



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314310-22

#### Development

Demolition of existing geodesic dome and the construction of 204 apartments across three blocks. The development also consists of the construction of a creche facility, ancillary rooms and facilities, car/bike parking and associated site development works. The proposed development would be a material contravention of the development plan.

#### Location

Site adjacent to Telus International, Loughmahon Link Road, Mahon, Cork City.

#### Planning Authority

Cork City Council

#### Planning Authority Reg. Ref.

2140196

#### Applicant(s)

Clyde Real Estate Cork Limited

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission with Conditions

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tellus International Ireland
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 October 2023
<b>Inspector</b>	Joe Bonner

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## **1.0 Site Location and Description**

- 1.1. The site of the proposed development is located approximately 5km to the south east of Cork City centre, within the Loughmahon Technology Park. Access to the site is provided from the eastern side of the R852 Loughmahon Link Road, c750m north of the Mahon junction on the Cork South Ring Road and c600m north of Mahon Point Shopping Centre. The surrounding area comprises a mixture of residential, office and light industrial uses, with a number of residential developments having been constructed in the last 3-4 years.
- 1.2. The site is a single field that is relatively flat and is generally rectangular in shape. It has frontage of 75m onto the R852 to the southwest, while it runs north-eastwards for a distance of 208m towards the rear. The site steps in to 62m in width at a distance of c114m from the R852. Buildings are constructed on the other three sides.
- 1.3. The appellants (Telus International) building, which is c11.2m in height and its car parks are located along the sites entire south eastern boundary. The building is at the same level as the application site, while the main carpark at the rear is c1.2m below the ground level of the site.
- 1.4. A recently constructed four storey office block (Logitech) and its car park are located along the entire length of the sites north-western boundary. The access road to Logitech runs parallel to and immediately adjacent to the site boundary, with the building setback c17m from the shared boundary with the application site and has a maximum height of 19.85m.
- 1.5. A large pumping station building known as the Ballinure Header Chamber is located to the north east, c19.5m from the site boundary. The building is slightly elevated relative to the application site and has a parapet height c14.5m higher than the ground level at the shared boundary.
- 1.6. There are two existing vehicular access gates serving the site directly from the R852. Both gates are permanently closed with concrete bollards in place to ensure the gates cannot be opened. The southernmost of the two entrances provided access to the front of the third-party appellant's site (Telus International) and is one of two access gates serving a parking area at the front of the building. The access that remains within the control of the appellant was also locked on the occasion of the site visit and a number of Geodesic Domes were under construction between the building and the

R852. The northernmost access gate on the site serves an existing road that runs along and close to the north-western site boundary for a distance of 120m before turning 90 degrees southeast, from where it continues into the larger of the appellants two carparks, situated to the to the east/rear of the Telus building.

- 1.7. A temporary metal fence separates the site from the Telus site to the south.
- 1.8. The geodesic dome, the removal of which forms part of this application, has already been removed from the site.
- 1.9. A bus stop is located on the opposite side of the R852 and connects Mahon to Cork City Centre, while the Passage West Greenway incorporating a footpath and cycleway) is located below road level on the opposite side of the R852 and also connects Mahon to Cork City Centre.

## **2.0 Proposed Development**

- 2.1. The application that was initially submitted to Cork City Council on 14<sup>th</sup> May 2021 comprised of:
  - Demolition of existing geodesic dome.
  - Construction of 204 apartments across three blocks, ranging in height from 5-7 storeys. The construction of a creche facility, ancillary rooms and facilities, 54 car and 460 bike parking spaces, access via the northernmost of the two existing accesses and closure of the existing southern access associated site development works.
  - The public notices also stated that the proposed development would be a material contravention of the Development Plan.
- 2.2. The development as amended following a request for further information comprised of the following key changes:
  - The number of apartment blocks was reduced from 3 to 2.
  - The number of apartments was reduced from 204 to 196.
  - The number of car parking spaces was consolidated beneath a podium level open space and increased to 74, while bicycle parking spaces were reduced to 440.

- The extent of public open space was increased.

- 2.3. Column 1 of Table 2.1 below lists the reports submitted with the original application only, while a number of entirely new reports were submitted in response to the request as further information and are listed in Column 2.
- 2.4. In addition, many other reports that had been submitted with the original application, were updated and resubmitted as part of the response to the request for further information, to reflect the revisions made in response to the request for further information. Those reports are listed in Table 2.2.
- 2.5. The application and response also included architectural and engineering drawings while a landscape masterplan and sightlines drawings were also included from the existing / proposed vehicular entrance.

**Table 2.1 Report submitted with application or response to further information only**

<b>Documents Submitted with Original Application only</b>	<b>Documents submitted in response to request for Further Information only</b>
<ul style="list-style-type: none"> <li>• Planning Report</li> <li>• Childcare Provision Statement</li> <li>• Architects Design Statement</li> <li>• Landscape Design Rationale</li> <li>• Appropriate Assessment (AA) Screening Report</li> <li>• Environmental Impact Assessment (EIA) Screening Report</li> <li>• Ecological Impact Assessment Report</li> <li>• Outline Construction Traffic Management Plan</li> <li>• Road Safety Audit 1 / 2</li> </ul>	<ul style="list-style-type: none"> <li>• Response to individual items of RFI</li> <li>• Schedule of Areas</li> <li>• Quality Audit Report</li> <li>• Acoustic Design Statement</li> <li>• Odour Impacts Report</li> <li>• Internal DMURS Road Safety Audit Report (April 2022)</li> </ul>

<ul style="list-style-type: none"> <li>• Part V booklet and costings</li> </ul>	
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<b>Table 2.2 - Reports submitted with the original application where updated versions were also submitted as part of the further information response</b>	
<ul style="list-style-type: none"> <li>• Housing Quality Assessment</li> <li>• Construction and Waste Management Plan</li> <li>• Civil Engineering Report</li> <li>• Flood Risk Assessment</li> <li>• Outline Mobility Management Plan</li> <li>• Traffic and Transport Assessment</li> </ul>	<ul style="list-style-type: none"> <li>• Daylight Reception Report</li> <li>• Effects on Daylight Reception Analysis</li> <li>• Sunlight Reception Analysis (2 No.)</li> <li>• External (Public) Lighting Analysis</li> <li>• Outdoor Lighting Report</li> <li>• Verified Photomontages</li> </ul>

The following table summarises the proposed development, as amended in response to the request for further information.

**Table 2.3 Key Site Statistics**

<b>Site Area</b>	1.48044ha (14,804.4sqm)
<b>No of apartments</b>	196 (Block A = 67 & Block B = 129)
<b>1 Bed apartments</b>	90 (45.92%)
<b>2 Bed apartments</b>	69 (35.20%)
<b>3 Bed apartments</b>	37 (18.88%)
<b>Units 10% above minimum floor area</b>	127 (64.8%)
<b>Dual Aspect</b>	99 (50.5%)
<b>Height</b>	5-7 storeys
<b>Density</b>	132.4 units per Hectare
<b>Plot Ratio</b>	1.3017
<b>Site Coverage</b>	20.7%



<b>Communal Outdoor Amenity Space</b>	Required = 1266.0sqm Provided = 2293.8sqm
<b>Public Open Space</b>	Required 15% = 2220.7sqm Provided 20.28% = 3003.0 sqm
<b>Bicycle parking</b>	Spaces Required = 438 Spaces Provided = 440
<b>Car Parking</b>	Maximum No. Required = 252 No Provided = 74

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. A decision to grant permission was issued by Cork City Council on 12<sup>th</sup> July 2022, by way of a material contravention of the Development Plan, subject to the attachment of 36 conditions, including conditions:
- 3.1.2. No's 3 to 15 inclusive, which refer to road, traffic and pedestrian safety as well as proposed sustainable transport infrastructure proposed under the Cork Metropolitan Areas Transport strategy. The requirements include:
- No. 3 – Adequate sightlines to be provided.
  - No. 4 – All findings of the Quality Audit (which includes Road Safety, Walking and Cycling Audit) are to be implemented.
  - No. 7 – A 3m wide corridor to be reserved for future sustainable transport infrastructure along Loughmahon Link Road.
  - No. 11 – A maximum of 74 car parking spaces to be provided, including 3 EV and 3 disabled car parking spaces, and a minimum of 442 bike parking spaces to be provided. 10% of spaces to incorporate ducting for future EV charging fitout

- 3.1.3. Condition No. 19 requires that no habitable part of the development shall be constructed within 52.6m of the southwestern external face of the Ballinure Header Chamber Building.
- 3.1.4. Condition No. 20 requires that no permanent structure shall be constructed within the existing 20m wide Irish Water wayleave along the western boundary of the site. In addition, no structure or building foundation shall be constructed within 5m of any of the wastewater raising mains within this wayleave.
- 3.1.5. Condition No. 35 requires the signing of a Section 47 agreement that restricts all residential units permitted to first occupation by individual purchasers.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

There are two planning reports on file from the Planning Officer who assessed the application, with the first dated July 2021, which sought further information, and the second dated May 2022, which assessed the response to further information and is the basis for the Planning Authorities decision to grant permission by way of a Material Contravention of the Cork City Development Plan 2015-2021.

#### Planning Officer's First Report - Original Application

- 3.2.2. The Planning Officer's First Report of 6<sup>th</sup> July 2021 considered the proposed developments in terms of the Cork City Development Plan 2015-2021, including zoning and material contravention, density, scale, height and visual impact, design and public open space, residential development standards and impact on residential amenities, access, traffic and parking, Part V and development contributions, as well as the comments and submissions from internal departments, external bodies and third parties.
- 3.2.3. The report included an EIA Screening Assessment and Determination as the application included Schedule 7A information in the form of an EIA Screening Report. The Planning Officer concluded that the proposed development would not be likely to have significant effects on the environment and at the preparation and submission of an Environmental Impact Assessment Report would not be required.

- 3.2.4. The report also included an Appropriate Assessment Screening and Determination, where it was concluded that the proposed development both individually or in-combination with other plans or projects, would not be likely to have a significant effect on any European sites, in view of their conservation objectives and an Appropriate Assessment of the project would not be required.

Request for further information

- 3.2.5. A request for further information was issued addressing eleven separate issues, many of which emanated from the reports of the internal departments of Cork County Council as well as the third party observations, and can be summarised as:

- RFI Item 1 – Redesign or reduce the number of blocks and the scale and intensity of the blocks, to facilitate a revised block and public open space layout, and car parking arrangement. (Planning and City Architect)
- RFI Item 2 – The Flood Risk Assessment must take account of potential flooding from the failure of one or more the large wastewater rising mains passing through the site. Confirm the locations of all existing pipes running through and beside the site and assess the impact of the development on existing pipe services and the potential for flooding from failure of some of these pipes. Where habitable buildings are to be located within 100m of the Ballinure Header Chamber building to the northeast, this must be agreed with Irish Water. (Drainage Department)
- RFI Item 3 – Submit Noise and Odour assessments of the revised layout, with emphasis on those units located within 100m of the Ballinure Header Chamber building. (Planning, City Architect and Drainage)
- RFI Item 4 – Bus Connects is a live project. Set back the buildings from the road frontage to facilitate the widening of Loughmahon Road by 6m to facilitate future Bus Connects routes. (Infrastructure)
- RFI Item 5 – Update the Traffic and Transport Assessment to address the rerouting of traffic as a result of closing the existing access to the adjacent site (appellants site). Confirm whether traffic flows will increase or decrease on the existing road network and whether key junctions have been considered.

Confirm if committed developments in the area are considered in the assessment. (Transport and Mobility)

- RFI Item 6 – Confirm whether traffic levels at Junction 2 are increasing or decreasing and whether the access to the adjacent site, approximately 20 meters to the north has been considered in terms of road safety. (Transport and Mobility)
- RFI Item 7 – Clarify elements to be under the control of a management company or taken in charge. Submit sightlines giving cyclists priority at the site access. Consider retaining the second vehicular access as a pedestrian access. The internal road is to be a maximum width of 5m. The creche setdown area is to revert to pedestrian use outside of creche hours. Submit a Quality Audit in accordance with DMURS to identify potential conflicts and recommendations. (Urban Roads and Street Design)
- RFI Item 8 – Liaise with the public lighting department to agree on approach to public/ external lighting. (Transport and Mobility)
- RFI Item 9 – Increased parking provision from 54 spaces as proposed. No allowance has been made for the creche, and while public transport projects are proposed for the area, there are concerns that the 54 spaces is too few. (Transport and Mobility)
- RFI Item 10 – Public open space must be dominant rather than incidental to the road network and revised landscaping proposal are required. (Parks)
- RFI Item 11 – Provide calculations to confirm adequate bin storage will be provided for the development and indicate the exact location where the bins will be stored. (Environment Waste Management & Control)

#### Extension of Time

- 3.2.6. The applicants agent applied for a three-month extension to the period in which to respond to the request for further information, which was granted, and the response to further information was submitted to Cork City Council on 6<sup>th</sup> April 2022.

#### Planning Officer's Second Report - on Further Information

- 3.2.7. The response was deemed significant and required readvertisement. The Assistant Planner's Second Report of the 23<sup>rd</sup> of May 2022 addressed the individual items of the response to the request for further information. All responses submitted were deemed to be satisfactory to the Planning Officer by reference to their own assessment and to the reports and assessments of the various internal departments (See 3.2.14 and 3.2.15). A grant of permission was recommended subject to the attachment of 35 conditions, and subject to the Material Contravention process set out under section 34(6) of the Planning and Development Act 2000 (as amended).

#### Senior Planner's First Report

- 3.2.8. The Senior Planner's first report of the 6<sup>th</sup> of July 2021 concurred with the recommendation of the Acting Senior Executive Planner to request further information.

#### Senior Executive Planner's Report

- 3.2.9. The Senior Executive Planner's Report of the 23<sup>rd</sup> of May 2022 concurred with the report of the Assistant Planner and recommended a grant of permission by way of Material Contravention with one additional condition proposed (No. 35) which requires the signing of a Section 47 agreement that restricts all residential units permitted to first occupation by individual purchasers.

#### Senior Planner's Second Report

- 3.2.10. The Senior Planner's Second Report of the 23<sup>rd</sup> of May 2022 is consistent with that of the Senior Executive Planner.

#### Director Of Services Report

- 3.2.11. The Director of Services report dated the 23<sup>rd</sup> of May 2022 states that they have read the report of the Assistant Planner 20/05/2022, and the reports of the SEP and SP dated 23/05/2022 and concur with their recommendations. While they considered the proposed development is acceptable in planning terms, the issue of land use zoning remains, therefore the proposed development would materially contravene the City Development Plan. They recommended the instigation of the Material Contravention process set out under Section 34 (6) of the Planning and Development Act, 2000, as amended.

### 3.3. Other Technical Reports

- 3.3.1. Table 3.1 sets out the recommendations of the various internal departments at application and further information stage. The issues raised by the internal departments on the initial application are addressed collectively in the request for further information in Sections 3.2.5 above, while the individual departmental responses to the request for further information are set out in 3.3.2 to 3.3.10 below.

**Table 3.1 - Summary of recommendations of internal departments**

<b>Department</b>	<b>Recommendation on Initial Application</b>	<b>Recommendation on Response to Further Information</b>
Urban Roads and Streets Design	Request further information	No objection subject to conditions
Transport and Mobility	Request Further information	No objection subject to conditions
Drainage	Request Further information	No objection subject to conditions
Infrastructure	Request Further information	No objection subject to conditions
Parks	Request Further information	No objection subject to conditions
Environment Waste Management & Control	Request Further information	No objection subject to conditions
City Architect	No objection	No objection
Housing	No Objection subject to conditions	No objection subject to conditions
Contributions	No Objection subject to conditions	No objection subject to conditions
Planning Policy	No Objection	N/A

Internal departmental comments on response to request to further information

3.3.2. City Architect – Items 1 and 3 of RFI

- Their recommendation to reduce the scheme to two blocks and address open space issues, have been satisfactorily addressed while the provision of own door units and parking located under the landscaped podium further improves the provision of public open space.

3.3.3. Drainage – Item 2(a)-(f) of RFI

- As well as clarifying a number of issues, the following comments were made in respect of the response to items (a) to (f) that was followed by a detailed review of the response:
  - The proposed development has embodied resilience to a major rising main burst.
  - The revised storm water discharge rate and attenuation volume are acceptable.
  - While the Planning Authority sought a 100 meter separation between the Ballinure Header Chamber building and any proposed apartments on the basis of potential Odour issues arising, the applicant has proposed a 52m separation.
  - Increased Odour potential during summer months needs to be considered as sampling did not take place during those months.
  - A summary of correspondence from Irish Water is provided and they maintain the recommendation that no habitable part of the proposed development should be constructed within 100m due to the potential for odours.
  - The options available to the Drainage sections were:
    - Accept Irish Water's recommendation which would render most of the site undevelopable and the development unviable.
    - Engage with the applicant to undertake an odour impact assessment, supported by an odour displacement model to understand the theoretical odour plume generated by the Ballinure Header Chamber and its impact on the proposed development.

- The Drainage Section was satisfied with the impartiality of Envirocare Ltd. who carried out the Odour Impact Assessment.
- Reference is made to the Draft Planning Guidelines 27 'Water Services Guidelines for Planning Authorities' and while the views of Irish Water must be considered, the final decision to grant permission lies with the Planning Authority, and Irish Water may appeal any decision with which it is not satisfied.
- Odour concentrations are estimated to be below detectable levels at all six floor levels, at the closest point of the proposed buildings to the Header Chamber. Allowances have been made for increase odour potential during summer months and it was found to have a negligible effect on the 98<sup>th</sup> Percentile odour values.
- A number of mitigation measures were referred to in the Odour Impact Assessment that could be implemented at the Ballinure Header Chamber.

#### 3.3.4. Infrastructure – Item 4 of RFI

- The proposed building line will allow for potential future road widening associated with bus connects of up to 3m from the outer edge of the existing footpath. Landscaping should be provided between the development and the future edge of the footpath.

#### 3.3.5. Transport and Mobility – Items 5, 6, 8 and 9 of RFI

- The responses to the four issues were deemed satisfactory, being:
  - Item 5 – Revised and update the Traffic and Transport Assessment.
  - Item 6 – Traffic Levels at Junction 2 addressed.
  - Item 8 – Street Lighting.
  - Item 9 –The number of parking spaces was increased from 54 to 74.

#### 3.3.6. Urban Roads and Streets Design – Item 7 of RFI

- The applicant has not submitted a sightlines drawing which is necessary to ensure appropriately located tactile paving and dropped curbs at the development access junction in accordance with traffic management guidelines for tactile paving and pedestrian crossings as referenced in DMURS.
- The secondary access must they modified so that it is clearly a pedestrian/ cyclist access and to minimize driver confusions.



- The Creche set-down area must be clearly defined by different materials and levels and should revert back to pedestrian use outside the creche drop-off periods.

3.3.7. Parks – Item 10 of RFI

- The provision, location and landscaping of public open space is satisfactory.

3.3.8. Environment Waste Management & Control – Item 10 of RFI

- No objection to the revised proposal, subject to the attachment of conditions.

3.3.9. Housing – No response received.

3.3.10. Contributions – No objection subject to conditions.

### 3.4. **Prescribed Bodies**

Initial application

- Irish Water – No objection subject to conditions
- TII – The development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and the Road Safety Audit, and any additional works required or as a result should be funded by the developer.
- Cork Airport – The use of cranes may cause concern in relation to air safety. DAA requires a condition requiring the developer to agree proposals for crane operations in advance of construction with DAA and the IAA.
- Inland Fisheries Ireland – Requests that Irish Water confirm that there is sufficient capacity in the public sewer.
- Irish Aviation Authority – requests a condition is attached requiring 30 days-notice in advance of the erection of cranes on site.

### 3.5. **Third Party Observations**

- 3.5.1. Two third party observations were received in respect of the application and the issues raised include:

Telus International Ireland, Mahon Crescent, Cork

- Telus business premises is located immediately adjacent to the site, and it is their view that the development would have a negative impact on existing traffic congestion problems in the immediate vicinity and in the general area.
- Proposed residential development is contrary to the existing City Development Plan.
- The congestion that would be caused would be injurious to the amenities of residents of Saint Michael's Drive and its environs and would hinder Saint Michael's Road's ability to meet the needs of residents, workers and visitors to the area and the Loughmahon Technology Park.

Cork Business Association, 5 South Mall, Cork

- Cork Business Association supports the proposed development of much needed housing, as recent developments have predominantly consisted of offices, commercial and student accommodation, with some suburban housing on the periphery of the city.
- There is a need to address the disproportionate provision of houses versus apartments within the city and metropolitan area in order to more accurately reflect changing household composition as well as achieve higher densities at sustainable locations.
- Almost 1,000,000 square feet of office space has recently been granted in Cork city and it is unsustainable that these offices would be filled with workers commuting mostly by car from outside of the city.
- Mahon is strategically located, well connected and an attractive area for residential development, with existing clusters of employment, retail and health facilities, as well as easy access to higher education available.
- The proposed development will contribute to the delivery of the shortfall of nearly 6,000 homes in Cork since 2016 and the material contravention process should be supported in the interest of sustainable development.

### **3.6. Submissions in respect of Notice of Material Contravention**

- 3.6.1. TII – Advised that the position of TII remains are set out in their letter of the 17th of June 2021.

### 3.7. **Material Contravention – Vote of Elected Members**

- 3.7.1. The Notice of the proposed Material Contravention in accordance with Section 34(6) of the Planning and Development Act, 2000, as amended, was advertised in the Irish Examiner on Tuesday 24<sup>th</sup> May 2022.
- 3.7.2. At a meeting of the full Council of Cork City Council on 11<sup>th</sup> July 2022, the Elected Members voted to pass the Material Contravention resolution, with 25 Members voting in favour, 1 member voted against, and zero members abstained.
- 3.7.3. The decision to grant permission was then issued on 12<sup>th</sup> July 2022.
- 3.7.4. The Offices of both the Planning Regulator and the Southern Regional Assembly were notified of the decision to grant permission by way of material contravention.

## 4.0 **Planning History**

### 4.1. **Application Site - (including Telus building)**

- 4.1.1. There is no recent site specific planning history for structures on the site of the proposed development, but applications for permissions associated with the building to the immediate south, which is the building occupied by the third party appellant, included the site of the current application site within their blue lined site boundaries. These applications are:
  - **P.A Ref. 99/23310** - Permission granted on 8<sup>th</sup> September 1999, to RCI Europe, for changes and additions to telemarketing building to the immediate south. No details of this application are available online, but reference is made in condition No. 2 to an earlier grant of permission TP22260/98, for which no details are available online.
  - **P.A Ref. 10/34631** – Permission granted on 28<sup>th</sup> January 2011, to RCI Call Centre (Ireland) Limited, for signage on the existing building. The landholding outlined in blue includes the site of the current application.
  - **P.A Ref. 12/35467** – Permission granted on 20<sup>th</sup> March 2013, to RCI Call Centre (Ireland) Limited, for building and entrance signa, including signage of the three vehicular entrances from Loughmahon Road, including the two vehicular entrances that form part of the current application site. The signage to

be placed at the site entrances, indicated that the northernmost of the two entrances onto the R852 was for 'staff' only, while the two other entrances onto the R852 including one that is proposed to be closed to traffic, as part of this application, were the 'Main Entrances' and the entrance from St Michael's Drive was a for 'staff and deliveries.

- **P.A Ref. 14/36063** – Permission granted on 9<sup>th</sup> September 2014, to RCI Call Centre (Ireland) Limited, for signage on the existing building. The landholding outlined in blue include the site of the current proposed development.
- **P.A Ref. 17/37299** – Permission granted on 26<sup>th</sup> May 2017, to Voxpro Ltd, for signage to existing office building. The landholding outlined in blue included the site of the current application.

#### **4.2. Site to immediate North – (Logitech)**

- **P.A Ref. 18/38036** – Permission granted on 24<sup>th</sup> January 2019 to City Gate Plaza Developments Ltd, for demolition of an existing reservoir and reservoir building and the construction two office buildings; Block A - four floors over ground floor and Block B - three floors over ground floor. Block A, which is located closest to the current application site has been constructed.

#### **4.3. Ballinure Way (to east)**

- 4.3.1. 64 modular homes for the housing of Ukrainian refugees have been constructed on lands c50m to the east of the site to the east of the carpark serving the Telus International site and the Ballinure Header Chamber Building. The buildings are semi-detached and single storey in height.
- 4.3.2. The houses have been constructed in accordance with The European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations (S.I. No. 306 of 2022) that provide that the provisions of the Planning and Development Act 2000 (as amended) (other than the environmental considerations in Sections 181A to 181C) will not apply to certain classes of development by or on behalf of a State Authority i.e. a Minister of the Government or the Commissioners of Public Works in Ireland, for the purposes of providing temporary protection to displaced persons as specified in the Regulations.

#### **4.4. Sites to west of R852 (Loughmahon Link Road)**

4.4.1. A number of applications have been submitted in respect of residential developments on lands to the west of the application site since 2017 in or adjacent to the Mahon Industrial Estate. The sites are located between 185m and 600m to the west and south-west of the site of the current application and those that have been decided are:

- **ABP-302784-18 (P.A. Ref. 18/37820)** – A decision to grant permission by Cork City Council by way of material contravention, was appealed and permission was granted by the Board on 28<sup>th</sup> February 2019 c185m west of the site of the current application. The development consists of 135 residential units comprising 24 houses, 64 duplex apartments, a 3-storey apartment block (comprising 20 no. apartments) and a four-storey apartment block (comprising 27 no. apartments). The development has been completed and is occupied.

#### 4.5. SHD – Decisions Awaited

4.5.1. Two SHD applications are currently under consideration by the Board for sites located between 140m and 200 south-west of the site of the current application. Both applicants were lodged with the Board on the 4<sup>th</sup> of April 2022.

- **ABP-313206-22** – Application for demolition of existing buildings, construction of 140 no. apartments, creche and associated site works c140m southwest. The applicant is Estuary View Enterprises and called 'The Farm SHD'.
- **ABP-313216-22** – Application for 280 no. apartments, creche and associated site works c200m southwest. The applicant is Estuary View Enterprises.

#### 4.6. SHD – Decisions Issued

4.6.1. The Board has issued decisions in respect of SHD applications on sites to the immediate south of the two live SHD applications referenced in 4.5.1 above:

- **ABP-308790-20** – Permission Refused by the Board on 25<sup>th</sup> May 2021 for 179 no. apartments, creche and all associated site works on the grounds that the Board was not satisfied that the site did not contain a potential children's burial ground associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998. The applicant was MWB Two Ltd.
- **ABP-309560-21** – Permission Refused by the Board on 15<sup>th</sup> July 2021 for 67 apartments in a 8-storey apartment block as part of the development in 30890 that has been refused a few weeks previous. The reason included that

development on land zoned 'Z012 Landscape Preservation' which it is an objective to preserve, would materially contravene the zoning objective, where the development would also be haphazard as it was part of the larger development 308790-20, that had just been refused by the Board. The applicant was MWB Two Ltd.

## **5.0 Policy Context**

### **5.1. Cork City Development Plan 2015-2021 (superceded)**

- 5.1.1. During the period when the application was under consideration by the Planning Authority and the decision was issued by Cork City Council on the 12<sup>th</sup> of July 2022, the relevant Development Plan was the Cork City Development Plan 2015-2021. In that Development Plan, the site was zoned 'Z07 - Business and Technology' in 'Map 6 - South Eastern Suburbs Objectives', the objective of which was 'To provide for high technology related office-based industry'.
- 5.1.2. The Objective describes the types of uses that were permitted in Z07 zoned areas, which did not include residential development. Therefore, at the time the decision was issued by the Planning Authority, a grant of permission for residential development on the site constituted a Material Contravention of the now superceded Cork City Development Plan 2015-2021.

### **5.2. Mahon Local Area Plan (Superceded)**

- 5.2.1. During the consideration of the application, the site was also located within the boundary of the Mahon Local Area Plan (LAP) as per Map 10 of the Cork City Development Plan 2015-2021. However, the Mahon LAP is no longer in effect and has been superceded by the Cork City Development Plan 2022-2028.

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

- 5.3.1. The relevant Development Plan for the purpose of this report and assessment is the Cork City Development Plan 2022-2028, which came into effect on the 8<sup>th</sup> of August 2022, which is the same date on which the appeal was received by the Board. Variation No 1 regarding 'Car Parking Standards' was adopted on 8<sup>th</sup> May 2023.

- 5.3.2. The site is now zoned 'ZO 4 - Mixed Use Development' as are the lands to the immediate north and south, incorporating the entire site occupied by the appellant's business. The zoning objective that applies to the lands is 'To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area'.
- 5.3.3. Zoning Objectives ZO 4.1 and ZO 4.2 state that:
- ZO 4.1 - This zoning objective facilitates the development of a dynamic mix of uses which will interact with each other creating a vibrant urban area with residential, employment and other uses.
- ZO 4.2 - The range of permissible uses within this zone includes residential.
- 5.3.4. The Plan notes that the direction of the future development of Cork City is guided by the National Planning Framework as well as Regional Spatial and Economic Strategy, Cork Metropolitan Area Strategic Plan and the Cork Metropolitan Area Transport Strategy and the policies and objectives of the Plan are consistent with these documents.
- 5.3.5. Objective 3.4 'Compact Growth' states 'Cork City Council will seek to ensure that at least 66% of all new homes will be provided within the existing footprint of Cork'. Optimising the potential for housing delivery on all suitable and available brownfield sites will be achieved by:
- g. Optimising the use of land (see Objective 3.5: Residential Density).
- k. Where new sustainable transport infrastructure is planned, land use designations will be reviewed and updated where appropriate to provide for housing or mixed-use development (including housing).
- 5.3.6. Objective 10.89 'Mahon' seeks:
- a. To support the development of Mahon as an area for growth consolidation and enhancement by providing a mix of new neighbourhood uses.
- 5.3.7. In Objective 3.6 - Housing Mix, Cork City Council will seek to:
- Encourage the development of an appropriate mix of dwelling types to meet target residential densities, utilising a range of dwelling types and density typologies informed by best practice (as illustrated in "Density Done Well" in the

Cork City Density Strategy, Building Height and Tall Building Strategy) with combinations of houses, stacked units and apartments.

5.3.8. The Core Strategy is informed by the Cork City Urban Density, Building Height and Tall Building Study which:

- Provides a coherent analysis of Cork City and its potential to accommodate dense forms of development based on the suitability and sensitivity of areas to change due to their particular characters. The study focuses on increasing densities in locations benefiting from access to good levels of public transport, services and designation as opportunity areas

5.3.9. Figure 11.1 of Volume 1 and Map 6 of Volume 2, which both addressed Density and Height indicate that the site is located in the 'Primary Urban Corridors and Principle Towns' area. Table 11.1 indicates that the target height for the number of storey's in new buildings in Mahon is 4-6, with provision in the table also facilitating buildings of up to seven storeys.

5.3.10. Paragraphs 11.45 and 11.46 provide that tall buildings are those over 18m or 6 storeys in height, but only when they are significantly higher surrounding buildings.

5.3.11. Chapter 4.106 referring to 'Parking for New Development' seeks to:

- Direct high-density residential land use and high trip generating uses ...to areas that are currently, or will be, served by high frequency transport services.

5.3.12. Paragraph 2.22 referring to Growth Targets 2040, states that:

- The delivery of Light Rail Transit (LRT) and its interaction with the Lee to Sea greenway, suburban rail network, orbital bus routes and strategic bus corridors will deliver transport orientated development in key areas such as Blackpool, Ballyvolane, Mahon and South Ballincollig and an integrated multimodal city transport system.

5.3.13. Paragraph 4.10 of Chapter 4 'Transport and Mobility' states that:

- The strategy provides for dramatic interventions in how our city moves with new dedicated walking/ cycling routes, a high frequency bus service (Bus Connects), the development of a light rail network, the expansion of commuter rail and investment in local route improvements including new orbital routes.



- 5.3.14. The development management criteria such as size and format of apartment developments are governed by provision in the plan as well as the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities.

#### **5.4. National and Regional Policy**

##### National Planning Framework (2018)

- 5.4.1. The NPF contains a series of National Policy Objectives (NPOs) including NPO2a that targets 50% of future population and employment growth in the existing five cities and their suburbs, which includes Cork, while NPO3b seeks to deliver at least half (50%) of all new homes that are targeted in Cork within its existing built-up footprint.
- 5.4.2. Other relevant NPO's include:
- 5.4.3. National Policy Objective 13 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 5.4.4. National Policy Objective 27 – Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling.
- 5.4.5. National Policy Objective 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- 5.4.6. National Policy Objective 35 – Increase residential density in settlements, through a range of measures including...increased building heights.
- 5.4.7. National Policy Objective 54 – Reduce our carbon footprint by integrating climate action into the planning system.

#### **5.5. Regional Spatial and Economic Strategy**

- 5.5.1. The RSES provides the framework through which the policies and objectives of the National Planning Framework will be delivered for the southern Region that places

Cork, Limerick and Waterford cities at the centre of the drive to harness the full potential of the region, through employment creation and increases in urban populations supported by compact development and sustainable transport.

5.5.2. RPO 10: Compact Growth in Metropolitan Areas states that:

- To achieve compact growth, the RSES seeks to:
  - a. Prioritise housing and employment development in locations within and contiguous to existing city footprints where it can be served by public transport, walking and cycling.

5.6. **Cork Metropolitan Area Strategic Plan (Volume 2 of RSES)**

5.6.1. The Cork Metropolitan Area Strategic Plan forms part of Volume 2 of the RSES for the Southern Region. Its vision is to 'Sustainably develop the potential and capacity of Metropolitan Cork. The guiding principles for development include:

- Compact sustainable growth: Promote consolidation of Cork City and suburbs, and achieve a target of a minimum 50% of all new homes within the existing built up footprint in Cork.
- Integrated transport and land use: Target growth along high quality public transport corridors and nodes linked to the delivery of key public transport projects under the development of a Cork Metropolitan Area Transport Strategy.
- Accelerate housing delivery: achieve higher densities in the urban built up areas, supported by better services and public transport in accordance with NPO 13 of the National Planning Framework.
- It will provide the opportunity to integrate new development at appropriate densities with high capacity public transport infrastructure in conjunction with more attractive walking and cycling networks and associated public realm improvements.
- The strategy proposes the provision of a Light Rail Tram system for the corridor between Ballincollig and Mahon, serving CIT, CUH, UCC, Kent Station,

Docklands and Mahon Point, which would meet the long-term objective for the development of an east-west mass transit, rapid transport corridor.

#### **5.7. Cork Metropolitan Area Transport Strategy 2040**

- 5.7.1. Published in February 2020, the Strategy provides a policy basis to facilitate the delivery of an accessible, integrated transport network that enables the sustainable growth of the Cork Metropolitan Area including new and improved heavy and light rail, bus connects, cycling and walking infrastructure as alternatives to the private motor car. The implementation of the planned modal shift from the private car as the primary means of transportation will facilitate the delivery ambitions population growth targets set for Cork City and its environs.

#### **5.8. National Mitigation Plan (2017)**

- 5.8.1. The government's commitment to building a climate resilient low carbon transport sector by 2050 is being implemented through the National Planning Framework, which aims to ensure better integration of land use and transport planning policy in order to reduce commuter travel demand and support more efficient patterns of development and travel; increasing public transport capacity and securing a shift, where feasible alternatives exist, away from private car use.

#### **5.9. Housing for All (2021)**

- 5.9.1. This aim of the plan is to provide for 33,000 new homes annually throughout the country up until 2030 to meet the housing targets set in the National Planning Framework. Much of the new housing needs to be built within the context of specific development targets for the five cities including Cork, and other major towns.
- 5.9.2. The First Steps to increasing housing supply included a focus on the provision of an adequate supply of zoned and serviced land, which in turn must be developed at appropriate densities, while a vacant land tax would be introduced as a means of ensuring development will occur on lands that are zoned for residential development.

## **5.10. Climate Action Plan (2023)**

- 5.10.1. The Programme for Government, Our Shared Future commits to achieving a 51% reduction in Ireland's overall Greenhouse Gas (GHG) emissions between 2021 and 2030, and to net-zero emissions by no later than 2050. The National Development Plan 2021 - 2030 (NDP) has been designed to ensure that it supports the governments climate ambitions and sets out the investment priorities that facilitate the implementation of the National Planning Framework
- 5.10.2. Spatial and land use planning will play a critical role through transport systems that support a net-zero approach, while reducing the need to travel by private car through better alignment of public transport provision and spatial and land use planning will help to reduce the need for travel. Reprioritising road space allocation for public transport is to increase. Planning authorities should not require specific minimum levels of car parking, save for disabled parking and should have regard to circumstances under which parking can be minimised, substantially reduced or wholly eliminated.
- 5.10.3. It also notes that the NPF recommends that there should generally be no car parking requirement for new development in or near the centres of the five cities including Cork, and a significantly reduced requirement in the inner suburbs of all five.

## **5.11. European Union (Energy Performance of Buildings) Regulations 2021**

- 5.11.1. The regulations (S.I. No. 393/2021) were signed on 27<sup>th</sup> July 2021 and require that new buildings containing one, or more than one, dwelling, which has more than 10 car parking spaces, shall install ducting infrastructure (consisting of conduits for electric cables) for each car parking space to enable the subsequent installation of recharging points for electric vehicles.

## **5.12. Section 28 Guidelines**

- 5.12.1. The following Section 28 Guidelines were consulted and where relevant, sections are referred to and included in the Assessment Section of this report.
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2022 (Apartment Guidelines).

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009, the accompanying Urban Design Manual: A Best Practice Guide, 2009 (Sustainable Residential Development Guidelines).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 (Building Height Guidelines).
- Design Manual for Urban Roads and Streets, 2019 (DMURS).
- The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009 (Flood Risk Guidelines).
- Childcare Facilities, Guidelines for Planning Authorities, 2001 (Childcare Guidelines).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021 (Commercial Institutional Investment Guidelines).

### 5.13. Natural Heritage Designations

5.13.1. The appeal site is not located within any designated European sites. The nearest Natura 2000 sites are Cork Harbour Special Protection Area (SPA) (Site Code: 004030), located approx. 540m to the southwest at Rochestown; and, the Great Channel candidate Special Area of Conservation (cSAC), c4.8km to the east.

## 6.0 Environmental Impact Assessment (EIA) Screening

### EIA Screening Report

- 6.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report (prepared by Dixon Brosnan Environmental Consultants – dated May 2021) that referred to the original proposal for 204 apartments in three separate buildings, and I have had regard to same. The report includes information specified in Schedule 7A of the Planning and Development Regulations 2001 (as amended).
- 6.2. The EIA Screening Report concludes that the proposed development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001 (as amended), and that formal EIAR is not required

due to the site size at 1.45ha (it is noted that site is stated to be 1.48044ha in the planning application form), the number of residential units being 204 apartments and that the proposed development is unlikely to have to significant effects on the environment, having regard to the criteria set out in Schedule 7 being (i) Characteristics of the Proposed Development, (ii) Location of the Proposed Development and (iii) Characteristic of Potential Impacts. In addition the EIA Screening Report, considered the information provided in several other assessments that had been undertaken to assess/address potential planning and environmental issues relating to the development. They are:

- Ecological Impact Assessment (EclA).
- Appropriate Assessment Screening Report
- Civil Engineering Report
- Construction & Waste Management Plan
- External Public Lighting Analysis

#### Further Information / Reports Submitted

- 6.3. In response to the request for further information, the number of proposed buildings was reduced from three to two, and the number of apartments from 204 to 196, representing a reduction of 8 apartments.
- 6.4. As part of the response, a number of the reports submitted with the original application were updated to reflect the changes made including the Civil Engineering Report, Construction & Waste Management Plan and External Public Lighting Analysis, while several entirely new reports were prepared including an Acoustic Design Statement and an Odour Impact Report.
- 6.5. A revised EIA Screening Report was not submitted to reflect the changes to the proposed development or the information contained in new or updated reports.

#### Screening

- 6.6. Section 109 2B(a) of the Planning and Development Regulations 2001, as amended, provides that:
  - Where a planning application for sub-threshold development is not accompanied by an EIAR but is accompanied by the information specified in

Schedule 7A and sub-article (2A), or where an applicant submits to the Board such information pursuant to a requirement issued under sub-article (2)(b)(ii), the Board shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.

6.7. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and section 172(1)(a) of the Planning and Development Act 2000, as amended, provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

(i) Construction of more than 500 dwelling units.

(iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district\*, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

\*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

6.8. Class 14 of Part 2 to Schedule 5 requires EIA for 'works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'. This refers to the geodesic dome that is to be removed.

6.9. Class 15 of Part 2 to Schedule 5 requires EIA 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'.

6.10. The criteria set out in Schedule 7 are (i) Characteristics of the Proposed Development, (ii) Location of the Proposed Development and (iii) Characteristic of Potential Impacts.

6.11. The proposed development that was subject to the decision to grant permission consist of 196 apartments in two blocks that also includes a creche extending to 217.2sqm, an amenity room, 2,293sqm of communal amenity space, 74 parking spaces and 440 bicycle parking spaces all within the footprint of the buildings, as well as 3003.7sqm of public open space. The site is less than 10 hectares in size at 1.48044 hectares. Therefore, the proposed development is subthreshold the requirement for mandatory EIA having regard Classes 10(b) (i) and (iv) of Schedule 5

to Part 2 of the Planning and Development Regulations 2001, as amended, in that it contains fewer than 500 units while it is also less than 2 hectares, which would apply to a Business District and is less than 10 hectares that would apply in all other parts of a built-up area.

#### Sub-threshold EIA

- 6.12. Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold, where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Part 2 of Schedule 5, where a planning application is not accompanied by an EIAR but is accompanied by the information specified in Schedule 7A, the competent authority shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.
- 6.13. In carrying out this assessment I have examined the characteristics and location of the proposed development, and types and characteristics of potential impacts including the sub-criteria in Schedule 7, having regard to the Schedule 7A information submitted with the application and I have considered all information which accompanied the application including the information which was submitted in response to the request for further information, including inter alia:

#### Submitted with original application only

- EIA Screening Statement
- Ecological Impact Assessment Report
- Appropriate Assessment (AA) Screening Report
- Outline Construction Traffic Management Plan
- Planning Report
- Architects Design Statement
- Landscape Design Rationale

#### Updated Reports submitted as part of response to further information

- Construction and Waste Management Plan



- Civil Engineering Report
- Flood Risk Assessment
- Outline Mobility Management Plan
- Traffic and Transport Assessment
- Daylight Reception Report
- Effects on Daylight Reception Analysis
- Sunlight Reception Analysis (2 No.)
- External (Public) Lighting Analysis
- Outdoor Lighting Report
- Verified Photomontages. Architectural Plans and Housing Quality Assessment

New Reports submitted as part of response to request for further information

- Quality Audit Report
- Acoustic Design Statement
- Odour Impacts Report

6.14. In addition to considering the above referenced reports, due to the time that has elapsed since the EIA Screening Report was prepared (May 2021), a search of was undertaken using Cork City Council's online Planning Register, myplan.ie and the Bord Pleanála planning search tool to determine if any projects had been approved in proximity to the site since May 2021, when the EIA Screening report was prepared or April 2022 when the additional reports were submitted as part of the response to the request for further information.

6.15. It is noted that Section 5.1 of the EIA Screening Report 'Projects for Cumulative Assessment' limited its considerations to planning applications submitted between 5<sup>th</sup> May 2019 and 5<sup>th</sup> May 2021 on sites located between 220m and 790m from the site and it did not consider the following developments that has been approved, but not yet constructed at the time that the application was submitted in May 2021:

- The three and four storey office buildings that were granted permission on 24<sup>th</sup> January 2019 under P.A. Ref. 18/38036 on the site to the immediate north of

the application site. The four storey building adjacent to the northern boundary of the site has been completed and is occupied, while the second building at the northern end of the site has yet to be built. The application included an EIA screening report as part of the planning consultant's report and the Planning Authority determined that EIA was not required.

- ABP-302784-18 (P.A. Ref. 18/37820) – Permission granted by the Board on 28<sup>th</sup> February 2019 on a site c185m west of the site for 135 residential units. The development is now built and occupied. The Board Inspector concluded that there is no real likelihood of significant effect on the environment, that EIA could be excluded at preliminary examination stage and an EIA screening determination was not required.
- Ballinure Way – 64 Modular home constructed in accordance with The European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations (S.I. No. 306 of 2022). An Environmental Impact Assessment (EIA) Screening Report was prepared for the project and prior to commencing development, The Commissioners of Public Works in Ireland determined that and EIAR was not required. The development is built and occupied.

6.15.1. The above referenced applications have been considered in this assessment. There is potential for cumulative effects if the proposed development and the permitted office block under P.A Ref. 18/38036 were to be constructed at the same time.

6.16. Notwithstanding the time that has lapsed since the EIA Screening Report was prepared and the changes that were made to the design of the development at further information stage, and taking into consideration developments that have been constructed in the time since the screening report was prepared, I am satisfied that these matters did not affect the conclusions set out in the screening report.

6.17. In addition to the EIA Screening Statement, dated May 2021, the various reports submitted either as part of the original application or at further information stage in the form of new reports or updated reports address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures

recommended, the proposed development will not have a significant impact on the environment.

- 6.17.1. I have taken into account the documentation listed in Paragraph 6.14 when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects of which would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an Environmental Impact Assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.
- 6.17.2. I am satisfied that information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) has been submitted. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

## **7.0 Appropriate Assessment**

- 7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment

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

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

- 7.2.2. An Appropriate Assessment Screening Report was submitted with the original application in May 2021. An updated Screening Report was not submitted to reflect the changes made to the proposed development following the request for Further Information, which resulted in the number apartment blocks being reduced from three to two and the number of apartment being reduced from 204 to 196. The response to further information was submitted to the planning authority in April 2022.
- 7.2.3. Section 8.6 of the Screening Report considered 'Other developments near the site and potential cumulative impacts', but limited its considerations of projects to planning applications submitted between 5<sup>th</sup> May 2019 and 5<sup>th</sup> May 2021 on sites located between 220m and 790m from the site and it did not consider the following developments that has been approved but not yet constructed at the time that the application was submitted (May 2021):
- One three and one four storey office building were granted permission on 24<sup>th</sup> January 2019 under P.A. Ref. 18/38036 on the site to the immediate north of the site subject of this appeal. The four storey building adjacent to the northern boundary of the site has now been completed and is occupied, while the second building at the northern end of the site has yet to be built. The application included an Appropriate Assessment Screening Report. The Planning Authority determined that AA was not required.
  - ABP-302784-18 (P.A. Ref. 18/37820) – Permission granted on 28<sup>th</sup> February 2019 for 135 residential units, c185m west of the site. The Board Inspector concluded that it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site. The development is now built and occupied.
  - Ballinure Way – 64 Modular home have been constructed in on a site c50m east of the appeal site in accordance with The European Union (Planning and Development) (Displaced Persons From Ukraine Temporary Protection) Regulations (S.I. No. 306 of 2022). An Appropriate Assessment (AA) Screening Report was prepared for the project and prior to commencing development, The Commissioners of Public Works in Ireland determined that AA was not required. The development is built and occupied.

- 7.2.4. Notwithstanding that an updated Screening Report was not submitted to address the changes made at further information stage, with the exception of the above planning applications that had been permitted at the time and have since been constructed, albeit for one of the office blocks, I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified and sound scientific information and knowledge was used. The information contained within the submitted reports is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development. The screening is supported by associated report and I refer to documents listed in paragraph 6.13 above, in that regard.
- 7.2.5. The cumulative impact assessment of other planning applications in Table 10 of the Screening Report found that ‘future developments will only be granted permission where discharges from same meet the relevant water quality standards. The long-term cumulative impact is predicted to be negligible.’
- 7.2.6. The AA Screening Report concludes in view of best scientific knowledge that ‘the proposed development, either alone or in-combination with other plans and/or projects, does not have the potential to significantly affect any European Site, in light of their conservation objectives. Therefore, Stage 2 Appropriate Assessment is deemed not to be required’.
- 7.2.7. It is noted that there have been no changes to the Natura 2000 network since the Screening Report was prepared and there have been no changes to qualifying Interests or to the conservation objectives of the relevant European Sites.

### **7.3. Screening the need for appropriate assessment**

- 7.3.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site or sites.
- 7.3.2. The proposed development is examined in relation to any possible interaction with European sites, namely designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 7.3.3. The proposed development that was subject to the decision to grant permission consist of 196 apartments in two blocks up to 7 storeys in height, that also includes a

creche extending to 217.2sqm, an amenity room, 2,293sqm of communal amenity space, 74 parking spaces and 440 bicycle parking spaces all within the footprint of the buildings, as well as 3003.7sqm of public open space on a site area of 1.48044 hectares. The site fronts south westwards onto the R852 Loughmahon Link Road. The site comprises areas of what was described in the Applicant's Screening Report of May 2021 as amenity grassland but has been left uncut for a period of time prior to the visit to the site in October 2023. The development will connect to the public water supply and to separate public foul and surface water sewers that all run along the R852 adjacent to the site and were deemed by Uisce Éireann to have capacity to accommodate the proposed development. SuDS measures are proposed. In terms of flood risk, the proposal is classed as 'less vulnerable development' and is located within Flood Zone C. A justification test is not required. The planning authority have not raised concern in this regard. Irish Water has issued a Confirmation of Feasibility that specifies connection to the existing public foul and surface water networks is feasible without need for upgrades. The number of units has been reduced since that Confirmation of Feasibility issued so it is calculated based on greater amount of flow, than that which was subject to the grant of permission by the planning authority.

#### Designated Sites and Zone of Impact

- 7.3.4. A potential zone of influence has been established having regard to the location of European sites, the Qualifying Interests (QIs) and SCIs of the sites and their potential mobility outside that European site, the source-pathway-receptor model and potential environment effects of the proposed project.
- 7.3.5. The subject site is not located within any designated European site. Table 1 of the screening report identifies that there is one SAC and one SPA within a 15km radius of the site and they are identified in Table 7.1 below. The applicant considered that Great Island Channel SAC (Site Code 001058) could be screened out and that Cork Harbour SPA required further consideration and I concur with the applicants findings with respect to potential for source-pathway-receptor links to both sites. The applicant's findings are set out in column 3 of Table 7.1.

**Table 7.1 Sites within 15km of the site and potential Source-Pathway-Receptor**

<b>Site Code</b>	<b>Name</b>	<b>Distance at closest point to potential source-pathway-receptor link. Screening comments in submitted AA Screening Report</b>
001058	Great Island Channel SAC	4.6km North east.  No significant pathway. Screened out.
004030	Cork Harbour SPA	540m south.  A S-P-R link has been identified between the source (proposed development site) and the receptor (Cork Harbour SPA) via a potential pathway (impact on water quality, disturbance or spread of invasive species during construction or operational phase and wastewater discharges during operation) and requires further consideration.

7.3.6. The qualifying interests for the Cork Harbour SPA and Great Island Channel SAC are listed in Table 7.2.

**Table 7.2 Qualifying Interests/SCI and Conservation Objectives**

<b>Site Name and Code</b>	<b>Conservation Objectives</b>
<b>Qualifying Interests/SCI</b>	
<b>Conservation Objectives</b>	
<b>Cork Harbour SPA (Site Code 004030)</b>  <b>Qualifying Interests/SCI</b>  A004 Little Grebe <i>Tachybaptus ruficollis</i> A005 Great Crested Grebe <i>Podiceps cristatus</i> A017 Cormorant <i>Phalacrocorax carbo</i> A028 Grey Heron <i>Ardea cinerea</i> A048 Shelduck <i>Tadorna tadorna</i>	To maintain the favourable conservation condition of the bird species as SCI for this SPA.

<p>A050 Wigeon <i>Anas penelope</i></p> <p>A052 Teal <i>Anas crecca</i></p> <p>A054 Pintail <i>Ana acuta</i></p> <p>A056 Shoveler <i>Anas clypeata</i></p> <p>A069 Red-breasted Merganser <i>Mergus serrator</i></p> <p>A130 Oystercatcher <i>Haematopus ostralegus</i></p> <p>A140 Golden Plover <i>Pluvialis apricaria</i></p> <p>A141 Grey Plover <i>Pluvialis squatarola</i></p> <p>A142 Lapwing <i>Vanellus vanellus</i></p> <p>A149 Dunlin <i>Calidris alpina alpina</i></p> <p>A156 Black-tailed Godwit <i>Limosa limosa</i></p> <p>A157 Bar-tailed Godwit <i>Limosa lapponica</i></p> <p>A160 Curlew <i>Numenius arquata</i></p> <p>A162 Redshank <i>Tringa totanus</i></p> <p>A179 Black-headed Gull <i>Chroicocephalus ridibundus</i></p> <p>A182 Common Gull <i>Larus canus</i></p> <p>A183 Lesser Black-backed Gull <i>Larus fuscus</i></p> <p>A193 Common Tern <i>Sterna hirund</i></p> <p>A999 Wetlands and Waterbirds</p>	
<p><b>Great Island Channel SAC (Site Code 001058)</b></p> <p><b>Qualifying Interests/SCI</b></p> <p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Atlantic salt meadows</p>	<p>To maintain the favourable conservation condition of the Annex I habitat for which the SAC has been selected.</p>



### Direct/Indirect Impacts

- 7.3.7. The Applicant's Screening Report identifies potential pathways between the development site and the Cork Harbour SPA through impacts on water quality, disturbance or spread of invasive species during construction or operational phase and wastewater discharges during the operational phases of the development. Therefore, following a precautionary approach, a potential hydrological pathway for indirect effects was identified in relation to QIs associated with Cork Harbour SPA.
- 7.3.8. The site would be serviced by the Cork City (Carrigrenan) Wastewater Treatment Plant WWTP which has a full P.E design capacity of 413,200. The Screening Report indicated that the 2019 loading factor of the WWTP was 291,000 while the EPA's annual report on the plant from 2020 states that the annual mean hydraulic loading is less than the peak Treatment Plant Capacity. As of July 2023 [irishwater.ie](http://irishwater.ie) indicates that there is spare capacity in the treatment plant. Having regard to this information and the confirmation of feasibility from Irish Water, I am satisfied that there proposed development would not give rise to significant effects on Cork Harbour SPA.
- 7.3.9. I note the nature and scale of the development proposed which will be connected to the public surface water drainage network. I also note the distance between the site and the designated site at Cork Harbour SPA, with the land between already substantially developed and that there are no overland drains either on or near to the site. I am of the opinion that the risk of contamination of any watercourse or groundwater is extremely low, and even in the event of an unlikely pollution incident significant enough to impact upon surface water quality on the proposed project site, this would not be perceptible in the European sites screened out above, given the distance involved, the occurrence of significant levels of dilution and mixing of surface and sea water and the fact that the construction phase would occur over a relatively short phase, with no possibility of long-term impacts. I note the construction practices proposed. In my mind they are not mitigation measures but constitute a standard established approach to construction works on such lands. Their implementation would be necessary for a development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. In any event, if these practices were not applied

or were applied and failed, I am satisfied that it would be unlikely that there would be any significant effects on the designated site due to the nature and scale of the development proposed, dilution effects, separation distances and the extent of intervening urban environment, together with the conservation objectives of the designated sites.

- 7.3.10. At the operational phase, surface water drainage proposal including SuDS measures and standard surface drainage measures associated with urban development are sufficient to prevent contamination of surface water or ground water.
- 7.3.11. With respect to the potential for threat from the spread of invasive species, the Construction and Waste Management Plan includes standard practices that I do not consider constitute mitigation and their implementation would be necessary for a development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.
- 7.3.12. The applicant's screening report relies on the results of bird surveys (outlined in the AA Screening Report and Ecological Impact Assessment EclA), which indicate that the application site is not used by populations of bird species that are qualifying interests in Cork Harbour SPA. Given the separation of the application site from the designated sites, the conclusions of the AA screening report is that it not likely that the application site provides significant ex situ habitat to support the protected species of the SPAs is accepted.
- 7.3.13. In-combination effects are considered in the applicant's screening report and following the consideration of a number of planning applications in the area, that are referenced at paragraph 7.2.3 above, which were not considered in the AA screening report and which relate to two now constructed residential developments and an office development, of which one of the two permitted office blocks remains to be built, I am satisfied there is no potential for in-combination effects given the scale and location of the proposed development and the fact the office building will connect to public pipes services, and is the subject of a number of planning conditions controlling the restricting the means by which waste produces on the site is stored and disposed. The

planning conditions are considered to be standard construction management requirements and cannot be considered as mitigation measures as they would apply regardless of connections to European Sites.

#### Screening Determination

- 7.3.14. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, I have concluded that the proposed development either individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Sites, in view of the sites' Conservation Objectives, and Appropriate Assessment (and the submission of a NIS) is not therefore required.
- 7.3.15. The proposed development does not occur within or directly adjacent to designated sites and there will be no direct impacts, such as habitat loss or modification as a result of this proposed development.
- 7.3.16. The possibility of significant effects on all other European sites has been excluded on the basis of objective information. I have screened out all other European sites for the need for appropriate assessment, based on a combination of factors including the intervening minimum distances, the marine buffer/dilution factor and the lack of suitable habitat for a number of qualifying interests of the Cork Harbour SPAs. I am satisfied that there is no potential for likely significant effects on these screened out sites.
- 7.3.17. Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

## **8.0 The Appeal**

### **8.1 Grounds of Appeal**

- 8.1.1. A third-party appeal was submitted on the 8<sup>th</sup> of August 2022 by Telus International Ireland with an address at Loughmahon Link Road (R852), which is a property located immediately to the south of the application site.

8.1.2. The grounds of appeal express concern about how the development will impact on local businesses, local residents and the locality in general and are set out under four headings (five topics), the first two of which are general with the latter three being specific to how the appellant considers that the development would impact the day-to-day operations of their business. The issues are summarised below:

#### Traffic

- The proposed development would have a negative impact on the existing traffic congestion problems in the immediate vicinity and the area in general.
- The proposed development would be injurious to the amenity of Saint Micheal's Drive, a residential development located to the east, and would hinder the ability of Saint Michael's Road to meet the needs of residents, workers and visitors.

#### Cork City Development Plan

- The proposed development would be contrary to the existing Development Plan which states that Lough Mahon Technology Park does not have the potential to accommodate new residential development and the proposed development does not constitute good planning.
- By developing this site for residential purposes, the opportunity to create new office and light industrial employment will be lost and the goal of consolidating the technology park has a focus for employment for Mahon and Cork City as a whole, by clustering compatible enterprises would also be eliminated.
- Changing the Development Plan to facilitate residential development that hinders the creation of employment and business opportunities would be questionable.

#### Fire Safety Apparatus

- A fire hydrant located at the northern end of the building occupied by the appellant would be lost as the new proposed boundary would cut off access to the hydrant.
- Two of the three vehicular access points to the appellant's premises from the Loughmahon Link Road (R852) would be removed as a result of the

development and would impact the day-to-day operations of the facility by restricting access for fire tenders to the northern and western sides of the building.

- If the proposed development is to proceed, a condition should be attached requiring that the appellant's fire safety measures should be maintained.
- An annotated black and white aerial photograph is included in the appeal showing the locations of various elements referred to regarding water mains, fire safety and existing access for fire-fighting services.
- A section drawing is submitted showing the existing water-main and fire hydrant located inside of the site of the proposed development and outside of the area being retained within the appellant's site boundary.

#### Vehicular Access to and from Tellus International premises

- The appellant will lose two of the current three access points onto Loughmahon Link Road (R852).
- If the northernmost access is lost, all staff will have to enter and exit the site using Saint Micheal's drive to the south, which will double the time it takes staff to leave the facility while traffic volumes on this road will be greatly increased.
- While a large percentage of the appellant's staff work from home in August 2022, this will soon return to close levels from February 2020.
- The Traffic Impact Assessment (TIA) appears to make no allowance for the loss of vehicular entrances/exist from the appellant's premises on the Loughmahon Road and the changes that are necessary should be finalised during the decision-making process for this application.
- The survey on foot of which the TIA is based should be revised to take account of the changes in traffic volumes that will coincide with workers returning to full time office work.

#### Foul and Storm Drains

- The proposal makes no allowance for the impact of the proposed development on the foul and storm drain services serving the appellants building, which will

have to be moved. Details of this should be finalised during the decision-making process for the application.

### Conclusion

- The appeal concludes by stating that the development is contrary to the Development Plan, but that if permission is to be granted conditions should be attached to ensure that the appellants existing fire safety measures, service and access to and from the building are not diminished.

## **8.2. Applicant Response**

8.2.1. The applicant response to the ground of appeal included:

- A cover letter from their planning consultant, addressing all elements of the appeal.
- A Civil Engineering Report addressing Fire Safety and Foul and Storm Drains.
- A Roads and Transportation Report addressing Traffic issues.

8.2.2. The response was prepared collectively by the architects, planners, engineers, odour consultants, transport engineers and the applicant.

8.2.3. Planning Consultant's Response

- The applicants are the original owners of the site, including the site where the appellant's building is located, having purchased the entire site in September 2016. They later sold the building to a third party but retained the application site with the intention of developing it. Neither Telus (the appellant) as the occupant or the owner of the building have a right to infrastructure, including the site accesses and they were only permitted to use the accesses until such time as the site was developed. This gesture has now been removed.

### Traffic

- The concept of high density residential at this location with c400 covered bike parking spaces and fewer than 80 car parking space is based on excellent public transport, and cycle infrastructure as well as proximity to employment such as the appellant's site. The Traffic and Transport Assessment indicated that there would be a very low or no impact on traffic, as a result of the proposed scheme.

### Fire Safety Apparatus

- In addition to the fire hydrant referred to in the appeal, which is located within the appeal site, there are two other hydrants on the two corners of the western side of the appellant's building that can readily serve the entire western side of the building in the event of an emergency.
- The applicant has given the appellant assurances that the site development works will include either 1) retaining the existing fire hydrant where it is and providing unincumbered access for the fire service to this hydrant, or 2) the hydrant will be moved a few metres so that it is located within the appellant's property, with the latter option being the preference of the applicant, for the purpose of long term independence, access and maintenance.
- There is sufficient space available between the site boundary and the appellants building to facilitate access for fire trucks and/or ambulances.
- The storm drain manholes located along this section of the appellant's building were specifically designed and installed to take the load of fire trucks and this provides comfort that there will be no reduced or negative impacts on fire safety as a result of the proposed development.

### Vehicular access to and from Telus International premises

- While the appellants had the use of the two vehicular access points from the R852 for 5 years (up to August 2022), they had no right of use or ownership over the access points.
- When the applicant purchased the site and company shares, they signed a lease with the appellant's predecessor (Voxpro) that required at least one access point onto Mahon Link Road. There is still one access available from the appellants site directly onto the Mahon Link Road.
- The contract of sale permitted the applicant to erect a fence around the area they purchased. i.e., the application site, thereby removing vehicular access through the two entrances from the Mahon Link Road (R852). They had not done so as of August 2022, but as the appellant is using the loss of the access from Mahon Link Road as a ground of appeal, the applicants feel they have no option but to close

off the entrance and regret that they had allowed this arrangement, following their purchase of the site.

- The appellants expansive surface car park is underutilised and it is hoped Cork Connects, cycle infrastructure and forthcoming light rail, will shift the focus from car centric commuting.

#### Cork City Development Plan (Zoning/Material Contravention)

- The application was submitted in the knowledge that the new City Development Plan was at an advanced stage of preparedness and that the Loughmahon area was to be reclassified for mixed use purposes, including residential.
- The rezoning was driven in part by companies such as the appellants stating they found it difficult to attract staff due to a lack of residential accommodation in the area.
- Current housing problems will be worsened if strategically located greenfield sites, such as the application site, that will be served by light rail, are not densified.
- It is of national importance that residential proposals of this composition located close to places of employment, leisure, educational, retail and public transport, are supported, and not blocked based on generic aspirations for housing mix.
- Reference is made to supporting policies and text in the National Planning Framework, including those advocating the development of infill sites.

#### 8.2.4. Civil Engineering Response

The Civil Engineering Response prepared by Murphy Matson O'Sullivan (MMOS) Engineers, addressed two elements of the appeal.

##### Fire Safety Apparatus

- There are no wayleaves over the application site for any services, which would be typical of arrangements to allow adjacent owners access to services for maintenance.
- The applicant accepts that the watermain and hydrant that are located in the application site facilitate firefighting water supply, and they have provided a 'Surface Water Design' drawing as Appendix A, showing the fire hydrant and watermain relocated into the appellant's site. They also state that the existing



hydrant would be located in a green area within the application site and could remain in situ.

- A second drawing, in Appendix B, shows a proposed route for fire tender access.

#### Foul and Storm Drains

- The overall site of the proposed development and the appellant's site was originally planned as a larger development and the original developer allowed for servicing of the overall landholding by means of foul and storm drainage.
- All drains on the application site have been surveyed and are found to be inactive other than the storm drains serving gullies on the road. The gullies will be removed as part of the proposed works.
- Services from the appellant's site discharge to the south onto Saint Micheal's Drive and this was surveyed and is shown on the 'Surface Water Design' drawing.
- All existing foul and storm drains will be blocked off at the site boundary with an access manhole located just inside the appellant's site boundary. The development will not impact these services.
- The proposed development will be serviced by public sewers to the west.

#### 8.2.5. Roads and Transportation Response

The Civil Engineering Response was prepared by MHL & Associates Consulting Engineers, to address traffic related concerns.

##### Loss of access points to R852 and impact on Saint Michael 's Drive

- Saint Michael's Drive forms a signalised junction with the Loughmahon Link Road (R852) which is a much safer egress arrangement for such a high volume of peak hour traffic movements, than using the access from Loughmahon Link Road.
- A traffic count on the northern-most junction for current year traffic movements was carried out as part of the TTA and showed a low level of traffic in and out traffic movements.

##### Additional traffic from Telus staff returning to work

- Any increase in traffic brought about by workers returning to the office will be balanced by sustainable modal shift which is being facilitated by Cork City

Council's delivery of extensive travel infrastructure in Mahon in line with the new City Development Plan and the Cork Metropolitan Transport Strategy.

- The use of public transport is planned to increase from 10% to 25.7%, the use of cars is to reduce from 66% to 49.3%, with cycling to grow from 1% to 10%.

TIA makes no allowance for loss of vehicular entrances

- The Traffic and Transport Assessment has made specific reference to the re-routing of traffic from the northernmost entrance to Saint Micheal's Drive, This was addressed as part of the response to the request for further information.

The traffic survey should be revised to take account of workers returning to the office

- All traffic counts were carried out in advance of Covid 19 when working from home was not common and the impacts were based on those counts.

### **8.3. Planning Authority Response to Appeal**

- None

### **8.4. Observations on Appeal**

- None

### **8.5. Section 131 Notice – October 2021**

8.5.1. Following receipt of the applicant's response to the grounds of the third party appeal, on the 6<sup>th</sup> of September 2022, the Board circulated the response in accordance with Section 131 of the Planning and Development Act 2000, as amended.

8.5.2. No submissions or observations in respect of the Section 131 Notice were received.

### **8.6. Further Correspondence – March 2023**

8.6.1. On the 2<sup>nd</sup> of March 2023, the Board received unsolicited correspondence on the headed paper of Clyde Real Estate. The applicant is Clyde Real Estate Cork Limited. On the same date, the unsolicited correspondence was returned, by the Board, in

accordance with Section 130 (4) of the Planning and Development Act 2000, as amended.

## **9.0 Assessment**

### **9.1. Introduction**

9.1.1. Having reviewed the documents on the file and undertaken a site visit and having regard to the relevant policies and zoning objective pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider the main issues pertaining to the proposed development can be assessed under the following headings: -

1. Principle of Development – Material Contravention
2. Compliance with Apartment Guidelines
3. Part V
4. Building Height and Density
5. Design and Layout
6. Sunlight and Daylight
7. First occupation of Apartments
8. Childcare
9. Access, Traffic and Parking
10. Foul and Storm Drainage
11. Fire Safety Apparatus
12. Dome Removed

9.1.2. I highlight to the Board that a new City Development Plan has been adopted since the decision of the planning authority issued. I am assessing this appeal, based on the Cork City Development Plan 2022-2028. It is also noted that the development site was previously located within the boundary of the Mahon Local Area Plan (2014). This LAP has now expired.

## **9.2. Principle of Development - Material Contravention**

- 9.2.1. The grounds of the third party appeal questioned the principle of the development in the context of the zoning of the land in the Cork City Development Plan 2015-2021.
- 9.2.2. As outlined earlier in Section 3.6, the decision to grant permission was by way of a material contravention of the Cork City Development Plan 2015-2021, following a vote of the elected member to grant permission. At that time the site was zoned 'ZO7 - Business and Technology,' where it was the zoning objective to 'provide for high technology related office-based industry' and residential was not a land use which was permitted. In this regard, the then City Development Plan 2015-2021, at Section 15.4 referred to Material Contraventions and Variations of the Plan, while Section 34(6), of the Planning & Development Act, 2000, as amended, provides for Council Members to agree to grant planning permission for a development which materially contravenes an objective of the Plan, following public consultation.
- 9.2.3. On the 24<sup>th</sup> of May 2022, public notice was served advising the intention of Cork City Council to consider granting planning permission for the proposed development at the subject site. Section 34(6)(iv) of the Act states that a resolution shall be passed by the authority requiring that a decision to grant permission be made. At the Council meeting of 11<sup>th</sup> July 2022, the matter of the material contravention was discussed, and voted upon. The number of the members of the planning authority voting in favour of the resolution was required to be not less than three-quarters of the total number of the elected members. There were 25 votes in favour of the proposal, 1 against and 0 abstentions. The minimum number of votes required to pass the resolution was 20 which was exceeded.
- 9.2.4. Following the decision to grant permission, which was issued on the 12th of July 2022, the Cork City Development Plan 2022- 2028, came into effect on the 8th of August 2022. The site is now zoned 'ZO4 Mixed Use Development', the objective of which is 'to provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area'. ZO 4.2 states that the range of permissible uses within this zone includes residential.
- 9.2.5. I am satisfied, that the proposed development does not constitute a material contravention of the 'ZO4 Mixed Use Development' zoning objective of the relevant Development Plan, being the Cork City Development Plan 2022-2028 and that the

principle of the development is acceptable, subject to the consideration of other matters which are considered in the assessment below.

### **9.3. Compliance with Apartment Guidelines**

- 9.3.1. The changes introduced in the updated Sustainable Urban Housing: Design Standards for New Apartments - Guidelines - December 2022, did not affect the floor area requirements contained in the previous version of the guidelines, which the proposed apartments were based upon. Floor areas are addressed in the application in the form of a Housing Quality Assessment (HQA) Area Schedule, which was updated to reflect the revised proposal for 196 apartments submitted in response to the request for further information. The HQA provides details of unit sizes, floor to ceiling heights, public and private open space, room sizes, aggregate floor areas and storage areas.
- 9.3.2. Paragraph 1.18 of the guidelines states that the Board are required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.

#### **SPPR 6**

- 9.3.3. SPPR 6 provides that a maximum of 12 apartments per floor per core may be provided in apartment schemes.
- 9.3.4. The second, third and fourth floors of Block B would each have 26 apartments served by two separate stair and lift cores, meaning that each core would serve 13 rather than 12 apartment.
- 9.3.5. The Board is required to apply the provisions of SPPR6 which means that each of the three affected floors would be required to reduce the number of apartments from 26 to 24, resulting in an overall reduction of six units, which would reduce the overall number of units in the development from 196 to 190.
- 9.3.6. There are a number of possibilities ways of amalgamating the proposed apartments to comply with the requirements of SPPR6, which will involve a reduction in the number of one bedroom apartments and an increase in the number of two or three bedroom apartments.

- 9.3.7. It is considered that the precise units to be amalgamated should be a matter for the applicant and should not be specifically prescribed by way of a condition. If the Board is minded to grant permission, I am satisfied that the necessary amendments to comply with the requirements of SPPR 6 can be addressed by way of condition that would provide sufficient flexibility to the applicant without affecting the overall layout or appearance of Block B.

#### SPPR 1

- 9.3.8. Specific Planning Policy Requirement 1 stipulates that housing developments may include up to 50% one-bedroom or studio type apartments (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.
- 9.3.9. The development as proposed in the revised application following further information would not have any studio apartments and would have 90 No. one bedroom apartments, which would equate to 46% of the total number of apartments.
- 9.3.10. The number on one bedroom apartments will be reduced further depending on the revisions made in accordance with the requirement to comply with SPPR 6 as detailed above in section 9.4, but in any case, regardless of the revised apartment layouts, I am satisfied that the proposed development would be compliant with the requirements of SPPR 1.

#### SPPR 3

- 9.3.11. The proposed apartments exceed all of the minimum floor space requirements set out Specific Planning Policy Requirement 3 of the guidelines, with the exception of one no. two bedroom apartment, which would have a floor area of 66.1sqm and is designed to accommodate three persons. Paragraph 3.6 of the Apartment Guidelines states that planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres and this type of apartment is listed in Appendix 1 to the guidelines addressing 'Required Minimum Floor Areas and Standards' where it states that units of 63sqm are permissible in limited circumstances, and no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment.

9.3.12. I am satisfied that the requirements of SPPR 3 have been complied with in the design of the proposed development and that the revisions required to comply with SPPR 6 would not affect compliance with the requirements of SPPR 3.

#### Minimum floor area

9.3.13. It is a requirement of the guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. 64% of the units exceed the minimum floor area by more than 10%. If the Board is minded to grant permission, a condition should be attached requiring the provision of a revised Housing Quality Assessment confirming that the required number of apartments exceed the minimum floor area by more than 10%.

#### SPPR 4 - Dual Aspect Ratios

9.3.14. SPPR 4 states that In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

- ii. In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.

9.3.15. In addition, Section 3.17 of the Guidelines states that ideally, any 3 bedroom apartments should be dual aspect.

9.3.16. All of the thirty seven proposed three bedroom apartments out of the 196 proposed apartments are dual aspect, and in the event that the Board is minded to grant permission, I recommend that a condition should be attached requiring that any new/amalgamated apartments that are formed on foot of the amendments required to comply with SPPR 6, that consist of three or more bedrooms, are dual aspect.

#### SPPR 5 – Floor to Ceiling Heights

9.3.17. SPPR 5 requires ground level apartment floor to ceiling heights to be a minimum of 2.7m.

9.3.18. The proposed ground floor to ceilings heights are 3.7m, which is compliant with SPPR5, while all other floors above ground level having a floor to ceiling height of 2.7m.

#### Other compliance

- 9.3.19. Having reviewed the Housing quality assessment and the floor plans for the individual apartments I am satisfied that the development has been designed to meet or exceed the standards set out in the Sustainable Urban Housing Design Standards for New Apartments with regard to the combined areas of (a) Living/Dining/Kitchen areas; (b) Aggregate Bedrooms Areas; (c) Minimum Storage Areas; and (d) Private Open Space and details are provided in the Housing Quality Assessment.
- 9.3.20. It is noted that the individual storage areas in several of the three bedroom apartments are larger than 3.5sqm. Paragraph 3.31 of the Apartment Guidelines states that no individual storage room within an apartment should exceed 3.5sqm. This matter can be addressed by way of condition as it can be addressed by way of reconfiguring adjacent storage areas and would not affect any other element of the proposed apartment layouts.

#### Conclusion on Apartment Guidelines

- 9.3.21. Subject to amendments required to comply with the requirements of SPPR 6, that will result in a reduction in the number of units on each of the second, third and fourth floors of Block B from 26 to 24, a requirement that any new three bed apartments are dual aspect, and that storage areas are no larger than 3.5sqm, I am satisfied that the proposed would comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines - December 2022.

#### **9.4. Part V**

- 9.4.1. The requirement to comply with the provisions of SPPR 6, is likely to affect a number of the proposed one bedroom apartments on the second, third and fourth floors of Block B, which have been identified as units for the purposes of Part V. All of the 20 units that have been identified as Part V units, are located in Block B, with none located in Block A. The applicant's proposal is that their Part V obligation would be met by 19 No. one bedroom apartments and 1 No. two bedroom apartment.
- 9.4.2. The required amendments would result in between six and twelve No 1 bed apartments being removed out of a total of 63 that are proposed in Block B. However, a sufficient number of 1 bed apartments would still be available within Block B, to meet the applicants Part V obligation. Compliance with Part V will be addressed by way of a condition, which will require agreement to be reached between the applicant/ developer and the planning authority.



## **9.5. Building Height and Density**

- 9.5.1. The development includes two blocks, which would be up to 7-storeys in height and contain 196 no. apartments at a density of 132 units per hectare. In assessing the height and density of development proposed, it is necessary to first examine the nature/classification of the subject area in the context of national and local policies.
- 9.5.2. If the development is reduced to 190 apartments in order to comply with the requirements of SPPR 6, the density would be reduced to 128 units per hectare.
- 9.5.3. The 'Sustainable Residential Development Guidelines' discuss 'public transport corridors' and advise that they should be defined using walking distances from public transport nodes. In this context, it refers to sites within 500 metres walking distance of a bus stop, while also stating that the capacity of public transport should be taken into consideration. A bus stop is located c125m south of the pedestrian entrance to the site, on the R852 with the 215, 215A and 219 servicing the stop. The routes provide access to Jacobs Island and Mahon to the south as well as to and through Cork City Centre, MTU and Cork University Hospital. The services run at 30 minute and 60 minute intervals. A stop servicing the 202 and 202A is located within 500m of the north of the site on Skehard Road with up to seven departures per hour towards Cork City at peak times. These routes in turn connect to the city wide bus network. The site is therefore compliant with the walking distance criteria for a public transport corridor.
- 9.5.4. In addition, plans are in motion for a future bus connects route to pass the site, with condition No. 7 of the decision to grant of permission requiring the reservation of a 3m wide corridor to facilitate the new route. Longer term plans for the area include the provision of a light rail service on the alignment of the offroad greenway cycle/footpath that is located on the opposite side of the R852, c 35m to the west of the site.
- 9.5.5. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines, (December 2022) note at paragraph 2.23 that the National Planning Framework signalled a move away from general blanket restrictions on building height in development plans, and that this should be replaced by performance criteria, appropriate to a sites location. The guidelines continue by stating that there is a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and that this addressed in the Urban Development and Building Heights Guidelines.

- 9.5.6. The Urban Development and Building Heights Guidelines for Planning Authorities note that some development and local area plans have set generic maximum height limits which if inflexibly or unreasonably applied, can undermine wider national policy objectives to provide more compact forms of urban development as outlined in the National Planning Framework.
- 9.5.7. The guidelines consider it appropriate to support building heights of at least 6 storeys at street level as the default objective, with scope to consider even greater building heights. It notes at paragraph 1.20 that a key objective of the NPF is to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development.
- 9.5.8. A key contributor to increase height and density is the provision of complementary transport infrastructure such as bus connects, light rail, walking and cycling infrastructure, all of which are currently available or planned to pass adjacent to the site and paragraph 2.4 states that development plans must actively plan for and bring about increased density and height of development within the footprint of our developing sustainable mobility corridors and networks.
- 9.5.9. The Building Height Guidelines also state that setting of height limits effectively displace development and represent a lost opportunity in locations where demand for accommodation is high.
- 9.5.10. Volume 2 to the Cork City Development Plan 2022-2028 includes a series of maps setting out locations where different densities and heights would apply. The site is identified as being located in 'Primary Urban Corridors and Principle Towns', while Densities are addressed further in Chapter 3, 'Delivering Homes and Communities' and Building Height are addressed in Chapter 11 'Placemaking and Managing Development' of Volume 1 of the Plan.

#### Height

- 9.5.11. The Cork City Development Plans Building Height Standards, which were informed by the Cork City Urban Density, Building Height and Tall Building Study identifies the site as being located in 'City Centre Fringe / Key transport corridors / key urban centres' in both Tables 11.1 and 11.2 of Volume 1 of the Plan and notes that prevailing building heights in Mahon are in the range of 2 to 5 storeys. Both Tables 11.1 and 11.2 indicate that the target upper number of storeys in the 'Fringe/Corridor/Centre' is 7

storeys and 6 storeys in Mahon. I consider that the Development Plan has provided two different upper height targets that can be applied to developments in Mahon, which is consistent with the flexibility called for in different national guidelines.

- 9.5.12. It is noted that both of the proposed apartments building included elements that would be up to seven floors in height, which is the maximum number of floors permitted in areas designated 'Fringe/Corridor/Centre', which the site is, but is also one floor more than the target for Mahon, which creates potential for conflicting interpretations. It is noted that no concerns were expressed with respect to height by either the planning authority in assessing the application or the third party in their observation or appeal.
- 9.5.13. The ground levels in the vicinity are relatively flat, with all of the buildings adjoining the site having similar ground floor levels. The five story element of Block A that would front onto the R852 has a parapet height of 34.95m and an overall height of 17.85m, while the five storey elements at the ends of Block B have a similar height. These elements are also of a similar height to the recently constructed office building located to the immediate north of the development, which has a parapet height of 34.57m around the edges of the building with a maximum height of 36.4m. The appellant's building to the southwest is lower and has a parapet height of 27.75m.
- 9.5.14. The main body of Block A and the stepped back seventh floor of Block B have parapet heights of 40.85m and 40.30m respectively which are similar to the maximum height of the permitted but as yet not constructed office block to the north of the site, which would have a maximum height of 40.44m. It is noted that the parapet levels at 42.35m in Block A and 41.8m in Block 2 are slightly taller than any of the existing or permitted buildings in the vicinity, but these increased heights extend over only a small section of the building and constitute design features, used in conjunction with a palette of different material and building lines on the façade to break up the mass and bulk of the buildings and I am satisfied that the proposed building heights are appropriate and are not excessive in the context of existing and permitted buildings in the immediate vicinity.
- 9.5.15. The proposed buildings do not constitute tall buildings as defined in Paragraphs 11.45 and 11.46 of the Development Plan as they are not significantly higher than surrounding buildings.

- 9.5.16. Following from the above, the Apartment Guidelines state that minimum floor to ceiling heights are 2.4m per floor, while it is a policy requirement that ground floors have floor ceiling heights of 2.7m. Paragraph 3.22 states that from a planning and amenity perspective, applicants and their designers may consider the potential for increasing the minimum apartment floor to-ceiling height to 2.7 metres where height restrictions would not otherwise necessitate a reduction in the number of floors.
- 9.5.17. The proposed development would have a ground floor height of 3.7m, which is 1m in excess of the minimum requirement, with each of the upper floors having heights of 2.7m or 0.3m per floor over and above the minimum requirement but consistent with the recommendation of the apartment guidelines. Over the 7 floors, the increase in floor to ceiling height over the minimum requirement is a combined 2.8m. I am satisfied that it would not be appropriate to reduce the floor to ceiling heights of the apartments simply to reduce the overall height of the buildings, as to do so would reduce the quantum of daylight entering the apartments thereby reducing the quality of the internal amenity for future residents.
- 9.5.18. I am satisfied that the height of the proposed apartment buildings would be consistent with the targets set out in Tables 11.1 and 11.2 of the Cork City Development Plan, that the buildings are of a similar height to existing and permitted adjacent buildings and I am further satisfied that the proposed seven storey element would not constitute a material contravention of the Cork Development Plan 2022-2028.

#### Density

- 9.5.19. The Development Plans Density and Building Height Strategy identifies the site as being located in 'City Centre Fringe / Key transport corridors / key urban centres'. Section 11.71 of the Development Plan states that higher densities will apply to the light rail corridor at Mahon, while section 11.72 states that Residential densities as set out in Table 11.2. are expressed in terms of minimums and maximums for the constituent areas of the City. Table 11.2 indicates that the density range for 'Fringe/Corridor/Centre' is 50-150 units per hectare with a range in Mahon of 50 to 120 units per hectare. Table 11.2 has effectively provided two different upper targets that can be applied to developments in Mahon of between 120 and 150 units per hectare.

- 9.5.20. Low-Mid-Rise is deemed to be between 50 and 120 units per hectares and the Cork City Urban Density, Building Height and Tall Building Study includes images of typical low-mid-rise buildings having between 3 and 7 floors in height.
- 9.5.21. Figure 11.4 of the Development Plan, addresses the relationship between density and planning standards under the headings of Housing Mix, Amenity Space, Parking Provision, Privacy and Overlooking, Daylight and Sunlight. It indicates that low-mid-rise apartments that have 1) communal garden space; 2) dedicated communal parking; 3) no overlooking or potential for overlooking; and 4) could cause occasional overshadowing, are suitable for densities ranging from 100-200 dwellings per hectare, which is higher than the potential upper range of 120-150 units per hectare set out in Table 11.2.
- 9.5.22. The development as proposed in response to the request for further information would have 196 no. apartments at a density of 132 units per hectare, while and if the development is reduced 190 apartments to comply with the requirements of SPPR 6, the density would be reduced to 128 units per hectare.
- 9.5.23. Both potential densities are within the range of 120-150 units per hectare as set out in Table 11.2 of the Cork City Development Plan and I am satisfied that the proposed density of 132 units per hectare, of an amended density of 128 units per hectare would be acceptable, given the location of the subject site, in close proximity to existing or planned high capacity and high frequency public transport corridors and the nature and scale of existing and permitted developments in the vicinity.

## **9.6. Design and Layout**

- 9.6.1. The design and layout of the proposed apartment development evolved from initial pre application consultations with the planning authority followed by amendments at further information stage. The footprint of the buildings are restricted by the presence of a significant 20m wide wayleave running along the entire north western boundary of the site, the presence of the Ballinure Header Chamber building proximate to the north eastern boundary that resulted in the removal of the original Block C and the setting back of Block B as far as possible from the north eastern boundary, in order to reduced potential odour and noise impacts from the header chamber building. There was also a requirement to set the buildings back from the roadside edge to facilitate

the widening of the R852 road as part of a future bus connects route that would pass the south eastern side of the site.

- 9.6.2. While building are developed on three sides of the site, none are used for residential purposes with office developments to the north west and south east, in addition to the Ballinure Header chamber to the north east. Although used as offices at present, the sites to the northwest and southeast have both been zoned 'Z04 mix-use development' in the Cork City Development Plan 2022-2028 and have the potential to be used or redeveloped in the future for residential purposes. By reference to the Sunlight and Daylight analysis submitted by the applicant, it is considered that the layout and orientation of the proposed Blocks A and B, including the setting back of the buildings from the site boundaries, would facilitate the change of use of the existing office building to the north or the redevelopment of the appellant's site to the south for residential purposes, at some stage in the future.
- 9.6.3. Public open spaces are located at the northwestern end of the site and between Blocks A and B, while a podium level open space is located on the southeastern side of Block B and three communal open spaces are located at rooftop levels. In addition, all apartments have private open space in the form of balconies or in some cases terraces, including at ground floor level. I am satisfied that an adequate amount of open space has been provided for the future residents of the development. Sunlight and daylight are addressed separately in Section 9.7 below.
- 9.6.4. While the highest parts of the apartment blocks are seven stories in height the buildings steps down to five floors close to the southeastern boundary while the top floor of Block B is set back along the northwestern façade. Block B is also designed as a U-shaped building with a podium level open space that creates a level of separation between the site and the adjacent building to the southwest. The open space between Blocks A and B in located adjacent to a large part of the adjacent building, significantly reducing potential impacts thereon.
- 9.6.5. The application is accompanied by a Design Report prepared by Wilson Architecture. Although referring to the initial layout this report provides a significant level of detail regarding the overall design and layout with Section 3.0 providing an evaluation of the scheme in context of the 12 criteria under the DoEHLG Urban Design Manual, details

of different housing and building typologies, the mix of materials to be used in the proposed structures and landscaping.

- 9.6.6. Considering the site constraints, I would be of the view that the overall site layout is of sufficient quality to protect future occupants as well having regard to the existing uses and potential future uses of adjacent properties
- 9.6.7. The proposed development provides a sufficient level of public, communal and private amenity spaces with public open space provided in a clear hierarchy, well distributed through the site and a good variation of hard and soft landscaping as well as function. Levels of passive surveillance is of a good standard with open space areas overlooked by multiple (majority) units.
- 9.6.8. Other than proposed vehicular and pedestrian access points from the site to the R852, no future connections are proposed to the lands to the north east of south west, and while these sites are in commercial use at present, they have been rezoned and have the capacity to be developed for residential purposes in the future. In that context it is considered reasonable that provision should be made to provide for future connections to the sites, should they be developed for residential purposes. This matter can be addressed by way of condition.
- 9.6.9. I am satisfied that the design of the building is appropriate, and I consider that the material finishes proposed by the applicant are appropriate.
- 9.6.10. I would consider that the layout proposed is successful in measuring up to the 12 criteria set down under the Urban Design Manual and provides for a layout that is of acceptable quality in terms of design and layout, with the exception of connectivity that can be addressed by way of a condition.

## **9.7. Sunlight and Daylight**

### Sunlight

- 9.7.1. The application included a sunlight reception analysis report and respect of all communal open spaces within the proposed development and the effects on sunlight reception in existing or potential neighbouring amenity spaces as a result of the proposed development.
- 9.7.2. All proposed public and communal amenity spaces within the site of the proposed development would receive more than the minimum required two hours of sunlight on

the 21<sup>st</sup> of March at 50% of the relevant area, with calculations ranging between six hours and ten hours in the six different areas assessed at ground level, podium level and rooftop level.

- 9.7.3. The impact of sunlight loss was assessed in respect of five different neighbouring areas, and it was concluded that the proposed development would have no effect on any of those spaces.
- 9.7.4. Neighbouring areas four and five are located to the east of the proposed development site, with area four located immediately south of Ballinure Header Chamber building and area five is located slightly further to the east. The loss of sunlight generated by a development should not be greater than 0.8 (i.e., a 20% percent reduction). Area four was deemed to have a change factor of 0.99 (1%) and a factor of zero (0%) was recorded in respect of area five. These areas are relevant as 64 single storey modular homes have been constructed in area five to accommodate Ukrainian refugees, which was not even at concept stage when the updated sunlight report was submitted to the planning authority in April 2022. I am satisfied that the proposed development would have no effect on sunlight at the nearest residential receptors in the modular homes at Ballinure Way.

#### Daylight

- 9.7.5. Daylight reception analysis reports were carried out for select habitable rooms within the proposed development as well as to assess the effects of the proposed development on existing neighbouring buildings. The analysis included the office building that has been constructed immediately to the north of the site, which had not been constructed as the time the report was being prepared.
- 9.7.6. Fenestration of different sizes has been provided to ensure that's sufficient light it is capable of entering all of the apartments so that all proposed units comply with the BRE requirements set out in 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' for daylight reception in habitable rooms. Similarly, it has been demonstrated that the effects of the development on daylight reception in neighbouring rooms would all be within the constraints and recommendations set out in the BRE guidelines. I am satisfied that all existing neighbouring buildings and habitable rooms within the proposed development would receive sufficient daylight,



such that the residential amenities of the future occupants would not be negatively affected.

#### **9.8. First Occupation of Apartments**

- 9.8.1. The planning authority has attached a condition to the decision to grant permission restricting the first occupation of the apartments to individual occupiers and not to corporate entities. I am satisfied that this is a reasonable approach, I recommend to the Board that a similar condition be attached, if it is of a mind to grant permission for the proposed development

#### **9.9. Childcare**

- 9.9.1. The proposed development as amended following the request for further information would consist of 196 apartments including 90 No. 1 bed, 69 No. 2 bed and 37 No. 3 bed units.
- 9.9.2. Paragraph 4.7 of the Apartments Guidelines (December 2022) states that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. The development would have 106 No. 2 and 3 bed apartments, which would generate a need for 28.26 childcare spaces.
- 9.9.3. The original application included a crèche with a floor area of 217.2sqm, which had a capacity of 35 childcare space. The location of the creche was moved to Block B as part of the response to the request for further information the internal floor area was increased slightly to 219.95sqm. The legend shown in 'Creche Floor Plan' drawing No. 1628-PL-241 Rev A indicates that it will have a capacity for 35 children. However, the layout was amended, and included the addition of a staff room, resulting in a reduction in the area of the proposed nursery and the three playrooms. The revised capacity following the response to further information is 28 childcare spaces and not 35 as stated in the Creche Floor Plan.
- 9.9.4. The requirement to amend the apartment mix to reduce the overall number of apartments on the second, third and fourth floors of Block By could potentially result in an increased childcare requirement.
- 9.9.5. All of the four childcare rooms are located on the same side of the building and having reviewed the floor plans, I am satisfied that there is sufficient capacity within the

proposed creche floorplate to create additional required spaces (if necessary) by adjusting the sizes of the four rooms. In the event that the Board decides to grant permission, I would recommend that a condition is attached requiring the submission of revised creche floor plans and requiring that the creche is operational prior to the occupation of the 75<sup>th</sup> apartment.

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

##### Access and Traffic

- 9.10.1. The grounds of appeal state that the proposed development would have a negative impact on existing traffic congestion problems in the immediate vicinity that would be injurious to the amenity of Saint Michael's Drive, which is located, to the east of the site, and would hinder the ability of Saint Michael's Road to meet the needs of residents, workers and visitors. No further or technical information was provided by the appellants to support this ground of appeal.
- 9.10.2. The appellants also raised concerns regarding the loss of the use of two of the three vehicular access points from the R852 that previously served their site, resulting in all traffic from their facility having to use the separate access and exit onto Saint Micheal's Drive.
- 9.10.3. It was observed on the date of the site visit that the two vehicular access gates that will serve as the vehicular and pedestrian access routes to the proposed development and previously served as vehicular access/egress gates to the appellants property, we're securely closed, with padlocks fitted, and heavy concrete bollards located on the inside of the gates that would prevent any potential access to the site or the appellant's property via the gates or access roads. The applicant had stated in their response to the grounds of appeal that these gates would be permanently closed and that the appellant would no longer have the use of these routes as a means of access to their property.
- 9.10.4. I also observed that the one remaining vehicular access entrance to / exit from the appellant's property from the R852, that is in the control of the appellant, was closed on the occasion of the site visit. I also observed that the northern part of the appellant's carpark is cordoned off, suggesting that the demand for parking spaces on the appellant's property is lower than the number of parking spaces provided.

- 9.10.5. The Traffic and Transport Assessment indicates that while the access junction to the site will operate within its capacity, while three other junctions in the vicinity (one to the north and two to the south) would be operating above their capacity, with or without the proposed development, and while the proposed development will add slightly to the traffic generated in the area, it was concluded that the impact would not be significant.
- 9.10.6. Potential traffic impacts must be considered in the policy context that links new development to improvements in cycling and walking infrastructure, as well as reductions in car parking provision, climate change obligations, existing public transport infrastructure, the near term proposal for bus connects, which would operate a 24-hour service adjacent to the site and the plans for light rail which would also run close to the site on the opposite side of the R852.
- 9.10.7. In the past, the standard means of facilitating new developments was to build new or expand existing roads to accommodate the inevitable increase in traffic. However, planning policy has changed to the extent that it is now a requirement that high density residential development is located in areas served by or planned to be served by high frequency public transport services and I am satisfied that the existing bus network constitutes a high frequency bus service, while dedicated off road and on road cycle and footpaths are also located adjacent to the site and connect to the wider cycle and pedestrian networks in the area. I am also satisfied that emerging and planned projects will have a significant impact on the modal shift and on traffic movements to and from the site.
- 9.10.8. I consider that the proposed development is consistent with National Policy Objective (NPO) 27 of the National Planning Framework which seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling, and NPO 33 which seeks to prioritise the provision of new homes in locations that can support sustainable development. It is also consistent with the guiding principles of the Cork Metropolitan Area Strategic Plan, which targets growth along high quality public transport corridors and nodes linked to the delivery of key public transport projects. In accordance with the Cork Metropolitan Area Transport Strategy, which includes new and improved heavy and light rail, bus connects, cycling and walking as alternatives to the private car. The implementation of the Transport Strategy will see a modal shift from the private car as the primary means of

transportation and will facilitate the delivery of ambitious population growth targets set out for Cork City and its environs, such as is proposed on the application site.

9.10.9. I consider that the proposed development is also consistent with the aims of the governments Climate Action Plan, which links the reduction in the need to travel by private car to a better alignment of public transport provision.

9.10.10. With limited parking proposed, the majority of residents of the proposed development will use alternative means of sustainable transport and I am satisfied that the proposed development would not be injurious to the amenities of Saint Michael's Drive or hinder the ability of Saint Michael's Road to meet the needs of residents, workers and visitors and would not have a negative impact on existing traffic movements in the general area.

#### Parking

9.10.11. The maximum number of parking spaces required for the proposed development, as per the Cork City Development Plan 2022- 2028, would be 252, made up of 245 for the apartment and 7 for the creche.

9.10.12. The original application proposed the provision of 54 parking spaces, while this was revised upwards to 74 parking spaces in response to the request for further information that emanated from the report of the Transport and Mobility department, while 440 bicycle parking spaces have been proposed. Condition No 11 of the decision to grant requires the provision of a maximum of 74 parking spaces and a minimum of 442 bicycle parking spaces.

9.10.13. 74 car parking spaces equates to one space per 2.64 apartments or 0.37 spaces per apartment for the 196 proposed apartments, or one space per 2.57 apartments or 0.39 spaces per apartment for the 190 units that would remain once SPPR 6 has been complied with. I am satisfied that the parking provision is consistent with Development Plan policy and will encourage and require future resident to adopt alternative and more sustainable modes of personal transport.

#### EV Parking

9.10.14. The updated plans and Traffic and Transport Assessment submitted in response to the request for further information indicated that seven electric vehicle charge spaces would be provided, and these spaces are shown on the site layout plan, within the

footprint of Block B. Condition No 11 of the decision to grant permission required that 10% of parking spaces incorporate ducting for future EV charging fit out.

9.10.15. S.I. No. 393/2021 - European Union (Energy Performance of Buildings) Regulations 2021 were signed on 27<sup>th</sup> July 2021, after the request for further information was issued by Cork City Council. These Regulations require that new buildings containing one, or more than one, dwelling which has more than 10 car parking spaces, which is new, shall have installed ducting infrastructure (consisting of conduits for electric cables) for each car parking space to enable the subsequent installation of recharging points for electric vehicles.

9.10.16. The submitted plans do not indicate that the parking spaces designated as EV parking spaces are any larger than the other parking spaces, so, if the Board is minded to grant permission for the proposed development, a condition should be attached requiring that revised plans and details are submitted to the Planning Authority, indicating the location of the necessary ducting, to ensure that all parking spaces are capable of being used as EV spaces in the future.

#### **9.11. Foul and Storm Drainage**

9.11.1. The applicant submitted engineering services drawings and a civil engineering report as part of the response to the request for further information, confirming that connections are available to the public surface water and foul sewage systems under the control of Irish water and Uisce Éireann has confirmed that connections to services are available adjacent to the site. In assessing the response to the request for further information and granting permission, the planning authority raised no concerns in respect of the proposed connections.

9.11.2. In the grounds of appeal, the appellant's expressed concerns that no allowance has been made for the impact on the foul and storm drain services servicing their building, that would be required to be removed as part of the development.

9.11.3. In responding to the appeal, the first party included an engineering response that stated that the application site was originally serviced with foul and storm drainage pipes laid as part of a larger planned development. These foul and storm drainage pipes run are connected to the services in the appellant's property, but were surveyed and are inactive, other than road gullies running through the existing road on site, and the gullies would be removed as part of the development works.

- 9.11.4. The appellant's property discharges foul and surface water to the south, while the proposed development will connect to existing piped infrastructure to the west on Loughmahon Road. In the response to the grounds of appeal the applicant proposed that the existing foul and surface water drains will be blocked off at the side boundary, with manholes to be installed just inside the appellant's site boundary.
- 9.11.5. The appellant was invited by the Board to respond to the applicant's response to the ground of their appeal but no response as received in respect to the proposed diversion of piped services.
- 9.11.6. While the applicant has not provided evidence of consent from the appellant, to carry out works on or under their property, and while it is outside of the powers of the Board to impose a condition on a third party, on lands outside the red or blue lined site areas, without their express consent, in this instance the third party did request as part of the appeal that details of how the proposed development would impact on their foul and storm drains should be finalised during the decision making process.
- 9.11.7. Having reviewed the revised drainage arrangement plans submitted by the applicant in response to the grounds of appeal, I am satisfied that the applicant has attempted to address the concerns of the appellant, although an agreement from the appellant to the proposed revisions would have been a more desirable outcome. I am satisfied that in the event that the Board decides to grant permission, a condition can be attached to require the applicant to submit further detailed plans in respect of the closing off of the existing pipe services, that will give the applicant flexibility to provide pipe stop ends and maintenance manhole/s wither on the applicant's own site or in within the boundary of the appellant if they agree to same, with no obligation being imposed on the appellant to agree, if they are not satisfied with the applicant's proposal. I would recommend to the Board that the wording of any such condition would be structured in a way so as it would not frustrate the ability of the applicant to carry out the proposed development if an agreement cannot be reached with the appellant in respect of the relocation of the infrastructure entirely within the boundary of the appellants property.

## **9.12. Fire Safety Apparatus**

- 9.12.1. The appellant has raised concerns about the prospect of losing access to a fire hydrant that is currently located within the site of the proposed development, while the loss of two of the three vehicular access points to the appellant's premises would

impact the day to day operations of the facility, by restricting access for fire tenders to the northern and western sides of the building. The appellant requested that a condition be attached requiring their fire safety measures be maintained.

9.12.2. On the occasion of the site visit, it was noted that the temporary metal fence that has been erected between the application site and the appellant's property provides for access to the fire hydrant directly from the appellant's property.

9.12.3. In response to the grounds of appeal the applicant's Engineers provided a drawing titled 'Surface Water Design' that shows a proposed diversion of the fire hydrant and water main into the appellant property, while also stating that the existing hydrant is located in what would be an undeveloped part of the site and could remain in situ. They also included a drawing showing the proposed route for unobstructed fire tender access, with the proposed development in place.

9.12.4. Having reviewed the proposed plans submitted in response to the grounds of appeal on the site, I am satisfied that fire hydrant can be relocated, and I am also satisfied that access for fire tenders or other emergency vehicles would not be hindered as sufficient space remains between the site boundary and the northwestern elevation of the appellant's building to facilitate the movement of fire and other emergency vehicles along that side of the building. No road on the application site would have provided access to the northwestern side of the appellant's building that is not provided by the existing paved areas to the southwest and northeast of the appellant's building and the appellant continues to have vehicular access onto the R852 Loughmahon Link road and another to the south of the building on Saint Micheal's Drive that will facilitate access to their property.

9.12.5. While it is outside of the powers of the Board to impose a condition on a third party, on lands outside the red or blue lined site areas, in this instance the third party has requested that if the proposed development is to proceed a condition should be attached requiring that the appellant fire safety measures should be maintained.

9.12.6. The options available to the applicant would be as stated in their response to 1) either maintain the status quo by retaining the fire hydrant where it is, 2) relocated the hydrant closer to the shared property boundary, or 3) to relocate the hydrant within the appellant's property boundary. I am satisfied that this matter can be addressed by way of condition, which would not impose any obligation on the appellant to agree to

relocate the fire hydrant within their property but would give the applicant the opportunity to explore this option and in default of agreement, they can revert to options 1 or 2 set out earlier in this paragraph.

#### **9.13. Dome Removed**

- 9.13.1. Part of the application includes seeking permission for the removal of a geodesic dome. However, on the occasion of the site visit in October 2023, the dome was not in situ and the grass in the field had grown. The application was submitted to Cork County Council on 14<sup>th</sup> May 2021 and the appeal was submitted on 8<sup>th</sup> August 2022. In their response to the ground of appeal in September 2022, the applicant indicated that they would be erecting a fence along the boundary that they shared with the appellants and it would appear that the dome was removed at some point in time after that date as the appellant would no longer have had access to the dome.
- 9.13.2. Four geodesic domes are at various stages of construction in the grass area at the front of the appellant's building, outside of the site of the current application.
- 9.13.3. I am satisfied that the removal of the geodesic dome from the site, would have been acceptable and is not material to the consideration of this appeal.

### **10.0 Recommendation**

- 10.1. I recommend permission be GRANTED for the following reasons and considerations and subject to the following conditions.

### **11.0 Reasons and Considerations**

- 11.1. Having regard to the site's location close to Cork city centre, within an established built-up area on lands with zoning objective ZO 04: Mixed Use Development which seeks 'To provide and promote a mix of residential and other uses to ensure the creation of a vibrant and sustainable urban area' in the Cork City Development Plan 2022-2028; to the nature, scale and design of the proposed development, to the availability in the area of a wide range of social, community and transport infrastructure; to the pattern of existing and permitted development and the planning history within the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable level of



development in this urban location, would respect the existing character of the area, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by Further Information received by the planning authority on the sixth of April 2022 and by the response to the appeal received by An Bord Pleanála on the 6<sup>th</sup> of September 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The layouts of the second, third and fourth floors of Block B will be amended to ensure that no more than 24 apartments are located on each floor. This will require the amalgamation of units at each of the three floor levels and a reduction in the number of apartments at each floor level by 2, to 24, and will reduced the total number of units in the proposed development from 196 to 190.</p> <p>Revised floor plans, elevations and sections detailing the above changes, as well as an updated Housing Quality Assessment will be submitted to the planning authority for written agreement prior to the commencement of development.</p> <p>If the revised apartments consist of three or more bedrooms, they shall be dual aspect.</p>

	Reason: To comply with the requirements of SPPR6 of the Apartment Guidelines and in the interest of residential amenity.
3.	<p>A corridor 3m from the existing edge of footpath shall be reserved for future sustainable transport infrastructure along the frontage of the development site with the Loughmahon Link Road.</p> <p>Reason: to provide for sustainable transport infrastructure as proposed under the cork metropolitan area transport strategy</p>
4.	<p>No habitable part of the proposed development shall be constructed within 52.6m of the southwestern external face of the Ballinure Header Chamber building.</p> <p><b>Reason:</b> In the interest of public health</p>
5.	<p>No permanent structure shall be constructed within the existing 20m wide Irish Water wayleave along the northwestern boundary of the site. In addition, no structure or building foundation shall be constructed within 5m of any of the wastewater rising mains within this wayleave.</p> <p>Reason: In the interest of public health</p>
6.	<p>Prior to the commencement of development details of boundary and landscaping treatments around the perimeter of the site will be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of the privacy and the resident amenity of future occupants.</p>
7.	<p>Any proposals for crane operations (whether mobile or tower crane) must be agreed with the DAA and the Irish Aviation Authority in advance of the erection of the cranes.</p> <p>Reason: In the interest of aviation safety.</p>
8.	<p>Details of the materials, colours and textures of all the external finishes to the proposed apartment blocks shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	<p>(a) Details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>(b) Prior to commencement of development full details, including samples where appropriate, of the treatment of the areas of public realm within the site boundary, shall be submitted to the planning authority and written agreement obtained. This shall include full details of the paving materials, seating and street lighting.</p> <p><b>Reason:</b> In the interest of visual amenity, durability and to ensure a high standard of public realm.</p>
9.	<p>All recommendations of the Mobility Management Plan and Traffic and Transport Assessment, as updated, shall be undertaken in full, prior to the occupation of any blocks. The developer shall submit details on traffic and access matters for the written agreement of the planning authority prior to the commencement of development, to include the following matters:</p> <p>(a) The total car parking supply shall not exceed 74 car parking spaces for the full development.</p> <p>(iii) A minimum of 442 cycle parking spaces are to be provided.</p> <p>(iv) Bike parking facilities shall be provided in dedicated and secured areas of permanent construction, within the building footprint</p> <p><b>Reason:</b> In the interests of traffic safety and to ensure a satisfactory standard of development.</p>
10.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
11.	<p>The applicant or developer shall enter into water and waste water connection agreement(s) with Uisce Éireann, prior to commencement of development.</p>

	<b>Reason:</b> In the interest of public health.
12.	<p>Proposals for naming the development and a unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signage, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
14.	<p>The site shall be landscaped in accordance a landscaping scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each block within of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
15.	<p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining</p>

	<p>public roads by the developer and at the developer's expense on a daily basis.</p> <p><b>Reason:</b> To protect the amenities of property in the vicinity.</p>
16.	<p>The construction of the development shall be managed in accordance with a Final Construction and Waste Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details and location of proposed construction compounds, details of intended construction practice for the development, including hours of working, noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
17.	<p>Prior to the commencement of development, specific design details shall be submitted to and agreed in writing with the planning in respect of the treatment of the southernmost of the two existing vehicular entrance points to the site from the R852, that is to be retained as a means of access for pedestrians and cyclist only, so that it is not accessible or does not appear to be accessible to motorised vehicles.</p> <p>Reason: in the interest of traffic and pedestrian safety.</p>
18.	<p>Prior to the commencement of development, a site layout plan will be submitted to the planning authority for written agreement indicating potential locations for future pedestrian access to the existing sites to the north-east and south-west, and these pedestrian access points would be made available for the purpose of pedestrian connectivity between the sites, if those sites are developed for residential purposed at some time in the future.</p> <p>Reason: In the interest of pedestrian safety and convenience</p>
19.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning</p>

	<p>authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In particular:</p> <p>a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.</p> <p>b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;</p> <p>c) Pedestrian crossing facilities shall be provided at all junctions;</p> <p>d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.</p> <p><b>Reason:</b> In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.</p>
20.	<p>The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points and the provision for the operation and maintenance of the charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> in the interests of sustainable transportation.</p>
21.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartments or the creche.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
22.	<p>Provision shall be made for childcare facilities, in accordance with the document “Childcare Facilities: Guidelines for Planning Authorities” issued by the Department of the Environment and Local Government in June 2001, taking into account paragraph 4.7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning authorities.</p> <p>The proposed facility shall be completed and ready for occupation prior to the occupation of the 75 residential unit within the overall scheme.</p> <p><b>Reason:</b> In the interest of clarity.</p>
23.	<p>A plan containing details for the management of waste within the apartment development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p><b>Reason:</b> To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
24.	<p>Prior to the commencement of development, the applicant shall submit to the planning authority revised plans and sections, and any other relevant information, detailing the exact location of any proposed manholes, pipe diversions and pipe stop ends to be installed in respect of the existing foul and surface water piped infrastructure that is currently located within the application site and is connected to piped infrastructure on the property to the immediate south, and which is proposed to be decommissioned within the application site as part of the development.</p> <p>The details, will include, if applicable, a copy of any agreement reached with the landowner to the south, as to the location of any diverted pipe infrastructure, the pipe stop ends and maintenance manholes, particularly if</p>

	<p>any of the new infrastructure is to be located on the third parties property. If the new or diverted infrastructure is to be retained within the application site, provide confirmation that access to the infrastructure will be available to the adjacent landowner for inspection and maintenance purposes. The cost of all works required, in respect of this condition could be borne by the applicant/developer.</p> <p><b>Reason:</b> In the interest of clarity and public health.</p>
25.	<p>Prior to the commencement of development, the applicant shall submit revised plans and sections, and any other relevant details, identifying whether or not the existing fire hydrant located within the site, close to the southwestern boundary, will be retained in situ, will be relocated elsewhere within the application site or will be relocated within the boundary of the adjacent property to the immediate south.</p> <p>The details, will include, if applicable, any access agreement reached with affected third party landowners that will facilitate unobstructed access to the fire hydrant if retained in situ or within the application site, or if the hydrant is to be relocated within the third party boundary to the south, submit a copy of a written agreement between the parties. The cost of all works required, and respect of this condition could be borne by the applicant/ developer.</p> <p><b>Reason:</b> In the interest of clarity and public health.</p>
26.	<p>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.</p>



	<p>All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
27.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
28.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
29.	<p>All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.</p> <p><b>Reason:</b> To comply with the Councils taking in charge standards.</p>
30.	<p>The management and maintenance of those areas not taken in charge shall be the responsibility of a legally constituted management company.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
31.	<p>All of the permitted apartments or duplex units in the development, when completed, shall be first occupied as a place of residence by individual purchasers who are not a corporate entity and/or by person who are eligible for the occupation of social and/or affordable housing, including cost rental housing. Prior to the commencement of development, the</p>

	<p>applicant or any person with an interest in the land shall enter into a written agreement with the planning authority under Section 47 of the Planning and Development Act 2000, as amended to this effect. Such an agreement must specify the Block, floor level and apartment number of each apartment or duplex unit.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
32.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
33.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed</p>

	<p>between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
34.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the 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.</p> <p><b>Reason:</b> 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.</p>

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

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Joe Bonner  
Senior Planning Inspector

14<sup>th</sup> December 2023



Appendix 1: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		<b>ABP 314310-22</b>
<b>Development Summary</b>		<p>Demolition of existing geodesic dome and the construction of 204 apartments across three blocks, a creche facility, ancillary rooms and facilities, car/bike parking and associated site development works.</p> <p>The development was subsequently reduced to 196 apartments in two blocks following the request for further information.</p>
	<b>Yes/ No/ N/A</b>	<b>Comment (if relevant)</b>
1. Was as screening determination carried out by the PA?	Yes	The Screening determination was contained within the initial Planning Officer's report in respect of the original proposal for 204 apartments in 3 blocks and concluded that there is no real likelihood of significant effects on the environment and that an EIAR is not required.
1. Has Schedule 7a information been submitted?	Yes	An EIA Screening Report was submitted in respect of the original proposal for 204 apartments in 3 blocks. It was prepared by Dixon Brosnan Environmental Consultants.
3. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted with the application. It was prepared by Dixon Brosnan Environmental Consultants
4. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA	No	

commented on the need for an EIAR?		
<b>5.</b> 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>Prior to the zoning of the site as 'ZO4 – Mixed Use Development' in the Cork City Development Plan 2022-2028, that came into effect on 8<sup>th</sup> August 2022, the draft plan was subject to Strategic Environmental Assessment (Directive 2001/42/EC), Strategic Flood Risk Assessment and Appropriate Assessment.</p> <p>Habitats Directive (92/43/EEC) – See AA Screening Report and Ecological Impact Assessment (EclA).</p> <p>Water Framework Directive (2000/60EC) - See AA Screening Report, EclA, Civil Engineering Report (EPR).</p> <p>Directives 2002/49/EC (Assessment and Management of Environmental Noise &amp; 2000/14/EC (noise – equipment for use outdoors) – See Noise, Dust and Vibration in Construction and Waste Management Plan (CWMP) and Acoustic Design Statement</p> <p>Directive 2008/50/EC Air Quality – See Noise, Dust and Vibration in Construction and Waste Management Plan (CWMP) and Odour Impact Report</p> <p>Directive 2007/60/EC Floods Directive – See Flood Risk Assessment (FRA) and Civil Engineering Report</p> <p>Birds Directive (79/409/EEC) - See AA Screening Report.</p> <p>Urban Wastewater Treatment Directive (UWWT) (91/271/EEC) – See AA Screening Report</p> <p>Directives (EU) 2018/850 (Landfill of Waste) &amp; 2008/98/EC (Waste) – See Construction and Waste Management Plan (CWMP)</p>

B. EXAMINATION	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
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surroundings or environment?	<p>The proposed development of two apartment blocks would be of a similar scale to existing and permitted adjacent office buildings to the north, and while slightly higher, would not be considered to be significantly different to in character or scale to existing surrounding buildings.</p> <p>I do not consider that there would be significant impacts on the wider landscape / environment.</p> <p>The removal of the geodesic dome from the site prior to the carrying out of this assessment is not considered to have any impact.</p>	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	<p>The project works will cause permanent physical changes to the topography and land use, including the excavation for foundations and the construction of the proposed residential and creche development. The proposed land uses would be consistent with the zoning and planned use for the site.</p> <p>I am satisfied that there will be no significant effects on waterbodies.</p>	No

<p><b>1.3</b> 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>	<p>The development of the site would provide a more suitable and efficient use of land than its current unoccupied state, which would be consistent with the planned use of the area.</p> <p>The creation of foundations would involve the removal of soil and stone. 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 and creche developments. Irish Water have confirmed that connections for Water and Wastewater are available, and it is not proposed to extract groundwater. Foul water and surface water proposals have also been suitably designed.</p> <p>Biodiversity resources have been considered in the EcIA and the AA Screening Report and I am satisfied that there would be no significant effects on relevant habitats or species.</p>	<p>No</p>
<p><b>1.4</b> Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels, hydraulic oils 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 a Construction and Waste Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?</p>	<p>The Construction and Waste Management Plan includes proposals for minimisation, reuse, and recycling of waste, with excavated soil/stone being used as fill material within the site or on other sites.</p> <p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal, such as would be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction and</p>	<p>No</p>



	Waste Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.	
<b>1.6</b> 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?	<p>The project involves the removal/diversion of unused subsurface water services infrastructure within the site and the 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 Construction and Waste Management Plan to satisfactorily address potential risks in relation to contamination of land or groundwater.</p> <p>No permanent structures will be permitted within the 20m wide the Irish Water wayleave that runs along the entire length of the north west of the site.</p> <p>Surface water will be attenuated prior to discharge to the wider drainage network. Wastewater and surface water will be discharged to separate public drainage systems. These matters are addressed in the applicants Civil Engineering Report.</p>	No
<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short-term in nature and their impacts will be suitably addressed as outlined the Construction and Waste Management Plan.</p> <p>The 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 as the lighting plan has been specifically designed so as not to cause light spillage.</p>	No
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	There is potential for construction activity to give rise to air and water contamination. However, such emissions will be localised, short term in	No

	<p>nature and their impacts will be suitably addressed by mitigation measures set out in the Construction and Waste Management Plan.</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>	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There is no significant flood risk as outlined in the applicant's Flood Risk Assessment.</p> <p>The site is not located within close proximity to any Seveso / COMAH sites.</p>	No
<b>1.10</b> Will the project affect the social environment (population, employment)	<p>The proposed development would increase localised temporary employment activity at the site during the 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 in the various reports submitted as part of the application and further information.</p> <p>The development will result in an increased population in the area. This would not be significant given the existing and planned residential uses in this urban area and the proximity of the site to a wide range of supporting uses and facilities.</p>	No
<b>1.11</b> Is the project part of a wider large-scale change that could result in cumulative effects on the environment?	<p>The lands are zoned for Mixed-Use development, the development of which has been foreseen by the Cork City Development Plan 2022-2028, which has undergone an SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.</p>	No
<b>2. Location of proposed development</b>		

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>a) European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>b) NHA/ pNHA</li> <li>c) Designated Nature Reserve</li> <li>d) Designated refuge for flora or fauna</li> <li>e) Place, site or feature of ecological interest, the preservation/ conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ul>	<p>The project 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.</p> <p>The EIA Screening Report, EcIA and AA Screening Report have considered the proximity and potential connections to designated/ecological sites in the wider surrounding area. The AA Screening Report concluded that the proposed development, either alone or in-combination with other plans and/or projects, does not have the potential to significantly affect any European site, in light of their conservation objectives.</p> <p>Consistent with my findings in my report, I am satisfied that there would be no significant effects on same.</p>	<p>No</p>
<p><b>2.2</b> 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?</p>	<p>The potential for impacts has been considered in the EcIA which has appropriately surveyed and classified the habitat and flora on the site and surrounding area. The site consists of low value habitats. I would concur that any loss of habitat would be of limited value and that adequate mitigation measures have been included.</p> <p>The site does not host any trees suitable for bat roosting.</p> <p>The site is limited as a foraging site for birds. Mitigation measures in the form of a landscape plan have been included to create habitat for common nesting birds, on completion of the development.</p> <p>The AA screening exercise has satisfactorily established that the development would not be likely to have significant effects on any sensitive species of flora and fauna.</p>	<p>No</p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>None. The closest architectural feature to the site is 360m north west.</p>	<p>No</p>

<b>2.4</b> 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?	There are no such resources on or close to the site.	No
<b>2.5</b> 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?	The site is not at significant risk of flooding and is located in Flood Zone C. There are no water bodies or drains on or adjacent to the site and no direct hydrological and hydrogeological connections to sensitive water bodies have been identified. There is no potential for significant effects in terms of volume, impact on water quality or flooding.	No
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	The site and its immediate hinterland are relatively level. No evidence identified of these risks.	No
<b>2.7</b> Are there any key transport routes (e.g. 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?	The site is served by a local urban road network and will access directly onto the R852 via an existing vehicular access road. Public transport bus services, as well as a range of pedestrian/cycle links are located adjacent to the site. I have considered these, and I do not consider that there would be any significant congestion effects at either the construction or operational stage of the development. 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 or traffic congestion.	No
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The proposed development would be located c165m from the Mater Private Hospital. Suitable construction mitigation measures would be included to address any potential impacts on these facilities. I am satisfied that the proposed development would not result in any significant effects on the hospital.	No

3. Any other factors that should be considered which could lead to environmental impacts		
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	<p>The Office Block B permitted on the adjacent site to the immediate north has not yet been constructed and there is potential for cumulative effects at construction stage (e.g. traffic, noise, dust) if both developments were to be built at the same time and an 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.</p> <p>The 2018 planning application for the office block was subject to an EIA screening where it was determined that it would not have significant effects on the environment and would not require EIAR.</p>	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No transboundary considerations arise.	No
<b>3.3</b> Are there any other relevant considerations?	No	No
C. CONCLUSION		
<b>No real likelihood of significant effects on the environment.</b>	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), Class 10(b)(iv), and Class 14 and Class 15 of the Planning and Development Regulations 2001, as amended;
- (b) The location of the site on lands that are zoned as 'ZO 4 – Mixed-Use Development' that includes residential, under the provisions of the Cork City 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 availability of mains waste and wastewater services to serve the proposed development;
- (d) The nature of the development and its location within a wider area identified as being suitable for residential area on transport corridor served by public infrastructure, and the pattern of development in the vicinity;
- (e) 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,
- (f) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),
- (g) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (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 Ecological Impact Assessment, Outline Construction Traffic Management Plan, the

Construction and Waste Management Plan, Civil Engineering Report, Flood Risk Assessment, Traffic and Transport Assessment, Acoustic Design Statement and Odour Impact Report.

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.