



An
Bord
Pleanála

Inspector's Report ABP-314390-22

Development	364 apartments built to rent and 21 houses
Location	Fortfield Road, Terenure, Dublin 6W
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	LRD6004/22-S3.
Applicant	1 Celbridge West Land Ltd.
Type of Application	Permission for Large Scale Residential Development
Planning Authority Decision	Refuse permission
Type of Appeal	First & Third Parties
Appellants	1 Celbridge West Land Ltd Terenure West Residents' Association
Observers	<ol style="list-style-type: none">1. Department of Education2. Fortfield Square Management CLG3. John Conway and the Louth Environmental Group

4. The Chairman Terenure
College Rugby Club
5. Brendan Heneghan
6. Seán Leake and Morina Carr
7. T. O'Neill
8. Eiven Curran
9. Stephen & Siobhan Barry
10. Michael O'Sullivan & Terenure
Residents Assoc.
11. Simon Roche
12. Maura Prendergast
13. Mark and Fionnuala Carroll
14. Roy McDonnell
15. Recorders Residents
Association
16. John Caffrey & Fiona O'Reilly
17. Residents on Lakelands Park
and the Terenure Residents
Association
18. Robert and Sheena Mc Crohan
19. Keith Cairns
20. Rosanne Edger
21. Anne Feeney
22. Catherine O'Grady
23. Thomas C MacMahon
24. Conor O'Meara
25. Mary Seery Kearney
26. Séamus and Bernadette Carty
27. Miriam Walsh

- 28. Terenure & Templeogue
Sustainable Community
Association
- 29. David Byrne and others
- 30. Claire Byrne
- 31. Patrick Byrne
- 32. Dara and Olwen Rothwell

Date of Site Inspection

26th November 2022

Inspector

Stephen J. O'Sullivan

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1.0 Site Location and Description

- 1.1. The site is in an established suburban area of Dublin c6km south of the city centre. It has a stated area of 47,747m². It adjoins the grounds of Tereure College, a secondary school, and the grounds of Terenure College Rugby Football Club, which is separate from the school and fields adult teams. The main part of the site is a grassy area that was formerly used as playing pitches associated with a junior school at the college. It has frontage along the Fortfield Road to the west with the boundary marked by a rendered wall. A bus stop and priority junction with College Drive lie on Fortfield Road adjacent to the northern part of the site's boundary there. There are two storey houses on the other side of that street. The northern boundary of that part of the site bounds the back gardens walls of two storey houses along Greenlea Road. The site also includes an elongated lake that runs to the south of the rugby club grounds east to a cul-de-sac called Lakelands Park. The lake itself and a strip of land on its northern side are included in application site, but its southern bank is not. The site also includes lands that are part of the public road along Fortfield Road and College Drive. Letters of consent for such inclusion have been submitted from Dublin City Council and from South Dublin County Council, as the latter road is in its functional area. The site also includes a part of the public road along Lakelands Park of c126m².

2.0 Proposed Development

- 2.1. It is proposed to carry out a residential development consisting of 364 apartments and 21 houses on the part of the site that was playing fields. The houses would be provided in a line along the northern edge of the site backing on the curtilages of the houses on Greenlea Road. The apartments would be in four blocks whose long axis would run roughly north-south. The blocks would be between 4 and 7 storeys high, generally rising from north-west to east, so that the northern end of the block closest to Fortfield Road would have 4 storeys, while the easternmost one near the rugby club would be 7 storeys. The apartments would be built for rent. The housing mix would be as follows –

	Studio	1 bed	2 bed	3 bed	4 bed	Total
Houses			5		16	21
Apartments	15	166	174	9		364
Total	15	166	179	9	16	385

- 2.2. The development includes 1006m² of residents' amenity facilities in a ground floor structure linking blocks A and B, with a concierge desk, coffee dock, co-working desks, a lounge, parcel lockers, a fitness area and multi-purpose rooms.
- 2.3. The proposed development includes the maintenance of the lake and the land to its north as publicly accessible open space with a pedestrian access from Lakelands Park to the east. It is also proposed that public open space would be provided to the south of the apartment blocks and in some of the spaces between the blocks. The application documents quantify the open space as follows-
- 15,001m² of public open space
 - 2,581m² of communal open space for the residents of the apartments
- 2.4. The main access to the development would be from a new signalised four arm junction with Fortfield Road and College Drive. This would lead to an internal road that would provide access to basement car parking. A total of 160 car parking spaces were shown on the plans submitted with the application. There would be 68 car parking spaces along that road, 32 be for the use of the 21 proposed houses, 17 for apartment residents, 13 for visitors to the apartments, and 6 disabled spaces. Another 88 spaces would be provided at basement, 19 for car sharing schemes and 65 dedicated to apartment residents. A site plan submitted with the first party showed an alternative basement layout with an additional 57 spaces, resulting in a total of 217 car parking spaces. There would also be a southern access from Fortfield Road providing four drop off/deliver spaces, and a new pedestrian access from Lakelands Park at the east of the overall site that would require a pedestrian bridge over a stream there.

3.0 Planning Authority Opinion

- 3.1. The planning authority and the applicant convened a meeting under section 32C of the planning act for the proposed Large-scale Residential Development on 6th April 2022. The record of that meeting is attached to the current file.
- 3.2. Further to that meeting the planning authority issued an opinion under section 32D of the act stating that the documents that had been submitted required further consideration and amendment to constitute a reasonable basis for an application for permission for Large-scale Residential Development. The documents submitted in relation to various issues did not constitute a reasonable basis on which to make an application. The cited issues can be broadly described as –

- Compliance with the Z15 zoning and the retention of institutional and community uses on the site including open space and expansion of educational uses, and the proposed café that is not open for consideration on this zoning
- The unit mix in relation to SPPR 1 of the 2020 apartment design guidelines and policies SN1 and QH6 of the development plan
- The building heights in relation to the criteria set out in the 2018 building height guidelines
- The proportion of dual aspect apartments in relation to SPPR 4 of the 2020 apartment design guidelines
- The quantity and quality of public open space where the taking in charge of the public open space is not confirmed by the council's Parks Services
- A circulation path for public open space
- Management proposals for the BTR scheme
- A boundary treatment and tree retention plan
- A community and social infrastructure audit
- An archaeological assessment
- Transportation issues including works to the public road, the southern access and pedestrian conflict there, impact on bus stops, and a letter of consent for

proposed works on public road from the city council and South Dublin County Council

The opinion also stated that the application documentation should address detailed issues including the southern access; the existing creche use; DMURS and autotracking; cycle access; car parking; traffic impact; Drainage and the Poddle overflow arrangement and taking in charge proposals. Various documents were cited that should accompany any application, including screening reports for EIA and AA and a taking in charge plan.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for two reasons –

1. The proposed development by reason of its design and layout, with particular regard to the southern ‘servicing’ access arrangement, would endanger public safety by reason of traffic hazard due to the creation of vehicular/pedestrian conflict.
2. The proposed development by reason of inadequate provision of car parking and internal loading and servicing would result in substantial overspill parking and servicing activity onto the adjoining public road network. The development is considered contrary to the Dublin City Development Section 16.38 and with regard to ‘Car Parking’ section within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020) and has not demonstrated that the location is appropriate for a significant reduction in car parking nor that adequate provision has been provided to support reduced car parking for residents, such as service, delivery, drop off, and visitors.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The report reviews the characteristics of the site and the proposed development and various national policies and provisions of the development plan. In relation to the zoning of the site, the report notes the submission with the application of a masterplan and statement that the Carmelite Order no longer require the site for educational use since the closure of the junior school on its campus. It is not clear whether the proposed development would meet the requirement for 25% public open space without including the communal open space between the apartments. The site development strategy responds well to the site constraints and opportunities, and it is accepted that the height strategy creates an appropriate transition in scale from the houses to the north and east. The site is 1km from Templeogue Village, 1.6km from Terenure Village and 6km from the city centre and is potentially well served by local community and social services as well as by public transport and can sustainably support the density of apartments proposed. The density complies with Development Plan and government policies. So the proposed development is broadly compliant with the Z15 zoning of the site.

The number of one bed units would exceed the limit of 30% in section 16.10.1 of the city development plan but this was superseded by SPPR 8 of the 2020 apartment design guidelines. It is relevant that 3-5 bedroom houses predominate in the area. The proposed height of 23.3m exceeds the limit of 16m set for this area in section 16.7 of the development plan, although exceedances are allowable under SPPR 3 of the building height guidelines. Given the need to densify the city and the sustainable location of the site with good public transport provision and within a reasonable cycling distance of the city centre and other employment centres it is reasonable to consider higher buildings. The proposed development would be 46m from the houses to the north on Greenlea Road and 41m from those on Fortfield which would mitigate its visual impact there. It is considered that the height of the proposed development can be successfully integrated into the area without undue harm to visual amenity. The proportion of dual aspect would need to be addressed in any permission.

The planning reports notes the Parks Division comments that it will not take the proposed public open space in charge and that its layout and distribution is not acceptable. The planning report states that the principle of opening up the site and providing access to the public open space and that the space south of the apartment

blocks will function well in that regard. The Parks Division has no objection to the proposed boundary treatments, removal of trees and proposed replanting

The proposals in relation to BTR amenities are satisfactory. There are serious concerns with the community and social infrastructure audit and the applicant has failed to identify whether there are any gaps in provision. Childcare facilities should be provided by condition on any permission.

The City Archaeologist concurs with the mitigation strategy set out submitted Cultural Heritage Impact Assessment.

Issues arise from the proposed development other than those raised in the council's pre-application opinion on this LRD. Other than the question of dual aspect, the proposal generally complies with the applicable standards for residential development.

The height of the proposed blocks and their separation distance from the houses on Greenlea Road and Fortfield Road are adequate to protect the privacy of those houses and avoid overbearing of them. The detailed design and external finishes proposed are acceptable.

The concerns raised in the report from the Transportation Planning Division cannot be overcome by revisions that could be required by condition and it is strongly recommended that permission be refused for the reasons it cites.

The site is in flood zone C and the council's Drainage Division has no objection to the proposed development.

The applicant has submitted the information set out in Schedule 7 to the planning regulations and, having regard to the criteria set out in Schedule 7A, the planning authority has screened the proposed development and determined that it would not be likely to have significant effects on the environment.

The AA screening report and NIS submitted by the applicant are noted. It is concluded after a stage 2 appropriate assessment that the proposed development, either individually or in combination with any other plan or project, would not adversely affect the integrity of the South Dublin Bay SAC IE0000210, the North Dublin Bay SAC IE0000206, the South Dublin Bay and River Tolka Estuary SPA IE0004024 or the North Bull Island IE004006 having regard to the Best Practice

Construction Management outlined in the Construction Environment Management Plan submitted with the application.

It was recommended that permission be refused for the reasons set out in the report from the Transportation Planning Division, and reflected in the decision of the planning authority on the application.

4.2.2. Other Technical Reports

Transportation Planning Division

The reports notes that it is proposed to provide a signalized junction at the main (northern) entrance to the scheme as part of a four arm junction with College Road. There are concerns with the removal of the existing pedestrian crossing which is on the desire line. The submitted circulation plan does not address cycle permeability in the development. There are serious concerns with the secondary (southern) access including the privatisation of lands in the control of the council; its use; the priority that it would accord to vehicular movement twice across the line of the existing footpath; and the role it would play in providing a drop off zone for the school. The rationale for the second access is unclear and it would be contrary to the NTA's policy to restrict new accesses along bus routes. The provision of direct vehicular access to Fortfield Road from one of the proposed houses is unacceptable. The access to the basement car park is too wide. There is no turning facility for refuse vehicles on the main internal road. The site is in Area 3 on Map J of the development plan where the maximum car parking rate is 1.5 per dwelling. 32 spaces are proposed for the 21 houses and 124 for the 363 apartments, so 0.29 spaces per unit. This is a significant underprovision that is not justified in the application documents. Nor is the provision of 19 car sharing spaces. Overspill parking is therefore a concern, especially on Fortfield Road. It has not been shown that the area is suitable for reduced parking in line with the apartment design guidelines for accessible sites having regard to its proximity to public transport services and employment centres. The 2016 census indicated that 11-18% of households in this area did not have a car. Residents in Block A and D would not have direct access to the basement parking. The proposed permit system indicates that demand for parking will exceed supply. The cycle parking should be reviewed to provide more spaces for residents. It is not clear that BusConnects proposals have been considered in the design of the

proposed traffic impact assessment. It is recommended that permission be refused on the basis of the deficiencies in the southern access and car parking provision.

Parks, Biodiversity and Landscape Services

The distribution and layout of public open space is not accepted as it should not be located between apartment blocks to protect residents' privacy. The public open space will not be taken in charge and the management company or its agents will be responsible for all the spaces. The Z15 zoning would require 8,827m² of public open space. The amount of the public open space provision is likely to be compliant even with the exclusion of inappropriate parts of it. the proposals fail to provide full public access around the lake. Notwithstanding these concerns, conditions are provided to be attached to any grant of permission.

The Drainage Division states no objection to the proposed development subject to conditions

The City Archaeologist notes that the site is on the zone of potential for the recorded monument DU022-095 that refers to a former castle on the college grounds. The report recommended that conditions be attached requiring archaeological assessment of the site in line with the strategy proposed in the application documents.

4.3. Prescribed Bodies

None received

4.4. Third Party Observations

Submissions to the planning authority on the application raised issues similar to those raised in the subsequent third party appeal and observations to the board.

5.0 Planning History

5.1. There have been no relevant previous planning applications on the site.

6.0 Policy Context

6.1. National Policy

- 6.1.1. The National Planning Framework 2040 includes objective NPO11 to favour development that can encourage more people to live or work in existing settlements; NPO13 which is that planning standards in urban areas should be based on performance criteria; NPO 27 which is to ensure the integration of safe and convenient alternatives to the car into the design of communities; NPO 35 to increase residential density in settlements, including increased building heights; NPO 54 to reduce our carbon footprint by integrating climate action into the planning system; and NPO 64 to improve air quality through supporting public transport, cycling and walking as more favourable modes of transport than the private car.
- 6.1.2. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009, states at section 5.10 that in the development of institutional land it should be an objective to retain some of the open character of the lands, that average net densities of at least 35-50 dph should prevail with higher densities in some parts (say up to 70dph) in selected parts to help maintain the land's open character.
- 6.1.3. The Guidelines for Planning Authorities on Urban Development and Building Heights, 2018, include a statement that it is Government policy to support increased building height and density in locations with good public transport accessibility in SPPR1. Section 3.2 sets out criteria at the scale of the city/town, district/neighbourhood/street, and site/building for development proposals to satisfy after which permission may be granted even in contravention of a limit in a development plan under SPPR3 of those guidelines.
- 6.1.4. The Guidelines for Planning Authorities on the Design Standards for New Apartments were issued in December 2022. Section 2.4 describes central/accessible urban locations as including sites within easy walking distance 400m-500m of high frequency (10 minute per hour) bus services which are generally suitable for higher density development; and intermediate urban locations which are suitable for smaller scale higher density developments that may wholly comprise apartments generally above 45 dph. Section 4.21 says that in central/accessible

locations the default policy is for car parking provision to be minimised, substantially reduced or eliminated in certain circumstances, while section 4.23 states that in intermediate urban locations a reduced overall car parking standard must be considered. Section 5 refers to Build to Rent schemes, with section 5.7 stating that they have an important role in increasing housing supply and supporting compact growth in urban centres. It omits the relaxation in standards that previously applied to such schemes in the 2020 guidelines. However the minister issued a Circular Letter NRUP 07/2022 at the same time as the guidelines stating that SPPR7 and SPPR8 of the 2020 apartment design guidelines would continue to apply to applications that had already been lodged which includes the current application. SPPR7 requires that they include proposals for resident support facilities and amenities. SPPR 8 varies requirements that would otherwise apply to such scheme, in particular section (iii) says that they shall be a default of minimal or significantly reduced car parking on the bases of them being more suitable for central/accessible locations and having a central management regime.

6.1.5. The Guidelines for Planning Authorities on Flood Risk Management issued in 2009 sets out three flood risk zones – Zone A, where there is a high probability of flooding; Zone B where there is a moderate probability of flooding and Zone C where there is a low probability. Residential development is categorised as a highly vulnerable form of development which is usually appropriate only in Zone C. It may be justified in other zones following test for plan making and development management set out in box 4.1 and box 5.1 of the guidelines. The latter test requires that the land has been zoned for the particular use and has been subjected to an appropriate flood risk assessment.

6.1.6. The Departments of Education and the Environment and Local Government issued a Code of Practice on the Provision of Schools and the Planning System in 2008. It states that the Department of Education will consult with planning authorities at an early stage of plan preparation regarding the approach to schools provision an in assessing specific land requirements for schools and the suitability of particular sites.

6.2. Development Plan

6.2.1. The Dublin City Development Plan 2022-2028 came in to force on 8th December 2022 and is the development plan applicable to this application and appeal. The

lake on the site is zoned under objective Z11 'To protect and improve canal, coastal and river amenities'. The rest of the site is zoned for Community and Social Infrastructure under objective Z15 'To protect and provide for community uses and social infrastructure.' Residential use is open for consideration in this zone but only in exceptional circumstances. Section 14.7.14 expands on what those circumstances are. Terenure College would remain in operation if the development were carried out, so paragraph A of that section applies. It sets out that limited residential development will only be allowed in highly exceptional circumstances where it can be demonstrated that the proposed development is required to maintain or enhance the operational viability of the primary institutional/social/community use on the lands adhering to the criteria that –

- The future needs of the existing use would not be compromised
- The development is subordinate in scale to the primary use
- Consultation with appropriate stakeholders, in this case the Department of Education
- The development must not compromise the open character of the site
- A business plan is required to show how the existing institution would be retained
- There shall be a letter of consent from the landholder.

6.2.2. A masterplan is also required to set out the vision for the land showing a minimum of 25% of the overall development site/ lands are retained for open space or community/institutional facilities. The 25% public open space should not split up unless site characteristics dictate otherwise. Where an existing sports pitch is subject to redevelopment commensurate sporting infrastructure will be required to be provided and retained for community use where appropriate.

6.2.3. Policy GI49 is to protect existing and established sport and recreation facilities including pitches unless there is clear evidence that there is no long term need for the facility unless the loss would be replaced.

6.2.4. Policy SMT1 is to continue to promote modal shift from the private car towards more sustainable forms of transport.

- 6.2.5. Policy QHSN40 states a presumption against build to rent residential developments of more than 100 units unless 60% of the apartments are designed as standard apartments.
- 6.2.6. Appendix 3 of the plan sets out a height strategy. Table 1 sets out a density ranges that will be supported. For the outer suburbs of the council's area, which would include the current site, that range is 60-120 dph. The indicative plot ratio and site coverage standards for this area in Table 2 are 1.0-2.5 and 45-60% respectively. The appendix identifies certain areas for increased height and density. They do not include the current site. In relation to height in the outer suburbs, the appendix states that heights of 3 to 4 storeys will be promoted as a minimum, with greater heights considered on a case by case basis. Criteria for increased height are set out in Table 3 under 10 headings and 46 individual criteria which set out general principles of good urban design and town planning.
- 6.2.7. Appendix 5 of the plan sets out requirement for car parking. The site is in zone 3 where a maximum standard of 1 space per dwelling is set. Section 2.5 of the appendix says that car parking ratios for new developments are dependent of a number of factors including active travel infrastructure and public transport corridors. A rationale for car parking should be provided including an analysis of census data of car ownership level by occupiers of a similar development in the local electoral area.
- 6.2.8. Volume 7 of the plan is a strategic flood risk assessment. Part of the appeal site on which housing is proposed is identified as being in flood risk zone B, the rest is in zone C. Section 7.2.5.1 of that part of the plan states that it is not appropriate for highly vulnerable development (such as housing) to be located on greenfield land in flood zones A or B.
- 6.2.9. The board should note that application, appeals and submissions in this case were made when the 2016-2022 city development plan was in place. The zoning of the site has not significantly changed in the new plan. The Z15 zoning of most of the site under the old plan was also for community and institutional uses with an allowance for residential development in particular circumstances that were similar to the exceptional circumstances that allow for residential use under the Z15 zoning in the current plan. The previous plan also set maximum car parking levels in this area, albeit at a rate of 1.5 per dwelling as opposed to 1 in the current plan. However the

guidance on density and height in appendix 3 of the current plan is significantly different from that in the old plan which placed a general height limit of 16m in this area and did not specify a range of densities as the current plan does. The identification of part of the site as being in Flood Risk Zone B did not appear in the previous development plan.

6.3. Natural Heritage Designations

None

7.0 The Appeal

7.1. Grounds of First Party Appeal

The grounds of the first party appeal by the applicant can be summarised as follows-

- The site comprises 47,747m² of land. The proposed housing would be on the 26,434m² of former playing pitches which can be described as 'development land'. These pitches were previously used in conjunction with a junior school attached to Terenure College that closed in 2018. The site also includes another 15,160m² on and around the lake that will be provided as recreational land accessible to the public. Both those pieces of the site are in private ownership. Another 2,026m² consists of land in charge of Dublin City Council and South Dublin County Council where an upgraded access junction will be provided, for which letters of consent from the councils are attached. Another 126m² of land is included in the eastern part of the site to allow access to Lakelands Park.
- The site is within 500m of buses stop 1159 on the Templeogue Road which has high frequency bus services on routes 15, 49, 65 and 65B. The site is also served by route 54a along the Fortfield Road. It is within 15 minutes' walk of the Kimmage Industrial Estate and is 1km from the services at Terenure Village and 900m of those at Templeogue. The site is 4.2km from a LUAS stop and there is a reference to Aircoach services. The site is therefore in a central/accessible under the apartment design guidelines and building height guidelines.

- In relation to reason no. 1 of the council's decision, the applicant contends that the proposed southern access would not endanger public safety by reason or represent a traffic hazard due to pedestrian/vehicular conflict. Its design was developed after feedback from the Transportation Division of the council, replacing a one-way lay-by with accesses at both ends with a loop with a single access. A proper road safety audit was carried out which recommended that pedestrian movement along the footpath would have priority over the access and that its use be restricted. Details demonstrating adequate visibility and turning space there have been submitted.
- The second access is justified. It would allow for deliveries at the entrance to the apartment scheme where the concierge will be located. A vehicular gate already exists at this location. The second access would avoid a concentration of traffic at the main, northern access. It would result in only two accesses to the development 100m apart, with the relocation of an existing pedestrian crossing and bus stop. This would not be inappropriate along a bus route and similar arrangements have been authorised for other development in similar circumstances.
- In relation to reason no. 2 of the council's decision, the applicant contends that adequate car parking would be provided for the proposed development. The proposal seeks to limit the parking available in accordance with national planning policy to reduce dependency on travel by private car, as set out in objectives NPO13, 27, 54 and 64 of the National Planning Framework, as well as SPPR8 and sections 4.19-21 of the apartment design guidelines. The proposed development would provide 1.5 car parking spaces for each house and 0.34 spaces per apartment (a total of 32 and 124 car parking spaces respectively). The allocation of 0.34 spaces per BTR apartment is equivalent to that permitted in other similar schemes. If the board considered it necessary, the footprint of the basement could be increased to provide an additional 57 spaces for the apartments, which would be 0.49 spaces per unit. This would not affect the traffic impact assessment carried out by the applicant which was based on the number of apartments rather than car parking spaces. A revised flood impact assessment could be required by condition. So a refusal on the basis of parking provision is not justified.

- With regard to other comments in the report from the council's Transportation Department, autotrack drawings are submitted showing proper turning facilities for refuse trucks and fire tenders along the northern access road. Two additional delivery spaces could be provided along that road if required. The bin storage closest to the main access can be moved. The width of the access to the basement car park can be reduced. The allocation of parking spaces can be tied to a tenant's lease to avoid residents losing a spot.
- With regard to other comments in the council planer's report, it is noted that the report deemed that adequate lands would remain after the development for any expansion of the existing college; that sufficient open space would remain; that the height and density of the proposed development were appropriate; and that the location was suitable for Build to Rent. The public open space proposed between the blocks would flow naturally from that set out to their south. Nevertheless, even if the former were changed to communal open space the remaining public open space would amount to 12,563m² which would be more than the 25% public open space required by the Z15 zoning. The absence of childcare facilities in the proposed development is justified by section 4.7 of the apartment design guidelines saying that in certain circumstances two-bedroom units can be excluded from the calculation of childcare required under the 2001 guidelines. Build to rent apartments are less likely to be occupied by children. The proposed staggered design provides true dual aspect apartments. The submitted daylight and sunlight analysis is based on the worst case scenario of lower level apartments. It is industry practice to deduce that apartments on higher floors would perform better.

7.2. Grounds of Third Party Appeal

The grounds of the third party appeal by the Terenure West Residents' Association can be summarised as follows -

- The third party supports the reasons for which the council refused permission. However there are other grounds on which it should have been refused. The opinion issued by the council prior to the application must not constrain a full

consideration of all the issues raised by the proposed development including those raised by internal reports by sections of the council.

- The height of the proposed development is excessive. It materially contravenes the limit of 16m in this area set down in section 16.7 of the city development plan. It would not be keeping with the character of the area and would fail to properly integrate with the surrounding development, in particular due to the height of the proposed buildings near the boundaries with neighbouring housing to the north and west in terms of overbearing and overlooking. The submitted photomontages do not accurately depict the visual impact that the proposed development would have.
- The proposed development would materially contravene the Z15 zoning objective of the site because it would not maintain the open character of the lands with 25% open space in line with section 14.8.14 of the city development plan. That provision says that the required open space should not normally be split up. Of the open space in the proposal, only the area of 4,600m² to the south of the apartment blocks would constitute the necessary provision of open space which is only 10% of the site area. The rest of the proposed open space would be for the use of the residents of the proposed apartments rather than public open space. This contravention of the zoning would not be justified by SPPR 3 of the building height guidelines.
- The proposed development would result in traffic congestion and traffic hazard on the road network in the area and as such would seriously injure the residential amenity of the appellants, as the amount of proposed car parking is insufficient for the amount of proposed housing and so lead to haphazard parking along streets in the area. This would also hinder bicycle use on the road network. The 2018 Building Height Guidelines promote higher density development but only with due regard to the capacity of the public transport network in the area. No detailed assessment of that capacity has been submitted. The proposed apartments would be more than 500m from the nearest bus stops with a high frequency service. The services at those stops on the Templeogue Road do not have sufficient capacity to accommodate increased patronage. As stated by the High Court in the Ballyboden Tidy Towns case, the capacity and frequency are separate issues to be

determined in the application of the relevant criteria in the building height guidelines. The provision of excessive housing as currently proposed where the bus services are inadequate would lead to increased car dependency.

- The development would not provide proper access to the proposed open space around the lake. The path to the lake is not included in the development, and that around it cannot properly accommodate cycling.
- The appellants confirm that the site is liable to flooding and the conclusions of the submitted site specific flood risk assessment are there open to question.
- The submitted ecological impact assessment is questionable. The appellants confirm that the site is used by foraging by Brent Geese, which are a qualifying interest for Special Protection Areas. The lack of reliable information on this topic would preclude a grant of permission.
- There is an over-concentration of Build to Rent schemes in the area. The proposed development would therefore lead to undue pressure on local services, including public transport. It would also prohibit downsizing by local residents in line with policies QH 13 and QH 14 of the development plan.
- The appellants submission to the council was appended to the appeal. It raised similar concerns to those raised in the appeal. It also stated that the application was invalid as an area of South Dublin County was included within the application boundary; that the lands were not vacant but had an established use for recreation; that the local cycle infrastructure was poor; and that there would be direct overlooking from balconies and terraces to housing to the north.

7.3. Planning Authority Response

- 7.3.1. The planning authority requests that the board uphold its decision. If it intends to grant permission, conditions should be attached requiring a contribution under the section 48 scheme and in lieu of open space, the lodgement of a bond and for social housing.

7.4. Observations

- 7.4.1. 32 observations were submitted on the appeals.
- 7.4.2. The observation from the Department of Education notes that the Z15 zoning of the site provides for community and institutional uses, of which education is one. The Z15 zoning supports greatly the department's ability on present and future school requirements. The population of Dublin is projected to grow and there is a limited and diminishing supply of appropriately zoned land to meet the educational needs of that population and the department has made a submission accordingly to the council in its review of the development plan. The current proposal for residential development is not aligned with the land use to which the Z15 zoning applies and so the department is of the opinion that the board should grant the first party appeal on the grounds that the current zoning should determine the future use of the land.
- 7.4.3. The observation from the Terenure College Rugby Club stated that the proposed development would improve access to and supervision and passive surveillance of its playing pitches, and provide a source of new members, so it welcomed the proposed development.
- 7.4.4. The other submissions objected to the proposed development on various grounds most of which raised in the third party appeal. They can be summarised as follows-
- The proposed development materially contravenes the Z15 zoning because it fails to provide 25% public open space in a single coherent form. It would be inappropriate for open space around the lake that is a public amenity to be in the control of a private management company. The proposed development would also materially contravene the zoning because it would lead to the loss of lands in established recreational use, and it has not been demonstrated that they are not needed for education. The proposed 'coffee dock' is essentially a café which would be contrary to the Z15 use zoning objective.
 - The height and density of the proposed development is excessive. It would injure the established character of the area. It would seriously injure the residential amenities of property in the vicinity due to overbearance, overlooking and overshadowing. The balconies and roof terraces would injure

the privacy of residential properties and give rise to child protection concerns in relation not the adjacent school and playing pitches.

- The proposed development would exacerbate flood risk on the area. The college lands are crossed by an overflow channel from the Poddle to the lake on the site. The proposed development would be therefore be premature pending the completion of the Poddle Flood Alleviation Scheme that is currently the subject of an application before the board, otherwise it would exacerbate flood risk downstream along the Poddle. The site is prone to flooding, as is illustrated by photographs, reflecting the permeability of the soil on the site. The flood risk assessment proposed for the new city development plan (based on information provided for the Poddle Flood Alleviation Scheme) indicates that central parts of the site are in flood risk zone B. The proposed development would not meet the justification test for the location of vulnerable development in this flood risk zone, as is now proposed, because it has not been established that it would not lead to an increased risk of flooding elsewhere. A technical critique of the site specific flood risk assessment submitted with the application was submitted by Claire Byrne which concludes that the site may be crucial to flood risk management in the area and may also be prone to groundwater flooding.
- The submission from the Records Residents Association states that the foul sewerage in the area, which for the older streets is a combined storm and foul drainage network, is inadequate to cater for the effluent and provides details of numerous event of overflow and backflow from the system on both public streets and to private houses, as well as overtopping of the Poddle.
- The proposed build to rent model is not suitable for the area, as it would place under pressure on local community services, including schools, childcare facilities and medical practices, which are already oversubscribed. It would lead to a overconcentration of such schemes in the area and a transient population. It would not facilitate older residents there who wish to downsize. SPPR 8 of the apartment design guidelines is constitutionally questionable. The unit mix is also inappropriate as there is no evidence of a lack of one- and two-bedroom units in the area.

- The apartment scheme at Fortfield Square has a better balance of units, tenure and facilities than the current proposal, as well as lower heights and better setbacks from the street and neighbouring properties, so it does not provide a suitable precedent.
- The proposed development would cause traffic congestion and traffic hazard and would lead to further on-street parking that was a nuisance to residents. The submitted traffic modelling was inadequate. It did not take account of the increased traffic that would arise from the bus gate at Terenure proposed under BusConnects, nor the proposal to reduce the number of peak time services along the Templeogue Road from 30 to 21. The location of the site and the limited capacity of the public transport there means that most of its residents would need a car and the proposed provision of parking is therefore inadequate. The KCR business estate is not a major employment centre.
- The lake and its vicinity contain protected bat and newt species. The proposed development would threaten them, and the ecological impact assessment that has been submitted is inadequate. The lake has not been properly maintained to avoid silting and it would not be appropriate for it to be. The site is used by Brent Geese and the surveys submitted in this regard are insufficient to substantiate a conclusion that the proposed development would not adversely affect the SPAs for which that species is a qualifying interest.
- The residents of Lakeland Park have adverse possession of the boundary fence that they built between their properties and the site. The proposed pedestrian access to Lakelands Park would lead to anti-social behaviour and nuisance to those residents and should be omitted. There was no proper consultation with residents on this issue.
- The proposal relocation of a bus stop would cause a nuisance to the residential of the adjacent houses.
- The buildings should have brick finishes on all elevations to reflect those on the college.
- Part of the site is in South Dublin County and so the application is invalid.

- Section 28C of the planning act is unconstitutional and the ministerial guidelines issued under it have not been subject to SEA so the material contravention of the development plan provisos on density, mix, open space, height, parking, childcare, Architectural Conservation Area, Urban Framework Plans and objectives G123 and G124 of the 2016 development plan are not justified.
- The submitted EIAR and EIA screening and AA screening was inadequate.

7.5. Further Responses

7.5.1. The third party submitted a response to the first party appeal that can be summarised as follows-

- The first party appeal has not addressed the concerns set out in the report from the council's Transportation Division. The parking remains inadequate. This is an intermediate urban location rather than a central or accessible one where such a low parking provision would be justified under the building height guidelines or SPPR8 of the apartment design guidelines. 70% of residents of the proposed development would lack access to parking. No parking has been provided in the curtilage of the westernmost proposed house and there would be no direct access from Blocks A or D. The capacity of the public transport services in the area to accommodate the proposed development has not been demonstrated. The site is more than 1km to the services in Terenure and 900m to those in Templeogue. The site is not served by Aircoach. The cycle infrastructure in the area is inadequate. Conversely the provision of more car parking on the site would have an unacceptable impact on traffic congestion in the area, so high density residential development in the area would be premature until the public transport services are improved.
- The submitted Road Safety Audit is inadequate. The proposed drop off point would give rise to traffic hazard. It does not meet DMURS standards. It would be likely to be used to leave pupils to the adjacent schools and which would exacerbate its impact on traffic safety and congestion.

- The enlarged basement proposed in the first party appeal would have implications for drainage and flood risk that have not been properly assessed.
- Other grounds for objection to the development similar to those set out in the third party appeal are cited.

8.0 Screening

8.1. Environmental Impact Assessment

8.2. This application was submitted to the Board after the 1st of September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

8.3. Item 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 EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- 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 is defined as ‘a district within a city or town in which the predominant land use is retail or commercial use’.

8.4. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: “Any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.”

8.5. The proposed development is for a residential scheme of 385 dwelling units and is not within a business district, on a stated development site area of 4.8ha. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 as amended, in that it is less than 500

units and is below the 10 hectares (that would be the applicable threshold for this site, being outside a business district but within an urban area).

8.6. The application was accompanied by an EIA Screening Report which includes the information set out in Schedule 7A to the Planning and Development Regulations 2001 as amended and I have had regard to same. The report states that the development is below the thresholds for mandatory EIAR having regard to Schedule 5 of the Planning and Development Regulations 2001, due to the site size, number of residential units (385) and the concludes that the proposal is unlikely to give rise to significant environment effects, so an EIAR is not required.

8.7. I have completed an EIA screening assessment as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment, at construction and operational stages of the development, 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. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

8.8. **Appropriate Assessment**

8.8.1. A description of the proposed development is given at section 2 of this report. The appeal site is not in or immediately adjacent to any Natura 2000 site. Surface water drainage from the site and from the proposed development would flow to Dublin Bay via the Dodder to Dublin Bay where there are designated sites within 5.8km of the appeal site. The sites there and their qualifying interests are as follows –

- South Dublin Bay Special Area of Conservation 000210, the qualifying interests for which are –

Mudflats and sandflats not covered by seawater at low tide [1140]

Annual vegetation of drift lines [1210]

Salicornia and other annuals colonising mud and sand [1310]

Embryonic shifting dunes [2110]

The conservation objectives for the site are to maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide [1140]

- The North Dublin Bay Special Area of Conservation 000206. The qualifying interests for this site are –

Mudflats and sandflats not covered by seawater at low tide [1140]

Annual vegetation of drift lines [1210]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Embryonic shifting dunes [2110]

Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]

Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]

Humid dune slacks [2190]

Petalophyllum ralfsii (Petalwort) [1395]

The conservation objectives for this site are to maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide 1140, Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) 1330, Mediterranean salt meadows (*Juncetalia maritimi*) 1410 and *Petalophyllum ralfsii* (Petalwort) [1395] ; and to restore the favourable conservation condition of Annual vegetation of drift lines 1210, *Salicornia* and other annuals colonising mud and sand 1310, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) 2120, Fixed coastal dunes with herbaceous vegetation (grey dunes) 2130, and Humid dune slacks 2190.

- South Dublin Bay and River Tolka Estuary Special Protection Area 004024

The qualifying interests for this site are –

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Oystercatcher (*Haematopus ostralegus*) [A130]

Ringed Plover (*Charadrius hiaticula*) [A137]

Grey Plover (*Pluvialis squatarola*) [A141]

Knot (*Calidris canutus*) [A143]

Sanderling (*Calidris alba*) [A144]

Dunlin (*Calidris alpina*) [A149]

Bar-tailed Godwit (*Limosa lapponica*) [A157]

Redshank (*Tringa totanus*) [A162]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Roseate Tern (*Sterna dougallii*) [A192]

Common Tern (*Sterna hirundo*) [A193]

Arctic Tern (*Sterna paradisaea*) [A194]

Wetland and Waterbirds [A999]

The conservation objectives for the site do not refer to the Grey Plover A141.

Otherwise the objectives are to maintain the favourable conservation condition of the species and habitat that are qualifying interests for the site.

- The North Bull Island Special Protection Area 004006. The qualifying interests for this site are

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Shelduck (*Tadorna tadorna*) [A048]

Teal (*Anas crecca*) [A052]

Pintail (*Anas acuta*) [A054]

Shoveler (*Anas clypeata*) [A056]

Oystercatcher (*Haematopus ostralegus*) [A130]

Golden Plover (*Pluvialis apricaria*) [A140]

Grey Plover (*Pluvialis squatarola*) [A141]

Knot (*Calidris canutus*) [A143]

Sanderling (*Calidris alba*) [A144]

Dunlin (*Calidris alpina*) [A149]

Black-tailed Godwit (*Limosa limosa*) [A156]

Bar-tailed Godwit (*Limosa lapponica*) [A157]

Curlew (*Numenius arquata*) [A160]

Redshank (*Tringa totanus*) [A162]

Turnstone (*Arenaria interpres*) [A169]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Wetland and Waterbirds [A999]

The conservation objectives are to maintain the favourable conservation condition of the species and habitat that are qualifying interests for the site.

- 8.8.2. The application was accompanied by a screening report which stated that the proposed development would not have the potential to have an effect on any other Natura 2000 sites. Given the separation distance from those sites and the lack of ecological connection, this conclusion is accepted.
- 8.8.3. Submissions on the application and appeal stated that the proposed development would have the potential to have significant effects on Natura 2000 sites due to the use of the appeal site by species which are the subject of conservation objectives of the former, with particular reference to Brent Geese. The applicant's screening report provides the results of winter bird surveys over 8 days in February and March 2022, which indicate that the appeal site was not used by Brent Geese or wading birds that could be part of the populations protected at the SPAs at Bull Island. Given the separation of more than 5km from those SPAs, the conclusions of the AA screening report it is not likely that the appeal site provides significant ex situ habitat to support the protected species of the SPAs is accepted, when account is taken of the information on the file including the reports in the submissions of sightings of Brent Geese there. Furthermore, given this context and the relative scale of the c2.6ha of playing fields to that would be changed to residential land, compared to the

amount of similar land closer to the SPAs, it is evident that in the proposed development would not be likely to have significant effects on the qualifying interests or the conservation objectives of the relevant SPAs. No reasonable scientific basis exists for a conclusion to the contrary.

- 8.8.4. The applicant's screening report concludes that the hydrological connection between the site and Dublin Bay means that the proposed development is likely to have significant effects on the SACs and SPAs there due to the potential for surface water runoff during construction and operation of the proposed development, and recommends that this be the subject of a Natura Impact Statement on a precautionary basis. This conclusion is not accepted. The proposed development involves works to convert c2.6ha of ground from grassed playing pitches to a residential development, with another c1.5ha of the site remaining largely in its current condition. The scale and nature of the proposed works, as residential development across c2.6ha, and their hydrological separation distance from the Natura 2000 sites in Dublin Bay, which would be greater than the direct separation distance of over 5.5km, and the fact that the habitats in Dublin Bay are themselves ones of deposition, make it evident that the proposed development would not be likely to have significant effects on the Natura 2000 sites in this manner. This would be the case whether or not any particular mitigation measures on the matter were put in place. It is therefore concluded that the proposed development would not be likely to have significant effects on the Natura 2000 sites in Dublin Bay, ie the SACs at South Dublin Bay 000210 and North Dublin Bay 000206, the SPAs at South Dublin Bay and River Tolka Estuary 004024 and North Bull Island 004006, or on any other Natura 2000 site. The contrary conclusions in the submitted AA screening report do not have a reasonable scientific basis. In this regard it is noted that the Natura Impact Statement submitted with the application sets out as what it terms to be "mitigation measures" a series of management techniques that are entirely standard for construction works – such as silt traps, bunded areas for fuel and hydrocarbons, stockpiling of soil away from watercourses and dust suppression – and are in no way specific to the location and circumstances of the actual appeal site or its relationship with any Natura 2000 site and concludes, on the basis of these standard practices alone, that the proposed development would not adversely affect the conservation objectives of the SACs and SPAs in Dublin Bay.

- 8.8.5. The proposed development is not dependent or connected to any other development. Other developments in the vicinity of the site are subject to the terms of the development plan which was itself the subject of appropriate assessment. It is therefore concluded that the proposed development would not in cumulation with other plans or projects, be likely to have significant effects on any Natura 2000 site.

Conclusion

- 8.8.6. 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, it has been 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 European Sites Nos 000206 North Dublin Bay SAC, 000210 South Dublin Bay SAC, 004004 North Bull Island SPA, 004024 South Dublin Bay and River Tolka Estuary SPA, or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

- The location of the proposed development more than 5km from the European sites
- The scale of the proposed development involving a change in the condition of less than 2.7ha of the site from open space to developed land
- The nature of the proposed development as housing

This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

9.0 Assessment

- 9.1. The planning issues arising from the submitted development can be addressed under the following headings-
- Policy
 - The scale of the proposed development
 - Impact on the character of the area

- Impact on the amenities of property in the vicinity
- The standard of residential amenity for occupants
- Access and parking
- Drainage
- Ecology

9.2. Policy

- 9.2.1. The council's reasons for refusing permission did not state that the development would materially contravene the provisions of the city development plan, so the procedures set out in section 37(2)(b) of the planning act do not apply. However this does not alter the status of the provisions of the development plan being material considerations for the application and appeals under 34(2)(a)(i) of the act. It is also noted that the decision of the planning authority and the appeals and submission were made when the 2016 city development plan was in place. The current city development plan came in to force on 8th December 2022.
- 9.2.2. The site is zoned for institutional and community uses under objective Z15 of the development plan. Residential development is not such a use. Nor is it stated to be a permissible one in the zoning matrix in the development plan. Rather it is a use that is open for consideration in highly exceptional circumstances as elaborated on in Section 14.7.14 of the plan. It indicates that there shall be consultation with the owner of the existing institutional use and, in the case of schools, with the Department of Education to determine whether there remains a need for such community use. In this case the application is accompanied by a statement from the religious order that owns the site and the operates Terenure College stating that it no longer uses the site as playing fields associated with the junior school since that school closed in 2018, and that adequate lands would remain after the proposed development to cater for any required expansion of the college. Conversely the Department of Education has submitted that the proposed development would impair the ability to plan for the schools that may be needed in Dublin based on the zoning of land under the Z15 objective.

9.2.3. In these circumstances I would advise the board that it has not been demonstrated that the site is no longer required for community and institutional uses. While the previous use of the site for such purposes has ceased, it remains the established use in planning terms. The proposed development involves a material change in the established use of the land that has to be in accordance with the proper planning and sustainable development of the area for a grant of permission to be considered. The development plan's zoning of the site under objective Z15 establishes community and institutional as the primary use on the site and that it should remain in such use unless certain exceptional circumstances are shown to apply. The stated view of the site's owners that the lands will not be needed for such uses is highly significant and persuasive in this regard. However it cannot determine the matter, as it is the planning authority's duty to make plans for the city and the various uses of the land within it and this duty should not be delegated to a private corporation, even one with a long history in the provision of community and educational services. The Code of Practice issued by the minister and the minister of Education in 2008 recognises the role of the Department of Education in planning for schools provision so its submission on the current application is also pertinent in this regard. That submission also states a general policy that the role of Z15 zoned lands in Dublin as a resource for the location of schools should be protected, which may be regarded as a statement of policy by another minister of the government which in itself a material consideration under section 37(2)(a)(iv) of the act. It is therefore concluded that the circumstances in which residential development may be considered on this site do not apply and that the proposed development would contravene its Z15 zoning.

9.2.4. The planning authority did not cite the zoning of the site or the need to keep the lands available for educational use in its reasons for refusal. The third party appeal did not directly address the matter, although it stated that the removal of recreational use and the form of the proposed development contravened the Z15 zoning. However the issue was raised in the opinion that the planning authority issued under section 32D of the planning act and the applicant addressed this issue in the documents submitted with the application. As the matter was therefore raised by parties to the appeal, I do not consider it to be a new issue under section 137 of the act. The new development plan adopted by the city council since the lodgement of

the appeals did not change the zoning of the site, nor did it alter the circumstances in which residential development might be permitted in the Z15 zone in a manner that would affect my conclusions that the proposed development would be a material contravention of that zoning.

- 9.2.5. The third party appeal against the planning authority's decision and many of the observations on the appeal argue that the proposed development fails to comply with other requirements of section 14.8.4 of the 2016 city development plan as it is not based on a masterplan that maintains the generally open character of the lands with 25% open space that shall not be split up. The same requirements are re-stated in a slightly altered wording in the current city development plan. I do not agree with these arguments and prefer to position of the applicant and the planning authority on the matter. The application was accompanied by a masterplan for the Z15 lands. The proposed development would maintain open space on at least 25% of the site itself even if the Z11 zoned land at the lake at the spaces between the apartment blocks were converted to communal open space as recommended by the council's Parks Division. That space would have a coherent and useable shape. It would be accessible from both ends and would not be split up. If the Z15 lands at this location are considered as a whole, far more than 25% would remain as open space or in community use. I would concur with the reservations expressed in some of the observations that the role of that space as genuinely public open space would be rendered more difficult to maintain if it were not taken in charge by the council and was left in the custody of the management company of a private apartment scheme. However it is not clear whether a decision on a planning application could oblige the council to take what it regards as public open space in charge, notwithstanding section 180 of the planning act, so it would not be reasonable to refuse permission for the proposed residential development on this issue.

9.3. The scale of the proposed development

- 9.3.1. Were housing to be considered acceptable on the site, the appropriate amount under planning policy would depend upon the type of area it is considered to be in. Under the 2009 sustainable urban housing guidelines it would be on institutional lands as described at section 5.10, which states that average net densities of 35-50 dph should prevail, with densities of "say" up to 70 dph on parts of the site if other parts

are used to retain the open character of the lands. The proposed development would have a density of c81 dph if the entire site is considered, or 146 dph if the calculation is based on the former playing pitches and excludes the land that would be retained as public open space. These densities are substantially higher than those recommended for such land in the 2009 guidelines.

- 9.3.2. The applicant has submitted that the site should be regarded as in an accessible urban location under section 2.4 1 of the 2020 guidelines on apartment design (the same categories are set out in the 2022 guidelines). However I do not agree with this categorization. The site is not within walking distance of any principal city centre, major employment location or high capacity public transport route. There is a bus stop on the Templeogue Road about 5 minutes' walk from the site that has services that provide 9 buses per hour during peak periods, but I do not consider that this is sufficient to regard the site as being particularly accessible. The site is in an established suburban area, close to local services and with a moderate level of public transport provision based on bus services that run along a road without much priority for them. There are proposals for some additional bus priority measures along the Templeogue Road under the BusConnects project, but this would not have continuous 2-way bus lanes and an application for permission for the plans along this road has not been made. I would therefore regard it as an intermediate urban location under section 2.4 of the 2022 guidelines. The guidelines state that these areas are generally suitable for smaller scale, higher density development broadly above 45 dph. The proposed development is well above that level.
- 9.3.3. Table 1 of appendix 3 to the city development plan indicates that in the outer suburbs, such as the area within which the site lies, densities of 60-120dph will be supported. Net densities are generally calculated without including public open spaces serving wider areas, so the relevant density for the proposed development would be 146dph.
- 9.3.4. The density of the proposed scheme is therefore above the ranges for this type of area set out in the 2009 sustainable urban residential guidelines, the 2020 apartment design guidelines and the city development plan. It is noted that higher densities for residential development in established urban area would be supported by NPOs 11 and 35 of the National Planning Framework, that the 2020 apartment design guidelines do not specify maximum densities for intermediate urban locations that

the proposed development could be considered to contravene, and that the 2009 sustainable urban guidelines were made before the National Planning Framework was adopted in 2019. Nevertheless the development plan was made subsequent to the NPF and can be assumed to be in compliance with it. It is therefore concluded that exceedance of the density provisions in the city development plan is not justified and would be contrary to the proposed planning and sustainable development of the area. It is noted that the city council did not refuse permission on the grounds of excessive density and that the development plan in force when the application and appeal were made did not include a similar range of recommended densities. The contravention of the recommended densities in the current development plan would therefore be a new issue under section 137 of the planning act.

- 9.3.5. Conversely, the height of the proposed development (which ranges from 2 to 7 storeys and reaches a maximum roof height of 24.2m above ground floor level) was a material contravention of the limit of 16m for residential development in this area set in the previous development plan, although was not a reason for the council's refusal of the application. The current development plan sets out no such limit for the area. The site is not in an area in which exceptionally high buildings are contemplated by the plan, but the proposed development of 2 to 7 storeys is moderately higher than the 2 storey houses and occasional apartment block that prevail in the area. Table 3 of appendix 3 of the plan sets out 10 headings and 46 criteria to be considered for proposals for buildings that would be higher than those in the vicinity. The stated criteria are generalised expressions of good practice in urban design. The proposed development would not, in my opinion, contravene any of them. However the nature of the criteria means that compliance with them is a matter of judgment, so the board may disagree with my conclusions in this regard as would the first party appellant and most of the people who made submissions on the file. Given the Government's policy in favour of increased building height that is cited in SPPR1 of the 2018 building height guidelines, the proposed heights of 2 and 3 storeys adjoining the curtilage of existing houses along Greenlea Road, 4 and 5 storeys facing the street frontage along Fortfield Road and 6 and 7 storeys near the proposed open space on the south of the site (which provides a proper separation from the retained school site and the protected structures there) and the existing open space, are considered to be appropriate and in accordance with the provisions

of the development plan and national guidelines. It is not recommended that height be cited as a reason for refusal, therefore.

9.4. Impact on the character of the area

- 9.4.1. The proposed development would significantly alter the visual character of the site, replacing green fields with a substantial residential development that would be a prominent feature in the area. The question arises as to whether that impact would be acceptable, which is the position of the applicant and council, or unacceptable, as argued by the third party appellant and most of the observers. I would agree with the former position. The proposed development would retain the area of visual amenity around the lake largely in its current state without damage to its scenic value. The pedestrian access from public streets to and around the lake would be maintained and extended by the proposed development. I consider that the contribution that this part of the site makes to the character of the area would be enhanced by the proposed development which would open up access to it along the proposed open space to the south of the apartment blocks, both in visual and functional term (although not for cyclists - the relevant paths there are not suitable for cycling and the proposed development would not render them so). The playing fields themselves do not make a significant positive contribution to the appearance of the area as they are bounded by a high wall along Fortfield Road to the west and the back of houses along Greenlea Road to the north. They are also visually severed from the school lands and its historic buildings by a series of functional buildings, including sheds and a prefab, and so do not form an integral part of their layout. The playing fields on the site do appear as a continuation of those occupied by the rugby club, who have made a submission in support of the proposed development. In these circumstances the replacement of the grassy fields here with housing would not in itself give rise to a significant negative impact on the character of the area.
- 9.4.2. The proposed apartment blocks would be of a different form and scale than the two storey housing that predominates in the area. However this does not in itself mean that they would have a negative impact on the character of the area. This type of change is supported by the various national and local planning policy which support a higher density of residential development in more compact cities. The proposed buildings achieve a reasonably high standard of detailed architectural design, and I

would not regard them as obtrusive or unsightly. Block A would provide frontage along Fortfield Road with an appropriate height and setback. I consider that this would improve the streetscape and the standard of urban design of the along this road. The row of 2 and 3 storey houses at the north of the site would provide the proper transition to the lower density housing along Greenlea Road. The proposed open space at the south of the site is sufficient to ensure that the development did not undermine the character or setting of the historic buildings at the school, including the protected structures. The impact of the building at Block D at the eastern end of the site on surrounding areas would be greater given its greater height at 7 storeys and its proximity to the retained open space at the lake. The board may wish, if it contemplating a grant of permission, to consider a reduction in the height or extent of the Block D. However I do not recommend this. Block D would have a significant impact on the setting of the rugby club and the lake. However this impact would be acceptable. The Block would appear as a moderately large and well designed apartment block which would not be unacceptable in views from open space in an established suburban part of the city.

- 9.4.3. Therefore, after having regard to the scale, layout and design of the proposed development and the submissions on the application and appeal, it is concluded that the proposed development would have a moderately positive impact on the character of the area and its visual amenity.

9.5. Impact on the amenities of property in the vicinity

- 9.5.1. In relation to overshadowing, it is noted that the application was accompanied by a daylight and sunlight analysis prepared in accordance with the BRE document "Site Layout Planning for Daylight and Sunlight" issued in 2011. In particular it refers to the advice in that document that if a proposed building does not subtend a plane extending from a point 1.6m above the lowest part of an existing buildings at an angle of 25 degrees then it is not likely to have a significant impact on the daylight reaching those buildings. The analysis includes a plan demonstrating that the proposed building would not intrude on this plane measured from any of the surrounding houses. This plan is considered to be accurate and reliable. I therefore conclude that the proposed development would not be likely to significantly reduce the daylight available in dwellings in the vicinity. The submitted analysis also refers

the advice in the BRE document that open amenity spaces should receive at least 2 hours of potential sunshine over 50% of their extent on average over the year. The analysis includes a plan demonstrating that the proposed development would not deprive any of the gardens serving the houses in the vicinity of this level of sunlight. This plan is considered to be accurate and reliable. I therefore conclude that the proposed development would not seriously injure the amenities of property in the vicinity of the site due to overshadowing.

9.5.2. The proposed apartment buildings would be four and five storeys high along Fortfield Road and would have a separation distance of 40m and more from the front of the houses across that road. The development would change the outlook from those houses, but this separation distance would be adequate to ensure that the apartment blocks would not unduly overbear or overlook the houses even though there would be balconies on the elevation facing them. The north-western elevations of the apartment blocks would be four to seven storeys high and would be 50m and more from the back of the houses along Greelea Road to the north. Again, this separation would be adequate to ensure that the apartment buildings did not unduly overbear or overlook the residential properties on Greenlea Road. The first and second storeys of the proposed houses would maintain a separation distance of 11m from the boundary with the curtilages of the latter properties, which again would be sufficient to avoid undue overbear or overlooking of them. It is not considered, therefore, that the proposed development would unduly overlook or overbear properties in the vicinity of the site to an extent that seriously injure their residential amenity.

9.5.3. The proposed development includes an access from the public street along Lakelands Park to the eastern end of the public open space proposed on the southern part of the site. Submissions have been made stating that this would injure the amenities of the property on that street and that its residents have adverse possession of part of the land required to provide that access, despite its inclusion within the boundary of the site of which the applicant states that it is the intended purchaser. A determination of such a disagreement as to interest in land is beyond the scope of a planning application and appeal. The provision of access to a public park by a pedestrian gate from a suburban residential street is a normal and established way of providing access to such parks. I do not accept that it represents an undue threat to the amenities of the street from which access it taken. The

provision of the access proposed in this application would improve access to the scenic and recreational amenity around the lake and the pedestrian permeability of the area in general, and as such would be in keeping with the proper planning and sustainable development of the area.

- 9.5.4. Having regard to the foregoing, and after consideration of the submissions made in relation to this application and appeal, I would advise the board that the proposed development would not seriously injure the amenities of property in the vicinity of the site.

9.6. The standard of residential amenity for occupants

- 9.6.1. The planning authority did not refer to the Build-to-Rent status of the proposed apartments in its decision. The current city development plan states a presumption against Build-to-Rent apartments in policy QHSN40 and section 15.10 which the proposed development would contravene, given that the site is not within 500m of a significant employment location or a major public transport interchange. Build to Rent schemes are not recognized as a distinct category in relation to amenity standards in the current apartment design guidelines issued in December 2022, although section 5.7 acknowledges the role of build to rent developments in residential delivery and promoting compact urban form. However the 2022 guidelines were accompanied by a Circular Letter from the minister stating that transitional arrangements would apply to applications for Build to Rent apartment developments that were already in train when the new guidelines were adopted, such as the current one. Under these arrangements the standards for those schemes which applied under SPPR 7 and SPPR 8 of the 2020 apartment design guidelines would continue to apply. The board is therefore advised that the standards set out in the 2020 guidelines apply to the current proposal. Furthermore, given the specificity of the minister's circular in relation to current applications for Build to Rent schemes and the recognition in the 2022 guidelines of their role in meeting wider objectives in relation to housing and urban form, I would advise the board that the status of the proposed development on this site is justified at this time by guidelines and policies issued by the minister despite its contravention of the provisions of the current development plan. It is not recommended that the build to rent status of the proposed apartment would be a reason to refuse the current application, therefore.

- 9.6.2. The application was accompanied by a housing quality assessment demonstrating that the proposed apartments would comply with the applicable standards set out in the 2020 apartment design guidelines in relation to housing mix, minimum floor areas, dual aspect and ceiling heights. The assessment states that the site is in an accessible urban location where 33% of apartments require dual aspect. However I consider that it is an intermediate urban location, but the apartments comply with the requirement for the minimum of 50% dual aspect units that would apply in this area anyway, so the distinction is not material in relation to this topic, after consideration of the particular floor plans of the proposed development and the depth of the staggering achieved that would be provided along its longer elevations. The submitted assessment also demonstrated compliance with the requirements on the description of development, covenant of ownership and resident support facilities set out in SPPR 7 of the 2020 guidelines. The constitutionality of Section 28C of the planning act under which SPPRs are made, including those disapplying certain standards that would otherwise apply from BTR apartments was denied in certain submissions, but this issue is beyond the remit of the board. The housing quality assessment also describes the private open space and storage facilities that would be available to the proposed apartments, as well as the private open space and internal accommodation available for the proposed houses. These are considered to be adequate.
- 9.6.3. The proposed development would provide a very significant amount of communal and public open space that would be available for the enjoyment of the residents of the proposed dwellings, and is acceptable in this regard.
- 9.6.4. The daylight and sunlight report submitted with the application set out an analysis of the daylight available in the proposed apartments under BRE guidance document and BS 8206-2 in relation to Average Daylight Factors in room and EN17037 in terms of illuminance expressed in Lux. In both regards the analysis, which is considered to be robust and reliable, indicated that 95% of rooms would reach the applicable target. This is a high level of performance for apartment buildings of any scale where 100% achievement of the targets is rarely if ever achieved. The relatively minor shortfall is justified by the need to provide development at sustainable density on an serviced urban site. In relation to sunlight, the applicant states in the report that providing balconies with a functional relationship with the

main living room in accordance with the advice in the 2020 apartment guidelines, which is repeated at section 3.36 of the 2022 guidelines, was preferred notwithstanding the reduction in direct sunlight reaching their windows. This is a reasonable approach and the duration of potential sunlight which the analysis quantifies as reaching those rooms is considered acceptable. The analysis also demonstrates that more than 2 hours APSH would be available to the large majority of the proposed open space in the development. It has therefore been shown that adequate levels of daylight and sunlight would be available to the occupants of the proposed development.

- 9.6.5. The mix of units in the proposed development includes less than 50% one-bedroom apartments, and as such complies with the recommendation for developments plans in SPPR 1 of the apartment design guidelines and the provisions of the city development plan, which does not apply a different unit mix requirement in this part of the city.
- 9.6.6. Having regard to the foregoing, it is concluded that the proposed development would provide a sufficient level of amenity for its occupants, and the issue or those relating to tenure or unit mix would not provide reasons to refuse permission.

9.7. Access and parking

- 9.7.1. The planning authority's two reasons for refusal referred to underprovision of car parking and the proposed secondary access to the scheme from the Fortfield Road. I do not consider that the second issue would justify refusing permission for the development. That entrance would provide access for deliveries and dropping off of passengers to an area that included a turning circle where only a limited number of vehicles could linger at any time. It is evident from the size and layout of that area that the entrance would not generate significant amounts of traffic movements. In these circumstances it would be feasible to require by condition that the secondary access be laid out as an entrance to a private property whereby the public footpath and pedestrian priority would continue across that entrance in line with the advice at section 4.3.1 of DMURS, similar to the numerous other entrances to private property along Fortfield Road. The proposed southern access would not, therefore, give rise to pedestrian/vehicular conflict or constitute a traffic hazard. If the access were laid out in this manner it would not be likely to be used by vehicles dropping off pupils to

schools, nor would it significantly affect the carrying capacity of the Fortfield Road. The provision of the second access would also provide access for smaller service vehicles, and there is sufficient space within the along the main access road to the north to facilitate any additional facilities for larger vehicles, such as refuse trucks, that the council might reasonably deem to be necessary by way of a condition attached to a grant of permission.

- 9.7.2. The planning authority's second reason for refusal refers largely to car parking. The current city development plan does not apply minimum car parking standards for residential development, but rather a maximum standard of one space per dwelling. The proposed development would provide 160 spaces for 385 dwellings. The provision of 0.42 spaces is therefore well below the limit applied by the development plan. 128 spaces would be available for the use of the occupants of the proposed 364 apartments, a provision of 0.35 spaces per dwelling. The planning authority did not consider this provision to be sufficiently large, given that the site is not on a public transport corridor or close to a major centre of employment and would be liable to involve overspill parking on streets in the vicinity. The third party appeal and the larger number of the submissions on the application and appeal concurred with this position. The first party appeal referred to national planning policies to support a reduced car parking provision on the site, including objectives of the National Planning Framework and SPPR 8 of the 2020 apartment design guidelines.
- 9.7.3. I would advise the board that national policies and the provisions of the development plan do not provide objectively verifiable standards against which to determine the appropriate level of car parking for a particular development on particular site. Objectives NPO 13, 27, 54 and 64 of the National Planning Framework support sustainable transport modes for environmental reasons which could reasonably be taken as implying that less car parking should be provided for new residential development in cities although they do not specifically state that. SPPR 8 of the 2020 apartment design guidelines says that there should be minimal car parking in BTR schemes on the basis that they are more suitable for central and accessible areas and have a central parking management regime. The BTR scheme proposed in this application does provide for such a management regime but it is not in a central accessible area. SPPR 8 might therefore justify some reduction in car parking as proposed in this scheme, but not the omission of parking entirely for the proposed

apartments as might be the case on a central/accessible site. The development plan provides maximum standards for car parking, rather than minimum ones. The proposed development would be well below the applicable maximum levels of parking. It also states a general policy at SMT1 to promote modal shift away from private car use. The report from the Transportation Section of the council referred to prevailing level of non-car owning households in this area of 11-18%. However national and development plan policies refer to a shift in modal use, therefore I do not consider it reasonable to seek facilitate a replication of existing car parking pattern established by the existing lower density housing in the area in proposed higher density residential schemes. The site would have levels of accessibility to services and employment centres that are typical of the city council area as a whole, where the 2016 census reported that 34% of households did not own a car and 64% of persons reached their place of work or education other than in a private vehicle, and the local electoral area where 29% of household did not own a car and 63% of persons reached their place of work or education other than in a private vehicle. In this context the proposed provision of 0.34 car parking spaces for the proposed apartments strikes me as a reasonable balance between the policy imperative to promote modal shift and the need to provide car parking for households that cannot reasonably function without it. However this a judgment with which the board and others may reasonably disagree. The submissions on the application and the appeal and the planning authority's decision also referred to 'overspill' car parking that might arise on the surrounding streets from the proposed development. On this issue I would advise the board that the public resource of on-street parking will always require management and control which could not be avoided even if new housing is not introduced to an area. It would not be in keeping with the national and local policies to promote a more compact urban form to attempt to address this issue by providing parking to meet all the potential demand for it. It is therefore concluded that the parking provision in the proposed development would not justify refusing permission.

- 9.7.4. The first party appeal included a proposal for a larger basement with more car parking. I do not consider that it would be appropriate for a grant of permission on appeal to authorised additional development that was not included in the development to which the planning's authority's decision related. Furthermore,

contrary to the first party assertions, I consider that the expansion of basement car parking could have implications for the transport and flood risk analyses submitted with the application.

- 9.7.5. The third party appeal and the submissions on the application and appeal also argued that the proposed development would unduly exacerbate traffic congestion in this area. On this topic I would note that high level of unmet demand for housing across Dublin and the country. While the site is not in a central or accessible location, it is in an established intermediate urban area with better access to services and locations of employment by sustainable transport modes than most places in the wider city region where the demand for housing could be met. Refusing permission for housing on this site is therefore likely to displace demand for housing to other sites that are less well served in this regard, thereby increasing the demand for travel by car and thus the congestion of urban roads. Therefore it is not considered that a refusal of permission for housing on this site would be justified by general concern about traffic congestion. What the appropriate amount of housing would be on the site is determined by the applicable planning policies on density, which have been considered above. The main vehicular entrance to the site that is proposed on Fortfield Road is properly designed as a signalised four arm junction and it would not constitute a traffic hazard. The timing of the signals at this junction would allow the council to adequately protect the carrying capacity of the Fortfield Road from traffic leaving the proposed development. The relocation of bus stops would not give rise to significant issues in relation to road safety or residential amenity. However the laying out of the new junction would require significant works on the public road on lands in the functional area of the South Dublin County Council which have been included within the boundary of the site. Providing a safe access in the proposed manner is an integral part of the proposed development, but it could not be authorised by a grant of permission under the current application and appeal because it could only apply to the area of the planning authority to which the application was made, which is Dublin City Council. This issue was raised in the submissions on the application and appeals, including that appended to the third party appeal.

9.8. Water and Drainage

- 9.8.1. The application was accompanied by a Confirmation of Feasibility and a Statement of Design Acceptance from Irish Water indicating the proposed development could be provided with adequate water supply and foul drainage from its networks subject to upgrades of infrastructure located in the public road. It is noted that submissions were made describing deficiencies in these services to houses in the area. Nevertheless these accounts of localised issues are not considered sufficient to refute the contents of the correspondence by Irish Water on the matter submitted with the application. Therefore it is not recommended that issues of water supply or foul drainage would justify refusing permission for the proposed development.
- 9.8.2. The proposed development includes a surface water drainage system that would have discharge to a surface water sewer on the Fortfield Road after attenuation and SUDS measures that would limit the outflow to 9.2 l/s in line with recommendations of the Greater Dublin Strategic Drainage Study. The Drainage Division of the council stated that it had no objection to these proposals. On this basis the surface water drainage design is considered acceptable.
- 9.8.3. The issue of the principle of developing the proposed site due to flood risk was raised in the third party appeal and the submissions to the board on the appeals and the planning authority on the application. The application was accompanied by a site specific flood risk assessment which concluded that the site was not subject to a risk of flooding was therefore in flood risk zone C, as defined in the 2009 Guidelines on Flood Risk Management, where residential development is stated to be appropriate. This conclusion was consistent with the 2016 development plan that was in force when the application and appeals were made. However under the current development plan the central part of the site is identified as being in flood risk zone B, where residential development would be required to pass a justification test as set out in box 5.1 of the guidelines. Given that the residential development is only allowed in exceptional circumstances the applicable Z15 zoning that applies to the site, it is not considered that the proposed development would meet the first criterion of the justification test. As the submitted Site Specific Flood Risk Assessment is based on the entire site being in Flood Risk Zone C, it would not meet the second criterion either. The proposed development would also be contrary to section 4.5.2.1

of volume 7 of the plan, which states that it is not appropriate for highly vulnerable development (such as housing) to be located on greenfield land in flood zones A or B. The flood risk associated with the proposed development is therefore an unjustified contravention of that provision of the plan which renders it contrary to the proper planning and sustainable development of the area.

- 9.8.4. The submissions to the planning authority at application stage and to the board on the appeal also referred to the identification of part of the site as flood zone B under the draft city development plan (which was now been adopted) stating that this was based on the more recent technical data on flood risk in the area that had been collected in the course of the Poddle Flood Alleviation Scheme which the council is progressing and in respect of which an application for approval is before the board (ABP-306725-20 refers) The issue of flooding was raised in the third party appeal and the against the planning authority's decision and the data indicating that the site included and area in flood zone B was available at the time of the making of the application and appeal. So is not considered to be a new matter under section 137 of the act.

9.9. Natural Heritage

- 9.9.1. The proposed development would involve building houses and apartments on lands that were previously used as playing pitches that are of little significance in terms of ecology or biodiversity. The proposed development does not involve significant physical changes to the more valuable lands around the lake. The proposed development includes a surface water system that would control the quantity and quality of discharges, so the operation of the development would not be likely to have a significant negative impact on ecology. The documentation submitted with the application sets out standard best practice in relation to the control of emissions to water and air during construction, which would be adequate to render it unlikely that a significant negative impact on natural heritage would occur at that stage. It is therefore concluded that the proposed development would be unlikely to have a significant negative effect on ecology or natural heritage. This conclusion is consistent with the Ecological Impact Assessment submitted with the application, whose finding in this regard are more robust and empirically founded than the assertions to the contrary in the submissions on the application and the appeal.

10.0 Recommendation

10.1. I recommend that permission be refused for the reasons set out below.

11.0 Reasons and Considerations

1. Having regard to the information submitted in the course of the application and appeal, the board do not consider that it has been demonstrated that the site is not needed for its established educational and recreational use. The circumstances set out in section 14.7.14 of the Dublin City Development Plan 2022-2028 for residential development on lands zoned for Community and Social Infrastructure under objective Z15 of the plan do not apply to the site. The proposed residential development would therefore materially contravene the zoning of the site.
2. The density of the proposed development would exceed that recommended for institutional lands at paragraph 5.10 of the Guidelines for Sustainable Residential Development in Urban Areas issued by the minister in 2009. The site is considered to be in an intermediate urban location as set out in section 2.4 of the Guidelines on the Design of New Apartments issued by the minister in 2022, and the proposed exceedance of the recommended density is not justified by the proximity of the site to high capacity public transport facilities or major centres of employment and services. The amount of housing proposed is therefore excessive and contrary to the proper planning and sustainable development of the area.
3. The density of the proposed development exceeds recommended for outer suburbs in Table 1 of Appendix 3 to the Dublin City Development Plan 2022-2028. The site is considered to be in an intermediate urban location as set out in section 2.4 of the Guidelines on the Design of New Apartments issued by the minister in 2022, and the proposed exceedance of the recommended density is not justified by the proximity of the site to high capacity public transport facilities or major centres employment and services. The amount of housing proposed is therefore excessive and contrary to the proper planning and sustainable development of the area.

4. The proposed development would involve the construction of housing on lands partially in Flood Risk Zone B, as set out in the Guidelines for Planning Authorities on Flood Risk Management issued in 2009 and in the Dublin City Development Plan 2022-2028. The proposed location on residential development partially within this flood risk zone would be contrary to the advice at section 3.5 of the guidelines and section 4.5.2.1 of volume 7 of the city development plan, and thus to the proper planning and sustainable development of the area.
5. The provision of access from the Fortfield Road requires works outside the functional area of the planning authority to which the application was made. These works are considered to be an integral part of the proposed development and cannot be authorised by a grant of permission on the current application.

Stephen J. O'Sullivan
Planning Inspector

26th January 2027

APPENDIX 1 EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference – ABP-314390-22		
Development Summary	Construction of 364 apartments built to rent and 21 houses	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	Both
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. 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	Development Plan subject to SEA Proposed development subject to screening for appropriate assessment in the report above

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The nature of the proposed residential use is similar to that which predominates in the surrounding area. The proposed apartments blocks are larger in scale than neighbouring houses, and somewhat larger than other apartment blocks in the area.	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed development will change some land under grass in an urban area to a residential development, and maintain a scenic and recreational amenity around a lake.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or		No

energy, especially resources which are non-renewable or in short supply?		
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?		No
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?		No
1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?		No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?		No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?		No
1.9 Will there be any risk of major accidents that could affect human health or the environment?		No
1.10 Will the project affect the social environment (population, employment)	Population of this urban area would increase	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	Application accompanied by masterplan which shows that project is not part of a wider development at this location	NO
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the	Likely significant effects on Natura 2000 sites screened out above	No

preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan		
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?	Residential development occurring on former playing pitches, area on and around lake not being subject to significant works	No
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Residential development occurring on former playing pitches, area on and around lake not being subject to significant works	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?		No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	The proposed development is not likely to have significant effects on the lake on the site which is not being subject to works, the discharge to which will be controlled by standard and effective drainage systems.	no
2.6 Is the location susceptible to subsidence, landslides or erosion?		No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?		No
2.8 Are there existing sensitive land uses or community facilities (such as	The proposed development would	No

hospitals, schools etc) which could be significantly affected by the project?	not be likely to have significant effects on the environment in this regard	
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?		No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?		No
3.3 Are there any other relevant considerations?		No
C. CONCLUSION		
No real likelihood of significant effects on the environment.	✓	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required
D. MAIN REASONS AND CONSIDERATIONS		
<p>The nature, characteristics and location of the proposed development means that it would not be likely to have significant effects on the environment.</p>		

Inspector: Stephen J. O'Sullivan
Date: 26th January 2022