard to the above, I acknowledge that the relevant standards and guidance have gone through a transitional period in recent years. However, this has been reflected in the Development Plan which allows for flexibility by stating that development shall be guided by the principles of the BRE Report (2011) and/or any updated, or subsequent guidance. I am satisfied that this includes the BRE Guide

(3rd edition, 2022), the European Standard EN 17037:2018, and the UK National Annex BS EN17037:2018.

- 7.7.10. The earlier national guidance (i.e. the Building Height Guidelines and the Apartments Guidelines) also allows for flexibility in methodology by stating that regard should be taken of guidance/standards 'like' the BRE Guide (2011)) or BS (8206-2 (2008)). I am satisfied that the applicant's assessment is based on updated guidance/standards which are 'like' those referenced in the Building Height Guidelines and the Apartments Guidelines. Furthermore, I consider that the recently published Compact Settlement Guidelines take precedence over the older national policy and guidance, and this clarifies that regard should be had to EN17037:2018, UK National Annex BS EN17037:2019, and the associated BRE Guide 209 (2022 Edition).
- 7.7.11. Accordingly, I am satisfied that the applicant's methodology for the assessment of daylight and sunlight is suitably robust and is based on documents that are considered authoritative on the issues of daylight and sunlight. In light of the most recent references in the Compact Settlement Guidelines to the use of updated standards, I consider it appropriate to apply these standards in my assessment (i.e. rather than the older BRE Guide (2nd Edition, 2011) and BS 8206-2).
- 7.7.12. At the outset, I would also highlight that the standards described in the BRE guide allow for flexibility in terms of their application. Paragraph 1.6 of the guide states that the advice given '*is not mandatory*', '*should not be seen as an instrument of planning policy*', and '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The guide notes that other factors that influence layout include considerations of views, privacy, security, access, enclosure, and microclimate etc.
- 7.7.13. In addition to the applicant's reports, I note that the 3rd party submissions have raised serious concerns about daylight and sunlight. In particular, the appeal by Crofton Buildings Management CLG includes a report from BPG3 consultants which considers the validity of the applicant's assessments. Their submission on the applicant's appeal response also includes a further BPG3 report. Many of the other appellants have supported the concerns raised in the BPG3 reports and these views have been considered in my assessment.

- 7.7.14. In summary, I have considered the reports submitted by the applicant and have had regard to the BRE Guide (2022), IS EN 17037:2018, and BS EN17037:2018 (including the UK National Annex). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3rd parties and the reports of the planning authority.

Daylight to existing properties

- 7.7.15. Based on the BRE Guide, loss of daylight to existing dwellings is assessed by calculating Vertical Sky Component (VSC), which is the ratio of the direct sky illuminance falling on the outside of a window, to the simultaneous horizontal illuminance under an unobstructed sky. The BRE Report sets out that a VSC of 27% should achieve enough sky light, but that electric lighting will be needed for more of the time if VSC is both less than 27% and less than 0.8 times its former value.
- 7.7.16. Where room layouts are known, the BRE Guide recommends that the impact on the daylighting distribution in the existing building should be found by plotting the 'no sky line' in each of the main rooms. It states that supplementary electric lighting will be needed if a significant part of the working plane (20% of the room or more) lies beyond the 'no sky line'. If, following construction of a new development, the 'no sky line' moves so that the area of the existing room, which does receive direct skylight, is reduced to less than 0.80 times its former value this will be noticeable to the occupants, and more of the room will appear poorly lit.
- 7.7.17. The applicant's assessment considers 276 no. windows and 185 no. rooms in the surrounding properties at 5 Charlemont Terrace, 5 & 6 The Mews, 1 Charlemont Avenue, the Harbour View Apartments, and St Michael's Hospital. I note that No. 6 Charlemont Terrace has not been included. However, the BRE Guide is intended for intended for use for rooms in adjoining dwellings where daylight is required. While it may also be applied to any existing non-domestic building where the occupants have a reasonable expectation of daylight, I note that the east-facing windows in this building are small and/or secondary windows serving a commercial office use. I do not consider that there is a reasonable expectation of daylight and I have no objection to their omission from the assessment.

- 7.7.18. Concerns have been raised about an inadequate assessment of daylight to No. 5 & 6 The Mews and 5 Charlemont Terrace. However, I consider that adequate assessment has been provided as follows:
- 5 The Mews – 10 no. windows have been assessed and only 2 windows would marginally fall short of retaining 0.8 times their former value (i.e., at least 0.78 times) and would still have VSC values of at least 19.05%.
 - 6 The Mews - 8 no. windows have been assessed and only 1 window would fall short of retaining 0.8 times their former value, while still retaining a VSC value of 14.97%. I note that a small rooflight on the west-facing roof plane and a flat conservatory rooflight have not been assessed. However, these are small windows which do not face the proposed development and would not be significantly affected. The long-standing existence of the property is noted but it is not a Protected Structure and does not warrant any additional protection in the context of this assessment.
 - 5 Charlemont Terrace - 15 no. windows have been assessed and only 1 window would marginally fall short of retaining 0.8 times their former value (i.e., 0.77 times) and would still have a VSC value of 20.45%.
- 7.7.19. Overall, the results outline that 145 no. windows (53%) would retain a VSC of either >27% or >0.8 times their former value. When the 209 no. Harbour View windows are omitted, only a limited number of 6 windows would not meet BRE criteria. However, I note that these instances would largely be below the BRE criteria by only a marginal extent. Furthermore, I note that (excluding Harbour View) only one room would not meet BRE criteria for Daylight Distribution (DD), and this room would still retain 0.79 times its former value, which is only marginally below the BRE criteria of 0.80. Accordingly, I am satisfied that the daylight impacts on surrounding properties to the west and south would be acceptable in accordance with BRE criteria.
- 7.7.20. The results show that 125 (60%) of the Harbour View windows would not meet the BRE criteria. I have reviewed the results (Appendix D of the report) and I note that there are a significant number of cases where the proposed VSC would be less than 5% (i.e., often impossible to achieve reasonable daylight accordingly to the BRE Guide). In the majority of cases, the proposed VSC would be 5-15%, where it is very

difficult to provide adequate daylight unless very large windows are used (according to the BRE Guide). And in comparing the proposed VSC to the existing VSC, I note that c. 62% of the windows would experience a reduction of more than 20%, with many cases being significantly more than 20%.

7.7.21. In addressing these results, the HOLLIS report contends that the shortfalls are minor/acceptable and points to a number of mitigating factors which can be summarised as follows:

- Due to the open nature of the existing car park, many existing windows achieve untypically high levels of VSC. For example, 45 no. windows currently achieve an almost maximum VSC (c. 40%).
- The majority of living room windows are recessed to allow for balcony space, and s. 2.1.17 of the BRE Guide notes that such overhangs significantly reduce the light entering windows. The report suggests that the light currently entering these windows comes directly across the car park, rather than from the sky at higher angles, and that the effects of any obstruction on the site will be exacerbated by the inherent design of Harbour View.
- 46 of the 125 windows (below BRE criteria) serve bedrooms which the BRE Guide considers having a lower requirement for daylight.

7.7.22. The HOLLIS report contends that minor/acceptable shortfalls are further evidenced by the Daylight Distribution (DD) analysis. This assessed 156 rooms in Harbour View and found that only 29 rooms (19%) would be below the BRE guide criteria (i.e to retain at least 0.80 times its former value), 16 of which are bedrooms where the expectation of daylight is lower. For the remaining 13 living/dining rooms, it contends that shortfalls would be relatively minor given that they would retain between 0.53 and 0.77 times their former value.

7.7.23. I have acknowledged the concerns raised by the appellants about the impacts on Harbour View, including the BPG3 report. Their views largely challenge the applicant's rationale for the results and reject the view that the impacts are attributable to the existing design of Harbour View or the current absence of significant development/obstruction on the appeal site.

- 7.7.24. However, I consider it is important to consider the close proximity of Harbour View to the site boundary, as well as its design including extensive recessed balconies and windows for the full length of the appeal site. This is reflected in section 2.2.3 of the BRE Guide, which states that an important issue is whether the existing building is itself a good neighbour, standing a reasonable distance from the boundary and taking no more than its fair share of light. And while this case has outlined conflicting views regarding the context of the existing site, I consider that the absence of significant development/obstruction on the appeal site has resulted in elevated daylight levels for the Harbour View apartments. I do not consider it reasonable to expect that such standards must be retained at this major town centre location.
- 7.7.25. I have reviewed the VSC results, and I acknowledge that there would be significant reductions as a result of the proposed development. However, I would accept that this is largely attributable to the design and proximity of Harbour View and the inevitable impacts of the development of the appeal site. I would also accept that the DD analysis demonstrates that impacts would be relatively minor and limited to bedrooms and/or marginal shortfalls.
- 7.7.26. I have acknowledged that CDP policy seeks to protect the daylight levels for existing properties, and this is again reflected in the Compact Settlement Guidelines. However, I would highlight that the Compact Settlement Guidelines acknowledge the need to consider performance and design constraints against the desirability of achieving wider planning objectives. In this regard, I can consider it entirely desirable to achieve the redevelopment of this central and accessible site and to provide an effective urban design and streetscape solution. Accordingly, while I acknowledge that the daylight results do not in all case meet the BRE criteria (which is intended to be applied flexibly), and that this will result in significant reductions to the currently high level of daylight standards for some surrounding properties, I consider that the overall impacts would be acceptable in the context of this major town centre location and the need to achieve wider planning objectives.

Sunlight to existing properties

- 7.7.27. The BRE Guide recommends that loss of sunlight should be checked for main living rooms of dwellings and conservatories if they have a window facing within 90° of due south. If the centre of the window can receive more than one quarter of annual

probable sunlight hours (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March (WPSH), then the room should still receive enough sunlight. If the window already receives less than this, a reduction to less than 0.8 times its current value and a reduction of more than 4% of annual probable sunlight hours over the year may lead to the room it serves appearing colder and less cheerful and pleasant.

7.7.28. Based on these criteria, the applicant's assessment considers 48 no. windows surrounding the site. The relevant properties are mainly located to the west and south of the site, while 13 no. windows in the Harbour View apartments (to the east) are also included. Again, I have no objection to the exclusion of No. 6 Charlemont Terrace for the reasons previously outlined.

7.7.29. It outlines that 39 (or 81%) of windows would meet the BRE criteria. Where shortfalls are identified for certain windows, I note the following:

- 5 The Mews – The 2 no. windows serve a ground floor room served by other south-facing windows and would still retain at least 11% of APSH.
- 6 The Mews – The window is a small return window within a triangular aperture and the room appears to be served by other compliant windows.
- 1 Charlemont Avenue – This window already achieves 0% WPSH and the reduction in APSH (27%) would only marginally exceed the 20% standard.
- Harbour View – The 5 windows do not meet standards in the existing scenario and are not main windows for the host rooms.

7.7.30. Having regard to the above, I consider that a high proportion (81%) of windows would meet BRE criteria. In cases where shortfalls are identified, I note that the majority of windows serve rooms which are served by other windows, and I am satisfied that the impacts would not be unacceptable. I again highlight the need to apply BRE criteria flexibly and the desirability of achieving regeneration and urban design/streetscape solutions at this location. Accordingly, I consider that the overall impacts would be acceptable in the context of this major town centre location and the need to achieve wider planning objectives.

Loss of sunlight to existing gardens and open spaces

- 7.7.31. For existing outdoor amenity areas, the BRE guide recommends that at least half of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable.
- 7.7.32. Based on these criteria, the HOLLIS report considers the impacts on the amenity spaces at 1-6 Charlemont Terrace; 2, 5, & 6 The Mews; and 1-2 Charlemont Avenue. 9 of the 11 areas assessed would comply with the BRE criteria. I note that the space associated with 5 The Mews is very restricted and only a minor portion (3%) currently meets the BRE criteria. And while 0% would comply in the proposed scenario, I do not consider that this would constitute an unacceptable impact given the very low level of compliance in the existing scenario. I also note that 47% of 6 The Mews would comply in the proposed scenario and that 0.76 times the existing scenario would be retained. I consider that these shortfalls are only marginal and would be acceptable in comparison to BRE criteria.
- 7.7.33. The BRE Guide states that an assessment for summertime (for example 21 June) may be helpful as an optional addition. The applicant has carried out an assessment for 21st June and shows that all 11 spaces would then comply with BRE criteria. I am not relying on this assessment as I consider that the results for 21st March to be acceptable. However, it does present a better assessment of year-round impacts, which I also consider to be acceptable.
- 7.7.34. Having regard to the foregoing, I am satisfied that any impacts on the existing open spaces would be acceptable having regard to BRE guidance.

Daylight to proposed habitable rooms

- 7.7.35. In accordance with the BRE Guide (2022), the HOLLIS 'Daylight Report' uses the Daylight Factor method. Daylight Factor is the ratio of total daylight illuminance at a reference point on the working plane within a space to outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky.
- 7.7.36. The report acknowledges the provisions of EN17037 and the National Annex (Table NA.5) which sets out additional daylight provision data for selected UK and Channel

Island locations. Dublin is not listed but it is noted that Finningley (Doncaster) displays the same Median External Diffuse Illuminance of 14,900. Based on the National Annex (Table NA.5) and the BRE Guide (Table C3, Appendix C), the report outlines the daylight factor targets (for Finningley) to be achieved over at least 50% of the assessment grid as follows:

Table 4 – Daylight Factor Targets adopted by Applicant

Room (lx)	Bedroom (100)	Living room (150)	Kitchen (200)
Target Daylight Factor	0.7%	1.0%	1.3%

- 7.7.37. The applicant's assessment adopts the above targets for the scheme, using 0.7% for bedrooms and the higher target of 1.3% for combined living/kitchen/dining (LKD) spaces. Of the 168 rooms assessed, 100 (60%) would meet the adopted targets. A high proportion of the proposed bedrooms (72 rooms or 77%) would meet the 0.7% target. The majority of the LKD rooms (46 rooms or 62%) would not meet the 1.3% target.
- 7.7.38. In relation to the combined LKD room results, I have noted that the higher target of 1.3% (i.e. 200lx for kitchens) has been applied. This target is more appropriate in a traditional house layout. In apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 200lx, and even more so when higher density and balconies are included. Therefore, there are often challenges in urban schemes in meeting the 200lx target in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 150lx target is commonly considered to be more appropriate. This is reflected in the BRE Guide (C17, Appendix C) which advises that discretion can be used on this matter, including the use of the living room target (1% - 150lx) if kitchens are not treated as habitable spaces.
- 7.7.39. The proposed design does not include any separate or 'galley' type kitchens and I would not consider it necessary to strictly apply the higher target of 1.3% (i.e. 200lx for kitchens). Notwithstanding this, I note that a significant proportion of the proposed LKDs fall marginally short of the 1.3% target, and I am satisfied that the use of the lower living room target (1%) would significantly improve results. An example of this

is illustrated for the 1st floor level of Building 1 (Drg No. 88714_DF_01, Appendix B of the Hollis report).

- 7.7.40. As previously outlined, the Apartments Guidelines and Building Height Guidelines provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. In this regard, I am satisfied that the application has identified where the proposal does not meet the relevant daylight provisions of the BRE Guide. I am satisfied that this would constitute an acceptable portion of the overall development and that this would not be untypical in this type of development and/or location.
- 7.7.41. As per the Apartments Guidelines and Building Height Guidelines, the applicant's F.I. response outlines the proposed compensatory solutions where daylight levels fall short. Apartments are provided with external amenity spaces including private balconies and communal open spaces which will provide ample access to daylight. It is also submitted that the north-facing view from Building 1 over Dun Laoghaire Harbour and Dublin Bay is an attractive compensatory measure which responds to the natural orientation of the site.
- 7.7.42. In addition to the above, I would consider that the following features provide compensatory measures within the scheme:
- A high provision of resident amenities and facilities as outlined in section 7.5 of this report.
 - The proposed quantum of communal open space significantly exceeds the CDP requirements as per section 7.5 of this report.
 - In addition to the satisfactory provision of fully dual aspect units (i.e. 36%), a high proportion of units (66%) have additional fenestration that would significantly enhance the amenity of units – see section 7.5 of this report.
 - The proposed proportion of public open space (20%) significantly exceed the standards outlined in the CDP and the Compact Settlement Guideline - see section 7.5 of this report.
 - All apartments exceed the Apartments Guidelines storage space requirements, despite the provision for discretion as per SPPR 8 (ii).

- The majority of units exceed the Apartments Guidelines minimum floor area requirements, despite the provision for discretion as per SPPR 8 (iv).
- The proposed ceiling heights exceed the Apartments Guidelines requirements (i.e. 2.7m for ground floor and 2.4m on upper floors).

7.7.43. Having regard to the foregoing results; the compensatory measures within the proposed scheme; and the need to achieve wider planning objectives on this site such as regeneration and streetscape solutions; I am satisfied that the proposed daylight standards are acceptable in accordance with BRE guidance and section 28 guidance outlined in the Apartments Guidelines and the Building Height Guidelines. Furthermore, I would highlight that the Compact Settlement Guidelines do not specify a requirement for alternative compensatory measures, and these Guidelines take precedence over the Apartments Guidelines and the Building Height Guidelines.

7.7.44. I note that the latest BPG3 submission (October 2022) acknowledges clarifications regarding the inputs and assumptions used in the HOLLIS reports but raises outstanding concerns about the transmittance value adopted. It states that a diffuse transmittance value of 0.8 has been incorrectly used. However, while I acknowledge that C26 of the BRE Guide confirms that a value of 0.68 'can' be used, I do not consider that this amounts to a mandatory requirement. The BPG3 report also contends that a 0.92 dirt factor has been incorrectly used, and that a factor of 0.76 should be used for windows that are sheltered from rain by a balcony or overhang (as per Table C6 of the BRE Guide). However, I would highlight that the majority of the proposed windows are not sheltered and, therefore, the correct factor has generally been applied. Ultimately, regarding both the diffuse transmittance value and the dirt factor, I would again highlight that the numerical values given in the BRE Guide are intended to be interpreted flexibly and, accordingly, I am satisfied with the values used by the applicant.

7.7.45. The appeals also raise concerns that a VSC assessment has not been carried out for the proposed development. However, I do not consider that this is necessary given that a daylight factor assessment has been completed.

Sunlight to proposed living spaces

7.7.46. The 2022 BRE guide refers to BS EN17037, which recommends minimum, medium and high recommended levels for sunlight exposure. This is measured via the

duration received to a point on the inside of a window on a selected date (21st March) and gives a minimum target of 1.5 hours, medium target of 3 hours, and high target of 4 hours. For the 168 no. rooms assessed, the applicant's results show that the level of sunlight exposure for 48 no. rooms is considered 'high' (28%), 15 no. 'medium' (9%), 18 no. 'minimum' (11%), while 87 no. units would be below the 'minimum' recommendation (52%). Accordingly, c. 48% of the proposed rooms would meet the criteria for sunlight exposure as set out in the BRE Guidelines.

- 7.7.47. Rather than individual rooms, section 3.1 of the Guide outlines that a dwelling will appear reasonably sunlit if it has at least one main window facing within 90° of due south and a habitable room, preferably a main living room, can receive at least 1.5 hours of sunlight on 21st March. Based on these criteria, I calculate that a slightly improved result of 50% of the units would meet the BRE criteria. However, the Guide does not set out the percentage of units that need achieve these criteria.
- 7.7.48. I would acknowledge that the BRE recommendations are intended to be applied flexibly and that the Guide accepts that sunlight criteria are unlikely to be met for all apartments, particularly where rooms face significantly north of due east or west and where higher density schemes are proposed. In this case, 35 of the main living rooms that fall short of the BRE criteria are orientated north, which largely explains the difficulties in meeting the BRE criteria. And while s. 3.1.7 of the BRE Guide outlines the aim to minimise the number of dwellings whose living rooms face solely north, northeast, or northwest, it also allows for exceptions when there is some compensating factor such as an appealing view to the north.
- 7.7.49. Therefore, having regard to the forgoing results and the availability of appealing views of Dun Laoghaire Harbour and Dublin Bay to the north, I consider it reasonable to accept that the high proportion of north-facing units (and the resultant low levels of sunlight exposure) would be appropriately compensated and would be acceptable having regard to BRE guidance.

Sunlight to proposed open spaces

- 7.7.50. The BRE Guide recommends that at least half of the proposed space should receive at least two hours of sunlight on 21st March. The applicant's response to the F.I. request (Internal/new dwelling daylight and sunlight report, June 2022) outlines that overshadowing assessments have been carried out for 8 external amenity areas.

- 7.7.51. For the rooftop amenity areas within Building 1, 3 out of the 4 spaces would comfortably exceed the BRE criteria with at least 74-96% of the spaces meeting the 2-hour recommendation. The other space is an enclosed 7th floor space which forms only a minor portion of the total amenity space in Building 1. When the cumulative amenity space in Building 1 is considered (600m²), I note that 504m² (84%) would comply with the 2-hour recommendation. Overall, this is a high level of compliance with BRE criteria and will ensure that residents will have good access to sunlight.
- 7.7.52. There is a 6th floor roof terrace in Building 2. It extends to 125m² and 98% of the space will comply with BRE criteria. This is a high level of compliance which will ensure that residents will have good access to sunlight.
- 7.7.53. The assessment considers 3 no. ground level amenity areas. The smallest space is a south-facing space (128m²) to the rear of the site. This space would comply with BRE criteria given that 57% of the space would meet the 2-hour recommendation.
- 7.7.54. I note that the largest ground level spaces (i.e. the central courtyard (559m²) and the northern public space (495m²)) would not meet the criteria, with 0% of these areas receiving 2-hours of sunshine on the 21st March. However, I would accept that this is largely attributable to the obstruction of morning light by the Harbour View building to the east; the need to achieve an appropriate high-density development at this central and accessible location; and the need to achieve a strong streetscape along the northern end of the site. I would also accept that the lack of sunlight to the ground level spaces is compensated by the high levels of sunlight in the roof spaces and the proximity of the site to a good range of outdoor amenities in the surrounding area.
- 7.7.55. The BRE Guide states that an assessment for summertime (for example 21 June) may be helpful as an optional addition. The applicant has carried out an assessment for 21st June and shows that all 8 spaces would then comfortably comply with BRE criteria. I consider that this facilitates a better assessment of year-round impacts, particularly during the summer when such spaces are most likely to be used.
- 7.7.56. Having regard to the foregoing results, together with the site constraints and the need to achieve wider planning objectives such as regeneration and streetscape solutions at this location, I am satisfied that the sunlight levels to the proposed open spaces are acceptable.

Conclusions on Daylight and Sunlight

- 7.7.57. I acknowledge that this case has highlighted conflicting views on the application of the criteria contained in both the BRE Guide and BS EN 17037 (including the National Annex). The appellants have contended that the BRE Guide was not derived from a suburban type housing model, and that the National Annex to BS EN 17037 provides a strong indication that minimum standards should be interpreted firmly in general circumstances. Accordingly, they contend that increased flexibility should not be applied to criteria in this case.
- 7.7.58. However, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartments Guidelines and the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like those referenced in this section of my report, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives. The overriding Compact Settlement Guidelines also highlight the need to balance the assessment against the desirability of achieving wider planning objectives, and do not specify a requirement for alternative compensatory design solutions.
- 7.7.59. I have considered the issues raised by the appellants in carrying out this daylight/sunlight assessment, including concerns about impacts on surrounding properties and the standards within the proposed development itself. I am satisfied that the applicant has carried out a competent assessment of impacts on the proposed development and neighbouring properties in accordance with the relevant guidance and methodology.
- 7.7.60. I have identified the instances where the impacts would not meet with BRE criteria, both for existing properties and the proposed development. However, I have highlighted that these instances are largely attributable to the design and proximity of surrounding development and the need to achieve an appropriately high-density development at this central and accessible location in accordance with local and national policy. Where relevant, I am satisfied that acceptable compensatory

measures have been incorporated into the design and layout of the scheme.

Therefore, in balancing the results of this daylight/sunlight assessment, I am satisfied that the impacts are acceptable given the need to achieve wider planning objectives such as the regeneration of this underutilised site and provision of effective urban design and streetscape solutions at this prominent site.

- 7.7.61. I note that concerns about impacts on rights to light have also been raised by third parties. As the issue of determining rights to light is a matter for the Courts, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

7.8. Design, Layout, Built Heritage, and Visual Amenity

- 7.8.1. The appeals have outlined serious concerns in relation to the excessive height and scale of the development and its adverse impact on the character and setting of the adjoining protected structures (Charlemont Terrace and Charlemont Avenue), as well as the wider built heritage value of the area (including 'The Crofton Esplanade', the Royal Irish Yacht Club, the harbour/seafront area, and other prominent buildings / townscape in the town centre). And while I note that concerns were also raised in the internal DLRCC conservation office assessment, the planning authority ultimately concluded that the F.I. response/amendments satisfactorily addressed the potential for impacts on built heritage. I have also noted appellant concerns about the layout of the proposed scheme, including suggestions that development should be aligned in a north-south direction along the western side of the site.
- 7.8.2. As previously outlined in section 7.3 of this report, Objective BHS 1 of the CDP Building Height Strategy (BHS) is applicable to this case as it supports increased height / taller buildings where appropriate in Dun Laoghaire MTC and in suitable areas well served by public transport links. However, the BHS 1 objective is conditional on the further assessment of impacts under the criteria outlined in Table 5.1 of the BHS.
- 7.8.3. The Development Plan BHS has been prepared having regard to the provisions of the national Building Height Guidelines and the performance criteria outlined in Table 5.1 satisfactorily incorporates the criteria associated with SPPR 3 and section 3.1 of the Guidelines. The Compact Settlement Guidelines were published after the CDP was adopted and I note that these Guidelines also set out assessment criteria in

section 3.4.2 (i.e. 'Step 2' of 'Refining Density') and Appendix D ('Key Indicators of Quality Urban Design and Placemaking'). However, as is the case with the Building Height Guidelines, I am satisfied that the relevant criteria of the Compact Settlement Guidelines will be appropriately addressed through consideration of the CDP BHS (Table 5.1) criteria as outlined in the following table.

Table 5 – Assessment of BHS (Table 5.1) Criteria

At County Level	
Criterion	Assessment
NPF Objectives	Following on from sections 7.2 and 7.3 of this report, I consider that the principle of this high-density proposal in a Major Town Centre zone would assist in securing objectives regarding key urban centres, brownfield / infill development, and compact growth.
Public Transport	As outlined in sections 7.3 and 7.4 of this report, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.
Character and Public Realm	<p>The application included a Landscape and Visual Impact Assessment (LVIA), which was updated in the further information response to reflect the revised design and the reduced height and scale of the proposed development. The updated LVIA considers the impact from 20 relevant viewpoints which were established in the original assessment.</p> <p>Views 1 & 2 are from Sandycove Harbour to the southeast. The proposal would form a minor element in these views, with the Lexicon building, the two church spires (St Michael's and the Maritime Museum), and the Town Hall tower maintaining their more prominent presence.</p> <p>View 9 is from the Lexicon building. The proposed development would not be visible.</p> <p>Views 10-13 are from the east pier of the harbour. In all views, the proposed development is largely obscured by intervening development. Building 1 would largely integrate with the adjoining Harbour View building. Although the top floor of Building 1 would be</p>

	<p>slightly higher than Harbour View, it would not form an obtrusive or incongruous feature in the townscape.</p> <p>Views 14-15 are from the eastern approach on Queen's Road / Crofton Road. Only a minor portion of Building 1 is visible behind Harbour View.</p> <p>Views 16-17 are from the western approach along Crofton Road. In the 'existing' view, the Harbour View building is already prominent as a modern development of significant scale with a variety of darker finishes. The proposed development would effectively replace the existing impact of Harbour View. And although it would appear somewhat larger in terms of height and scale, I consider that the simple and muted elevational treatment would integrate better with the traditional character of Charlemont Terrace and Crofton Terrace, as well as more modern development at Marine Court.</p> <p>Views 18 & 19 are from the 'old piers' to the northwest of the site. These are busy settings with a lot of activity and structures in intervening/middle distance. In the wider townscape, there are also more significant and prominent building such as the BIM building and an adjoining apartment complex. In this context, I do not consider that the proposed development would form an obtrusive or incongruous feature.</p> <p>Views 20 and 21 are from the west pier and outer breakwater. The proposed development would largely replace the impact of the Harbour View building and would integrate better with the adjoining streetscape to the west. The prominent appearance of the spires, tower, and other important skyline features would not be significantly impacted.</p> <p>In Views 22 (Seapoint/Salthill), 24 (Marine Road), and 28 (Clarence Street), the proposed development would not be visible.</p> <p>View 27 is from George's Place / Charlemont Avenue to the west. The proposed development would be visible above the existing low-profile houses in the foreground. However, this would be consistent with the existing hospital buildings in the background, and I do not</p>
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	<p>consider that it would seriously detract from the character of the area.</p> <p>View 30 is taken from Sandymount. Given the significant separation distance (c. 5.5km), I do not consider that there would be significant visual impacts.</p> <p>In conclusion, I acknowledge that this case requires the consideration of the differing contexts of the lower height/density of traditional development to the west; the increased height/density of the emerging character such as Harbour View to the east; and the wider townscape character/features of Dun Laoghaire. I acknowledge that the proposed development would be of a significantly different character to the historic character of the area. However, having regard to the designation of the site within the Major Town Centre and the varying character of the area, including that of recent/emerging development, I am satisfied that the proposed height and scale would provide suitable infill development within the town centre and would provide an appropriate transition between traditional and modern development at this location.</p> <p>Regarding the other requirements of Table 5.1, I note that the application was accompanied by a Design Appraisal, and that the applicant's Engineering Planning Report, Quality Audit, and associated drawings address the requirements of DMURS.</p>
Views and Prospects	<p>Table 8.1 of the Development Plan outlines the views and prospects to be preserved. I also note that Zoning Map 3 includes an objective 'to preserve views' from Crofton Road northwards to the harbour. I do not consider that the proposed development would interfere with any of the relevant views.</p>
Infrastructural Capacity	<p>As per sections 7.3 and 7.4 of this report, I am satisfied with the capacity of transport infrastructure. And given the location of the site within a Major Town Centre, the development would be adequately served by a wide range of commercial facilities, employment uses, and social/community infrastructure.</p> <p>Despite the appeal concerns regarding sewer network capacity and potential flooding/drainage concerns, the planning authority has not</p>

	<p>raised any objection subject to compliance with conditions. The application includes confirmation from Irish Water that water and wastewater connections are feasible without infrastructure upgrade. A separate surface network will discharge to the existing network in Crofton Road at a restricted rate of 1.4 l/s, thereby reducing runoff in extreme rainfall events. The surface water design was subject to an independent audit by Punch Consulting Engineers. A site-specific flood risk assessment has also satisfactorily demonstrated that there would be unacceptable risks.</p>
At District/Neighbourhood/Street Level	
Response to natural and built environment and contribution to neighbourhood / streetscape	<p>Table 5.1 of the BHS outlines the need to demonstrate compliance with the 12 criteria set out in the Urban Design Manual of the Sustainable Residential Development Guidelines (2009), as well as DMURS. I note that the Sustainable Residential Development Guidelines have been replaced by the Compact Settlement Guidelines (2024), which are to be accompanied by an updated but yet unpublished Design Manual. In advance the update, I consider it appropriate to still examine the 2009 Design Manual criteria.</p> <p><u>Context:</u> As previously outlined, having regard to the zoning of the site and the evolving nature of the area, I consider that the proposed development provides a suitable transition in its varying context. The layout involves 2 separate buildings which aims to respect the surrounding building lines, and the increased height and density would be suitably distanced from neighbouring users. The form and architecture have been informed by the emerging character of modern development, while also incorporating simple elevations and colours/finishes to integrate with Charlemont Terrace. In the wider townscape/landscape, I consider that the proposal would form a landmark feature which would positively contribute to the character and identity of the neighbourhood. Appropriate responses have been made to the nature of specific boundary conditions.</p> <p><u>Connections:</u> As previously outlined in this report, this is a town centre site which is close to a range of services and facilities, and the proposed scheme includes a range of uses to support the proposed apartments. The site is also very well connected to good</p>

	<p>public transport services and other active travel options, and the scheme provides attractive routes for pedestrians and cyclists.</p> <p><u>Inclusivity:</u> As outlined in sections 7.2 and 7.5 of this report, the proposed development would provide a mix of units that would add diversity to the existing housing stock. The central and accessible location of the site facilitates easy access, and the development would be constructed to facilitate universal access in accordance with Building Regulations. The scheme incorporates a range of public, communal, and private amenity spaces and facilities which will suitably serve the residents and the wider public. The northern public open space and the pedestrian route are proposed to be publicly accessible. The new buildings will provide a positive aspect to passers by and would not include any unnecessary physical/visual barriers.</p> <p><u>Variety:</u> As outlined in section 7.2 of this report, I am satisfied that the proposal would provide a suitable mix of uses which would integrate with and compliment other uses in the town centre. The attractive public uses are suitably located at the northeast corner of the site and the proposed uses would be compatible with neighbouring uses. As previously outlined, the housing types and tenure would add to the choice available in the area.</p> <p><u>Efficiency:</u> The proposed higher density would be a more efficient use of this underutilised site in a central and accessible location. The proposal incorporates SuDS drainage principles, and the Operational Waste Management Plan outlines that suitable recycling proposals and facilities are provided. The communal areas would be landscaped for amenity/biodiversity purposes and to protect from micro-climatic elements such as wind, while also satisfactorily exploiting access to sunlight.</p> <p><u>Distinctiveness:</u> The proposed design would be significantly different to the character of traditional development and would also be distinctive when viewed in conjunction with the modern Harbour View development to the east. It provides a landmark taller feature at the western end of the Seafront Quarter, while also ensuring that the distinctive urban skyline of Dun Laoghaire is protected. The</p>
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	<p>proposed layout responds suitably to the adjoining building lines and incorporates public open space and a pedestrian route to create focal points and a memorable layout. The design and layout also exploit views in and out of the site, particularly the views of the harbour/bay to the north.</p> <p><u>Layout:</u> The setback at the northern end of the site facilitates desire lines along the waterfront and provides a public open space which punctuates the prominent nature of the site at the end of the Seafront Quarter. This space also links to the pedestrian route which makes a substantial contribution to improved connectivity between the town centre and the waterfront, as envisioned in the UFP. Access to the hospital site is also maintained along the western end of the site. Building 1 provides active street level uses and the proposed scheme has been designed to facilitate active travel rather than private cars. The layout involves a range of public/communal open spaces, including a public space to the front (north) of the site and a communal courtyard between the two blocks.</p> <p><u>Public Realm:</u> The open spaces and the pedestrian routes are suitably overlooked in the interest of safety. They provide important functions and have been suitably integrated into the proposed layout. There is clear definition between public, communal, and private open space. There is only minimal road and parking space within the scheme, some of which has been suitably incorporated into the central courtyard area.</p> <p><u>Adaptability:</u> The BTR model provides flexibility in cases where home ownership is not a priority. The apartments would be fully accessible, and all exceed the minimum size standards as per the Apartments Guidelines. The lightweight wall construction allows for adaption in the form of merging/splitting, if necessary, although it is acknowledged that apartments are less adaptable than individual houses. The application includes a Climate Change Impact Assessment, which satisfactorily outlines how the potential for climate change has been factored into the design of the scheme.</p>
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	<p><u>Privacy & Amenity</u>: As previously outlined in sections 7.5 and 7.7 of this report, I am satisfied that the proposed scheme would provide a suitable level of privacy and amenity for the prospective residents.</p> <p><u>Parking</u>: As outlined in section 7.4 of this report, I am satisfied with the proposed car and cycle parking proposals.</p> <p><u>Detailed Design</u>: The proposed design incorporates a high-quality simple palette of materials, primarily comprised of light-coloured reconstituted stone, brick, and curtain walling. The materials are hard-wearing and low-maintenance and will complement the light-coloured buildings along Crofton Road. The design facilitates public spaces along the northern and eastern sides of the site and only minimal car-parking space has been included. All bin stores and plant areas are integrated into the ground floors and ventilation grilles are carefully designed into window systems. Overall, I am satisfied that the materials and external design make a positive contribution to the locality.</p>
Building Form	The form of the scheme is primarily broken down through 2 separate blocks. The blocks include a range of stepped heights and varying building lines, which together with a range of finishes and elevational detailing, avoids a monolithic appearance.
Materials	The design incorporates a high-quality simple palette of materials, primarily comprised of light-coloured reconstituted stone, brick, and curtain walling, as well as aluminium window frames, and metal/glass balustrades with timber railing. The materials are hard-wearing and low-maintenance, and I am satisfied that the quality of the proposed materials would be acceptable.
Public spaces, thoroughfares, and water frontage.	As previously outlined, the scheme includes an attractive public open space along the Crofton Road waterfront area, which links to a new pedestrian route which aims to help link the town centre and waterfront area. I am satisfied that this would enhance the urban design context for public spaces, thoroughfares, and water frontage. A Site-specific Flood Risk Assessment has been submitted which satisfactorily demonstrates that there is no unacceptable flood risk.

Legibility	As outlined in response to the Urban Design Manual criteria above, I am satisfied that the proposal would include appropriate and active ground level uses, as well as significant public realm improvements. It would provide a distinctive landmark building which would make a positive contribution to the improvement of legibility through the site and wider urban area.
Mix of Uses / Buildings	As outlined in response to the Urban Design Manual criteria above, I am satisfied with the proposed mix of uses and building/dwelling typologies.
Enclosure	As outlined in response to the Urban Design Manual criteria above, I am satisfied that the proposed blocks would provide a suitable level of enclosure for the proposed public spaces and streets.
Urban Grain	As outlined in response to the Urban Design Manual criteria above, the proposal includes public and communal open space at ground floor level. It also includes commercial units and other facilities which are available to the public. The proposed development also includes internal resident amenity facilities and ground and first floor level, as well as a range of rooftop communal spaces. This would provide a suitable environment for human contact at varying levels.
Character and Identity	As outlined in response to the Urban Design Manual criteria above, I am satisfied that the proposal would make a positive contribution to the character and identity of the neighbourhood.
Neighbouring Properties	As outlined in section 7.6 of this report, I am satisfied that the proposal respects the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring properties.
At Site/Building Scale	
Daylight, ventilation, views, and sunlight	As outlined in section 7.5 and 7.7 of this report and having regard to the site location/constraints and the compensatory measures included within the overall scheme, I am satisfied that the proposal would have adequate access to natural daylight, ventilation, and views, and would not result in any unacceptable overshadowing.

BRE Guidance on Daylight and Sunlight	See section 7.7 of this report.
Overlooking, overbearing, overshadowing	As outlined in sections 7.6 and 7.7 of this report, I do not consider that there would be any such unacceptable effects on adjoining properties.
Built Heritage	<p>I have already considered impacts on built heritage in this assessment of Table 5.1 criteria. I note the presence of adjoining Protected Structures at Charlemont Terrace and Charlemont Avenue, as well as those in the wider area including the town centre and the waterfront area (Candidate ACA). The original application included an Architectural Heritage Impact Assessment of the larger proposal (subsequently reduced in the F.I. response). I would concur that much of the historic relationship between the appeal site and surrounding development has been eroded through new development. I am satisfied that the proposed development makes a satisfactory transition between older buildings to the west and modern development to the east. This is achieved through an appropriate graduation of height and scale; consideration of the existing urban grain and building lines; as well as the use of simple elevational treatment and finishes. And in terms of the wider townscape and built heritage, I consider that the LVIA has satisfactorily demonstrated that the proposal will not adversely impact on the existing urban skyline or the coastal landscape. Accordingly, I do not consider that the proposal would negatively impact on an ACA or any Protected Structures.</p>
Carbon Emissions	The application includes a Sustainability Report which outlines that the strategy shall include, compliance with NZEB requirements; Exhaust Air Heat Pump Technology; application of an Energy Plan and Renewable Technologies; and a sustainable M&E strategy to include limited CO ₂ levels.

County Specific Criteria	
Coastal Character	As previously outlined in the LVIA, I am satisfied that the proposed development will not impact on the character of the coastline or its architectural heritage.
Mountain Landscape	The proposed development does not have a significant relationship with the mountain landscape.
Specific Requirements	The application contains sufficient information for the purposes of this appeal and pre-planning requirements have been addressed.
Microclimatic Impacts	In addition to the sunlight/daylight assessment (section 7.7. of this report), a Wind Microclimate Modelling assessment has been completed. The assessment satisfactorily demonstrates that the proposal would not create any unacceptable wind conditions for the proposed development or surrounding roads, spaces, or properties.
Bird and Bat Flight Lines	The site is within a developed urban area and contains only limited landscaping. The application outlines that an Ecological Statement confirms that the site is of low biodiversity value and significant impacts on habitats or bat roosting potential are not anticipated. It also highlights that a Bat Survey recorded a low level of bat commuting activity over the site and bird flight line surveys found no medium or high collision risks. Having regard to the location of the site within the built-up urban area, and the fact that the proposed building height would be consistent with existing development to the east and south, I do not consider that there would be any unacceptable risks to birds or bats.
Telecommunication Channels	As per section 7.6 of this report, there would be no unacceptable impacts on telecommunications channels.
Safe air navigation	I would accept that the site would not affect flight procedures at any airport, and I acknowledge that the Irish Aviation Authority has not raised any objection in this regard.
Environmental Assessments	As addressed elsewhere in this report, the application includes an AA Screening Report, an EIA Screening Report, and an Ecological Statement. A Statement in accordance with Article 103(1A) of the Planning Regulations has also been prepared to outline how the

	available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account.
Additional criteria for larger redevelopment sites with taller buildings	
Place Making	I do not consider that this would represent a 'larger' redevelopment site. However, I have previously outlined my satisfaction with the proposals in respect of place making, daylight, and sunlight.
BRE standards for daylight and sunlight	

7.8.4. Having regard to Table 5 above, I would have no objection to the height, scale, design, and layout of the proposed scheme, or its impact on townscape/landscape character or the built heritage value of the area. The proposals would satisfactorily address the criteria outlined in Table 5.1 of the Development Plan BHS, would provide a suitable level of amenity for prospective residents and other users, and would adequately contribute to place making and the character of the town centre. I note that section 12.6.1 of the Development Plan also outlines criteria for the assessment of development proposals in Town Centres. However, I am satisfied that the relevant criteria have been suitably covered with reference to Table 5.1 of the BHS.

7.9. Other Matters

Validity and adequate information

7.9.1. Some third-party submissions raised concerns that the application was invalid and did not contain adequate or accurate information. However, I note that these matters were considered acceptable by the planning authority, and I am satisfied that there is sufficient information on file for the purposes of the Board's decision.

Legal Matters

7.9.2. Legal concerns have been raised that the proposed development would necessitate the amendment of an existing right of way. I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are

essentially a subsequent matter and are outside the scope of the planning appeal. As outlined in Section 5.13 of the Development Management Guidelines for Planning Authorities (DoEHLG, 2007), the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are matters to be resolved between the relevant parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000 (as amended), which outlines that a person shall not be entitled solely by reason of a grant of permission to carry out any development.

Magdalene Laundry

- 7.9.3. It is acknowledged that the hospital buildings included a former use as a Magdalene Laundry, while the appeal site was formerly used as an adjoining 'kitchen garden'. The appeals contend that it would be morally wrong to develop the site and that there is a possibility that the site includes an associated graveyard, while the applicant refutes the suggestion that the appeal site accommodated any such uses.
- 7.9.4. I consider that the historic mapping and photography illustrates that there was significant separation between the appeal site and the former Magdalene Laundry building. The site has since been significantly disturbed and redeveloped as a long-standing surface car park and I note that neither the planning authority or the Department of Housing, Local Government and Heritage raised any objection in this regard.
- 7.9.5. While I am conscious of the sensitivities of such cases, I do not consider it reasonable to prevent the further redevelopment of a brownfield site in the absence of any evidence of the existence of a burial ground use. In my view, a condition should be attached to any grant of permission ensuring that all ground disturbance will be monitored by a suitably qualified archaeologist for evidence of burial activity or other archaeological features.

8.0 Appropriate Assessment Screening

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

8.1. Background to the application

- 8.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Enviroguide Consulting. In summary, the report concludes on the basis of objective information, that the possibility of significant effects on any European Sites, whether arising from the project itself or in combination with other plans and projects, can be excluded.
- 8.1.2. Having reviewed the documents, drawings and submissions included in the application file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European Sites.
- 8.1.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.2. Description of the development

- 8.2.1. A detailed description of the development is outlined in section 2 of this report. In summary, the revised proposal submitted in the F.I. response includes the demolition of the existing dwelling on site and the construction of a mixed-use development of 74 no. Build to Rent residential apartments, commercial unit, and café, across 2 buildings. The development includes internal residential amenity space, roof terraces, and associated waste, parking, and storage facilities. The external works include the access road, parking, landscaping, open spaces, and pedestrian route.
- 8.2.2. The surface water drainage design has taken cognisance of the Greater Dublin Strategic Drainage Study and site constraints. It provides for attenuation and treatment and considers the effects of climate change. A separate surface network will discharge to the existing network in Crofton Road at a restricted rate of 1.4 l/s.

8.2.3. The proposed foul network will be separate to the storm network. It will discharge to the existing 450mm diameter combined sewer in Crofton Road. The peak foul water discharge is estimated at 2.51 l/s. The design is based on “Code of Practice for Wastewater Infrastructure” published by Irish Water. It is proposed to connect to the watermain that currently exists within Crofton Road and all water supply proposals shall be designed in accordance with Irish Water and DLRCC requirements.

8.2.4. The site has a stated gross area of 0.42 hectares and is located within the urban town centre of Dun Laoghaire. It consists primarily of a car park and associated road surfaces, along with a minor element of intermittent trees and planting. There are no watercourses within or adjoining the site, but Dun Laoghaire harbour is located c. 100m to the north.

8.3. Submissions and Observations

8.3.1. The content of submissions and observations received during the application and appeal process has been in sections 3 and 6 of this report. The submissions include concerns about the impact on the ecology/biodiversity of the site itself; potential pollution impacts for the harbour waters; and associated implications for Appropriate Assessment. The submission from Inland Fisheries Ireland recommends measures to protect water quality and ecological integrity.

8.4. European Sites

8.4.1. The applicant’s AA Screening Report initially considers a Zone of Influence (Zoi) based on a 15km radius and the potential pathways between the appeal site and European Sites. The initial assessment can be summarised in the following table.

Table 6 – Initial Assessment of European Sites and Zone of Influence

European Site (Code)	Distance (km)	Presence of Impact Pathway	Assessed Further
South Dublin Bay SAC (000210)	1.1	Weak hydrological pathway via surface water discharges during both the Construction stage and via foul water discharges from Ringsend WwTP during the Operational Phase.	Yes
South Dublin Bay and River Tolka Estuary SPA (004024)	0.6		

Rockabill to Dalkey Island SAC (003000)	3.1	There is a significant marine buffer between Ringsend discharges and the intervening distance is sufficient to exclude the possibility of other significant effects.	No
North Dublin Bay SAC (000206)	5.6	Weak hydrological pathway via foul water discharges from Ringsend WwTP at Operational stage.	Yes
North Bull Island SPA (004006)	5.6		
Ballyman Glen SAC (000713)	9.9	No hydrological connections and the intervening distance is sufficient to exclude the possibility of other significant effects.	No
Bray Head SAC (000714)	11.4		
Howth Head SAC (000202)	8.1		
Baldoyle Bay SAC (000199)	10.8		
Knocksink Wood SAC (000725)	10.2		
Wicklow Mountains SAC (002122)	11.4		
Ireland's Eye SAC (002193)	12.6		
Wicklow Mountains SPA (004040)	11.7	No hydrological connections and the intervening distance is sufficient to exclude the possibility of other significant effects. The Site does not provide significant ex-situ habitat for the QI/SCI species in these SPAs.	No
Dalkey Islands SPA (004172)	3.3		
Baldoyle Bay SPA (004016)	10.8		
Howth Head Coast SPA (004113)	9.2		
Ireland's Eye SPA (004117)	12.2		

- 8.4.2. Consistent with the applicant's report, I agree that there are potential hydrological links with European Sites in the inner Dublin Bay area (i.e. South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA) as a result of surface water and foul water pathways. In addition to those sites, I would add that there is potential for similar effects on the North-west Irish Sea SPA. I would agree that the other (outer) Dublin Bay sites are more significantly distanced and would be protected by a significantly greater hydrological buffer. Therefore, I do not consider that there would be hydrological pathways that would have any potential for significant effects on any other European Sites within the outer Dublin Bay area.
- 8.4.3. Regarding the identified SPA sites, I note that there is a minimum separation distance of 600 metres from the appeal site, much of which is separated by significant urban development. On this basis, I do not consider that the proposed development has the potential for disturbance of qualifying species, by reason of noise, vibration, dust, human activity, or otherwise. Furthermore, based on the site habitat and the site surveys completed, I would agree that the site is not a significant ex-situ foraging or roosting site, and no significant ex-situ effects are likely for the species of qualifying interest from any of the SPAs.
- 8.4.4. The remaining European Sites in the Dublin/Wicklow Mountains area are located at least 9.9km from the appeal site. There are no hydrological links to these sites, and I am satisfied that the proposed development does not have the potential to impact on any of the QIs for these European Sites.
- 8.4.5. Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the following table. I am satisfied that no other European Sites fall within the possible zone of influence.

Table 7 – European Sites for Further Assessment

European Site	Conservation Objectives – To maintain/restore the favourable conservation condition of the following Qualifying Interests (QI's)	Attributes
South Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide.	Habitat area, community extent, community structure, community distribution.
South Dublin Bay and River Tolka Estuary SPA	Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover (proposed for removal), Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull.	Population trend, distribution.
	Roseate Tern, Arctic Tern.	Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance at roosting site.
	Common Tern	Breeding population abundance, Productivity rate, Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance.
	Wetlands	Habitat Area
North Bull Island SPA	Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull.	Population trend, distribution.

	Wetlands.	Habitat Area
North Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide.	Habitat Area, Community extent, community structure, community distribution.
	Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with Ammophila arenaria (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Humid dune slacks.	Habitat Area, Habitat distribution, physical structure, vegetation structure, vegetation composition.
	Petalwort	Distribution of populations, population size, Area of suitable habitat, hydrological conditions, vegetation structure.
North-west Irish Sea SPA	Red-throated Diver, Great Northern Diver, Common Scoter, Black-headed Gull, Common Gull, Lesser Black-backed Gull, Great Black-backed Gull, Little Gull.	Non-breeding population size; spatial distribution; Forage spatial distribution, extent and abundance; Disturbance across the site; Barriers to connectivity and site use.
	Fulmar, Manx Shearwater, Cormorant, Shag, Herring Gull, Kittiwake, Roseate Tern, Common Tern, Arctic Tern, Little Tern, Guillemot, Razorbill, Puffin.	Population size; spatial distribution; Forage spatial distribution, extent, abundance and availability; Disturbance across the site; Barriers to connectivity.

8.5. Potential effects on European Sites

Habitat Loss/Alteration and Habitat/Species Fragmentation

- 8.5.1. The application site is not located within or adjoining any of the relevant European Sites. The nearest relevant site is c. 600m away and is significantly separated by existing development. No evidence of any protected species such as otter or roosting bats (protected under Article 12 (Annex IV) of the Habitats Directive) was recorded on site. Furthermore, the subject site does not contain any suitable ex-situ habitat for any qualifying interests. Accordingly, I am satisfied that there is no potential for significant habitat loss/alteration or for habitat/species fragmentation.

Changes in Water Quality and Resource

- 8.5.2. The development will connect to the existing surface water system which discharges into Dublin Bay at West Pier, thereby creating an indirect hydrological connection with South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA at construction and operational stages. The proposed scheme includes SuDS measures and the potential for significant effects is considered negligible due to the high level of dilution within the surface water network and Dublin Bay, and the fact that the proposed development will reduce run-off compared to existing levels.
- 8.5.3. The application also includes a Hydrological and Hydrogeological Qualitative Risk Assessment (HHQRA) which demonstrates that potential construction-related pollution sources do not have the potential to cause significant reductions to water quality in Dublin Bay. It outlines that suspended solids will naturally settle within drainage pipes and that even any worst-case event impacts would be localised and temporary due to the dilution capacity of the pipes and the bay waters. At operational stage, it highlights that the potential for sediment is low due to SuDS measures; that the potential for hydrocarbon discharge is minimal; and that a petrol interceptor and significant attenuation will be applied. Even without these measures, it concludes that there would be no likely exceedance of water quality objectives. I also note that the application includes an Outline Construction Environmental Management Plan with a comprehensive range of measures to prevent emissions at construction stage.
- 8.5.4. The foul water discharge from Ringsend creates a weak hydrological connection with all five European Sites. However, I would accept that the potential for significant

effects is negligible for a range of reasons, including the potential for significant dilution in the existing network.

- 8.5.5. I note the Irish Water correspondence on file which confirms that wastewater connection is feasible without need for infrastructure upgrade. The Irish Water Wastewater Treatment Capacity Register (June 2023) also confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading to the Ringsend WWTP, but I note that permitted upgrade works are expected to bring the capacity of the plant to 2.4 million PE by 2025, while meeting the required Water Framework Directive standards. The peak wastewater outflow associated with the proposed development (2.51 l/s) would not be significant when equated as a percentage (i.e., <0.1%) of the current licensed discharge at Ringsend WWTP.
- 8.5.6. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. The coastal waters in Dublin Bay are classed as 'unpolluted' by the EPA and enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.
- 8.5.7. Having regard to the foregoing, I am satisfied that no significant impacts to the European Sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development.

Disturbance and/or displacement of species

- 8.5.8. As outlined above, the hydrological links will not result in significant effects on the water quality and resource indicator during both the construction and operational stages. As such QI species within Dublin Bay will not be affected.

Changes in Population Density

- 8.5.9. As outlined above, the hydrological links will not result in significant effects on the water quality and resource indicator during both the construction and operational stages. As such, the population density of QI species within Dublin Bay will not be affected.

8.6. In combination or Cumulative Effects

- 8.6.1. The applicant's AA Screening Report has considered cumulative / in-combination impacts, including large-scale developments in the vicinity, relevant plans and policies, and the potential cumulative impacts on Ringsend WWTP. It concludes that no projects or plans would act in-combination with the proposed development to cause any likely significant effects on any European sites. I have also examined the planning register and have considered more recent plans and projects since the applicant's report was completed.
- 8.6.2. I acknowledge that there would be a cumulative effect with other developments as a result of increased wastewater loading on the Ringsend WWTP. However, based on the upgrade of the Ringsend Wastewater Treatment Plant; the incorporation of similar design parameters and good practice in other developments; and together with the previously discussed absence of evidence of adverse impacts on Dublin Bay as a result of nutrient over-enrichment; I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of wastewater loading.
- 8.6.3. There would also be a cumulative effect in relation to surface water discharge. However, all other developments will be required to incorporate appropriate construction management measures and to incorporate GDSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay as a result of surface water.
- 8.6.4. The Dun Laoghaire-Rathdown Development Plan 2022–2028 and the Development Plans for other areas in the Greater Dublin Area include a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European sites.

8.7. Mitigation Measures

8.7.1. I confirm that no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. I am satisfied that the construction stage management measures and the operational stage surface water and foul water management measures should be considered standard best practice measures and/or measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site. Therefore, these measures can be considered in the AA Screening determination.

8.8. AA Screening Determination

8.8.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on North-west Irish Sea SPA (004236), South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or any European Sites, in view of the sites' conservation objectives, and Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required.

8.8.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management, surface water management, and operational design measures;
- The dilution capacity within the existing drainage network and the receiving water environment in Dublin Bay;

- The existing and planned capacity of the Ringsend WWTP in the short-term to facilitate future development in compliance with the provisions of the Water Framework Directive.

9.0 Recommendation

Having regard to the foregoing, I recommend that permission be GRANTED for the proposed development, subject to conditions, and for the reasons and considerations set out in the Draft Order below.

10.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: D21A/1041

Appeal by Crofton Buildings Management, c/o RW Nolan & Associates, 37 Lower Baggott Street, Dublin 2, and by Others, against the decision made on the 13th day of July 2022, by Dún Laoghaire-Rathdown County Council to grant subject to conditions a permission to Fitzwilliam DL Limited, c/o John Spain Associates, 39 Fitzwilliam Place, Dublin 2, in accordance with plans and particulars lodged with the said Council.

Proposed Development:

The development will consist of the demolition of existing dwelling on site (c.79 sqm) and the construction mixed use development of 88 no. Build to Rent residential apartments, commercial unit and café across 2 buildings. Building 01 (part 5, 6 and 8 storeys) fronting Crofton Road provides 43 apartments with associated internal residential amenity at ground floor, first floor level and seventh floor level with associated internal residential amenity at ground floor, first floor level and seventh floor level with external roof terraces at fifth and seventh floor levels (with flagpole at

seventh floor level) and commercial unit (use falling within Class 1 (shop), Class 2 (financial/professional services), Class 8 (medical services)) and café located at the eastern part of the building at ground floor level. Building 02 (part 8, part 9 storeys) to the rear provides 45 apartments with external roof terrace at eight storey level with refuse, bicycle storage and storage at ground floor level. A central courtyard provides 378 sqm of communal amenity space, with a total of 681 sqm public open space provided within a landscaped area adjacent to the northern elevation of Building 01 and pedestrian route at the eastern perimeter. Access is taken from Crofton Road with a shared vehicular and cycle entrance at the western perimeter of the site providing access to 3 no. car parking spaces within the central courtyard and to St. Michael's Hospital to the south. All associated infrastructure, access, works to footpath and road markings at Croton Road, landscaping, cycle parking refuse storage, plant and ancillary works to enable the develop.

Decision

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

Reasons and Considerations

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

- a) The location of the site on lands with the zoning objective 'Major Town Centre (MTC)' as per the Dun Laoghaire Rathdown County Development Plan 2022-2028, which aims to protect, provide for and/or improve major town centre facilities;
- b) The nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Dun Laoghaire Rathdown County Development Plan 2022-2028;
- c) The pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area;

- d) The provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- e) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth on brownfield/infill sites;
- f) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- g) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December 2020;
- h) The provisions of Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024;
- i) The provisions of Architectural Heritage Protection Guidelines for Planning Authorities, issued by the Department of Arts, Heritage, and Gaeltacht in 2011;
- j) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- k) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- l) The provisions of the Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority;
- m) The Climate Action Plan 2023 prepared by the Government of Ireland;
- n) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- o) The submissions and observations received;
- p) The reports from the Planning Authority;
- q) The report of the Planning Inspector.

Appropriate Assessment Screening

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

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned as 'Major Town Centre', including the proposed uses, under the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),

(c) The brownfield nature of the site and its location within a Major Town Centre which is well served by public infrastructure, and the existing pattern of development in the vicinity,

(d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,

(e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

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

(g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan, the Construction Management Plan, the Resource Waste Management Plan, the Operational Waste Management Plan, the Engineering Planning Report, the Ecological Statement and Bat Survey, the Noise Assessment and Noise Management Plan, and the Archaeological Assessment,

the Board concluded that, by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objectives and other policies and objectives of the Dun Laoghaire County Development Plan 2022-2028, would constitute an acceptable quantum of development at this location which would

be served by an appropriate level of public transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of built heritage impacts, urban design, height and scale of development, would be acceptable in terms of traffic safety and convenience, would not be at risk of flooding or increase the risk of flooding to other lands, would not result in any unacceptable ecological or biodiversity impacts, and would be capable of being adequately served by wastewater and water supply networks. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. 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 the 16th day of June 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. (a) The screening of windows on the eastern elevations of Building No. 1 and 2 shall be in accordance with Option No. 1 as submitted to the planning authority on the 16th day of June 2022. The precise details and specification of translucent glazing, including samples, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (b) The east-facing sides of balconies on Building No. 1 shall be screened in accordance with the proposals for Building No. 2 as submitted to the planning authority on the 16th day of June 2022.
- (c) The enclosed amenity space at the top floor of Building No. 1 shall be for resident use only and shall not be available to the public.

Reason: To protect the amenities of existing and proposed properties.

- 3. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

- 4. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period, save for any other agreements made under Part V of the Planning and Development Act 2000, as amended. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

5. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interests of amenity and public safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the

provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

10. A total of 162 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. Prior to the occupation of the development, a finalised Mobility Management Plan (Residential Travel Plan) shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

12. The internal road network serving the proposed development, including pedestrian crossings, turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination

Reason: In the interest of amenity and of traffic and pedestrian safety.

13. Prior to commencement of development details of the works to the public road, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of road safety and to ensure the satisfactory completion of the work.

14. The site shall be landscaped in accordance with the scheme of landscaping, which accompanied the application. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

15. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

16. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Proposals shall include the provision of a gate at the southern end of the proposed pedestrian route.

Reason: In the interest of clarity and improved permeability.

17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

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

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

Reason: In the interest of public health.

19. All plant, including extract ventilation systems, shall be sited in a manner so as not to cause nuisance at sensitive locations due to emissions. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interests of residential amenity.

20. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

21. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best

practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at site offices at all times.

Reason: In the interest of sustainable waste management.

22. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including the following:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;
- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- g) Measures to obviate queuing of construction traffic on the adjoining road network;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. Reason: In the interest of amenities, public health and safety.

Reason: In the interest of amenities, public health and safety.

23. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

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

24. (a) No signage, advertising structures/advertisements, security shutters, or other projecting elements (other than the proposed flagpole), shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.
- (b) The windows to the proposed ground floor units of Building No. 1 shall not be obscured by adhesive material or otherwise, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

25. (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.

(b) Details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

26. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any archaeological remains that may exist within the site.

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section

96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

28. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Stephen Ward
Senior Planning Inspector
30th January 2024

Appendix 1: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP 314309-22
Development Summary		Demolition of existing dwelling on site and construction of mixed-use development of 74 no. Build to Rent residential apartments, commercial unit and café across 2 buildings and all associated site works
	Yes/ No/ N/A	Comment (if relevant)
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted with the application.
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA.	Yes	<p>The application includes a Statement in accordance with Article 103(1A)(a) of the Regulations. It highlights the assessments that have been carried out in relation to relevant Directives, as follows:</p> <p><u>Habitats Directive (92/43/EEC)</u> – AA Screening Report, Ecological Statement (ES), EIA Screening Report, Arboricultural Assessment.</p> <p><u>Water Framework Directive (2000/60/EC)</u> - AA Screening Report, ES, Construction Environmental Management Plan (CEMP), Site-Specific Flood Risk Assessment (SSFRA), Engineering Planning Report (EPR), Hydrological and Hydrogeological Risk Assessment (HHRA).</p> <p><u>SEA Directive (2001/42/EC)</u> – EIA Screening Report, DLRCC Development Plan 2016-2022, and the DLRCC Biodiversity Action Plan 2009-2013.</p> <p>Environmental Noise Directive (2002/49/EC) – CEMP.</p>

		<u>Directive 2008/50/EC on ambient air quality and cleaner air for Europe</u> – CEMP and Outline Travel Plan (OTP). <u>Directive 2008/50/EC on Flood Risk – SSFRA.</u> <u>Bern and Bonn Convention & Ramsar Convention - ES.</u> <u>Directives (EU) 2018/850 (landfill of waste), 2008/98/EC (waste),</u> <u>2000/14/EC (noise emission) – CEMP and EIA Screening.</u>
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B. EXAMINATION	Response: Yes/ No/ Uncertain	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surroundings or environment?	Yes	<p>I have acknowledged that the scale and character is significantly different to historic surrounding development. However, there is increasing evidence of similar higher-density development (e.g. Harbour View building to the east) in the wider surrounding area.</p> <p>I have considered the character and scale of the development in section 7.8 of this report, and I do not consider that there would be significant impacts on the neighbourhood or wider landscape / environment.</p>	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The project works will cause physical changes to the topography and land use, including minor demolition and excavation, as well as groundworks and the construction of the 2 blocks and associated works.	No

		<p>The proposed uses would be consistent with the MTC zoning for the site.</p> <p>I am satisfied that the works would be appropriately managed in accordance with the CEMP. Together with the proposals outlined in the EPR and the findings of the HHRA, I am satisfied that there will be no significant effects on waterbodies.</p>	
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/ minerals, or energy, especially resources which are non-renewable or in short supply?</p>	Yes	<p>The redevelopment of the site would provide a more suitable and efficient use of land which would be consistent with the planned use of the area.</p> <p>Site excavation would involve the removal of soil. However, the volume would not be significant, and waste (construction and operational) will be disposed/re-used in accordance with applicable waste legislation and guidance.</p> <p>The predicted water demand would be consistent with normal residential development. Irish Water have confirmed that there are no objections, and it is not proposed to extract groundwater. Foul water and surface water proposals have also been suitably designed.</p> <p>The materials/minerals would be typical of urban development and would be suitably designed for energy efficiency as outlined in the Sustainability Report.</p> <p>Biodiversity resources have been considered in the Ecological Statement and the AA Screening Report and I am satisfied that there would be no significant effects on relevant habitats or species.</p>	No
<p>1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?</p>	Yes	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and the implementation of the CEMP</p>	No

		and Resource & Waste Management Plan (RWMP) will satisfactorily mitigate potential impacts. The CDWMP does not envisage any hazardous waste but any such waste would be disposed in accordance with relevant legislation/guidance. No operational impacts in this regard are anticipated and conventional waste produced will be managed through the implementation of the Operational Waste Management Plan (OWMP).	
1.5 Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?	Yes	<p>Construction and demolition waste is estimated to amount to 680 tonnes. The RWMP includes proposals for minimisation, reuse, and recycling of waste. Mitigation measures have been included for potentially hazardous construction wastes, and waste will be disposed of in accordance with relevant guidance and legislation.</p> <p>Construction impacts such as noise and dust emissions are likely. Such impacts would be typical of urban development and would be localised and temporary in nature. The application includes a CEMP, CMP, and other mitigation proposals to satisfactorily address the potential impacts.</p> <p>Operational phase of project does not produce or release any pollutant or hazardous material. Conventional waste will be managed through the OWMP. Other significant operational emissions are not anticipated.</p>	No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	Yes	Project involves excavation works and the removal/ diversion of subsurface water services infrastructure, and installation of new services infrastructure. However, it uses standard construction methods, materials and equipment, and the process will be managed (through the implementation of the CEMP, CMP, RWMP) to satisfactorily address potential risks in relation to contamination of land/groundwater.	No

		<p>The project includes surface water management systems, designed, and constructed in accordance with GDSDS. Surface water will be attenuated prior to discharge to the wider drainage network. Wastewater will be discharged to the public system. The potential indirect hydrological and hydrogeological effects have been assessed and risks of contamination are not deemed to be significant.</p>	
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	Yes	<p>Potential for construction activity to give rise to noise, dust, light, and vibration emissions. Such emissions will be localised, short term in nature and their impacts will be suitably addressed through the CEMP and CMP.</p> <p>Operational phase of project will cause noise and light impacts which would be consistent with the established uses in the area and would not result in significant effects.</p> <p>Given the limited biodiversity value of the site and its location within the town centre urban area, I am satisfied that noise, air, lighting or other potential disturbance impacts would not significantly impact on any habitats or species of biodiversity interest (including Habitats Directive Annex IV species such as bats).</p>	No
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	Yes	<p>Potential for construction activity to give rise to air and water contamination. However, such emissions will be localised, short term in nature and their impacts will be suitably addressed by mitigation measures as per the CEMP and CMP.</p> <p>The area is served by public water mains and therefore water contamination is not expected to impact on human health.</p> <p>The operational phase will not result in significant effects for human health.</p>	No

1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There is no significant flood risk as outlined in the applicant's SSFRA. The site is not located within close proximity to any Seveso / COMAH sites.	No
1.10 Will the project affect the social environment (population, employment)	Yes	Project increases localised temporary employment activity at the site during construction stage. The construction stage impacts on the local population are short term and impacts arising will be temporary, localised, and addressed by the proposed mitigation measures. The development will result in increased population in the area. This would not be significant given the existing and planned residential uses in the area and the proximity of the site to a wide range of supporting uses and facilities.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	This is a standalone application. The surrounding lands are zoned for mixed uses, the development of which has been foreseen by the Dún Laoghaire County Development Plan 2022-2028 and the DLUFP, which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of	No	Project not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The ES and AA Screening Report has considered the proximity and potential connections to designated/ecological sites in the wider surrounding area. I am satisfied that there would be no significant effects on same.	No

which is an objective of a development plan/ LAP/ draft plan or variation of a plan			
2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	Yes	<p>The potential for impacts has been considered in the applicant's ES and AA Screening Report. The habitat and flora on the site and surrounding area has been appropriately surveyed and classified. I would concur that any loss of habitat would be of limited value and that adequate mitigation measures have been included.</p> <p>There is limited potential for bat roosting on site and further mitigation measures are proposed to include a pre-demolition roost survey and appropriate derogation/compensation measures. Furthermore, the lack of bat activity recorded in the site survey indicates that impacts would not be significant in terms of commuting/foraging habitat or flight lines.</p> <p>The site is not significant for wintering bird species and no significant/uncommon bird activity was recorded on site.</p> <p>The AA screening exercise (section 8 of my report) has satisfactorily established that the development would not be likely to have significant effects on any European Sites.</p>	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	<p>As outlined in section 7.8 of this report, I am satisfied that the proposed development would not significantly impact on any landscape, townscape, or built heritage features. I have acknowledged concerns about potential burials associated with the Magdalene Laundry and I am satisfied that suitable archaeological conditions should apply to any permission.</p>	No

2.4 Are there any areas on/ around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/ coastal, fisheries, minerals?	Yes	The site is in close proximity to the harbour/coastal area. However, as previously outlined, I do not consider that the proposal will significantly impact on water quality or resources.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	As previously outlined, the site is not at significant risk of flooding, and I do not consider that the proposal will significantly impact on water quality or resources.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No evidence identified of these risks.	No
2.7 Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	Yes	The site is served by a local urban road network, high-quality public transport services (including the DART), as well as a range of pedestrian/cycle links. I have considered these services in section 7.3 and 7.4 of my report, and I do not consider that there would be any significant congestion effects at construction or operational stage. The development would be suitably designed and managed to promote sustainable transport modes and would not result in significant environmental problems such as excessive transport emissions etc.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	Yes	The proposed development would adjoin the hospital grounds to the south but would be adequately distanced to avoid any significant disturbance. Suitable construction mitigation measures would also be included to address any impacts on these facilities. Given the town centre location of the site and the nature of the development, I am satisfied that there would not be excessive pressure placed on social/community facilities (including schools) in the wider area.	No

		In section 7.6 and 7.7 of my report, I have outlined that the proposal would not result in any significant effects on surrounding properties.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	The assessments submitted with the application appropriately consider the nature and extent of existing, permitted, and planned development in the vicinity of the site. The adjoining lands are largely developed, and existing/planned development is of a similar mixed-use / residential nature. There is the potential for cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic, water services). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
3.3 Are there any other relevant considerations?	No	No	No
C.CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required.	

D. MAIN REASONS AND CONSIDERATIONS

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned as 'Major Town Centre', including the proposed uses, under the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022-2028 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The brownfield nature of the site and its location within a Major Town Centre which is well served by public infrastructure, and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (e) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and

(h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan, the Construction Management Plan, the Resource Waste Management Plan, the Operational Waste Management Plan, the Engineering Planning Report, the Ecological Statement and Bat Survey, the Noise Assessment and Noise Management Plan, and the Archaeological Assessment.

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

Inspector _____

Stephen Ward

Senior Planning Inspector

Date: _____