



An
Bord
Pleanála

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

Inspector's Report ABP-314523-22

Strategic Housing Development	Construction of 334 no. Build to Rent apartments, creche and associated site works.
Location	Junction of Carmanhall Road and Blackthorn Road, Sandyford Industrial Estate, Sandyford, Dublin 18.
Planning Authority	Dun Laoghaire-Rathdown County Council
Applicant	Atlas GP Limited
Prescribed Bodies	Transport Infrastructure Ireland Irish Water Inland Fisheries Ireland Department of Defence
Observers	John Conway and the Louth Environmental Group
Date of Site Inspection	29 th June 2023
Inspector	Stephen Ward

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Strategic Housing Development	4
4.0 Planning History.....	8
5.0 Section 5 Pre Application Consultation	12
6.0 Relevant Planning Policy	18
7.0 Material Contravention Statement.....	26
8.0 Third Party Submissions.....	31
9.0 Planning Authority Submission	33
10.0 Prescribed Bodies	44
11.0 Assessment.....	45
12.0 Environmental Impact Assessment	107
13.0 Appropriate Assessment Screening	123
14.0 Recommendation	133
15.0 Recommended Draft Board Order	134

1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development application submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. I am satisfied that the proposed development comes within the definition of 'Strategic Housing Development' as set out in Section 3 of the Act and that the application has been made in accordance with all relevant legislative requirements.

2.0 Site Location and Description

- 2.1. The site is located centrally within Sandyford, at the junction of Carmanhall Road and Blackthorn Road, and is immediately opposite the junction of Blackthorn Road and Burton Hall Road to the east. The site is visible for some distance along Burton Hall Road and from various vantage points in the surrounding area. This area is currently undergoing transformation from low rise industrial, employment and office use to higher density residential and mixed-use developments. The Stillorgan and Sandyford Luas stops are within c. 350 m of the site (to the north and northeast respectively). Several bus routes also run along Blackthorn Road and Burton Hall Road.
- 2.2. The site has a stated total area of 0.99 ha and falls gradually (c. 4m) from south to north. The site is above the level of Carmanhall Road and Blackthorn Road. It was previously occupied by a 2-storey warehouse / production building with ancillary offices (c. 3,890 sq.m.) 'Avid Technology International' (now demolished), and a large area of associated surface car parking. The site is currently unused and is bounded by temporary hoardings along the SE and NE boundaries, together with concrete block walls along the NW and SW boundaries. Outside the temporary boundaries, part of the site (0.2598 ha) is owned by Dun Laoghaire Rathdown County Council (DLRCC) and a letter of consent has been submitted. These lands include parts of the vehicular carriageway, green verges, and pedestrian footpaths along Carmanhall Road and Blackthorn Road.
- 2.3. The immediate surroundings of the site reflect the ongoing changing nature of Sandyford and includes a single storey commercial building and the 6 storey office building ('Nova Atria', occupied by 'Facebook') on Carmanhall Road to the north; low

profile vacant commercial buildings to the northwest (hereafter referred to as the 'Tack' site) fronting onto Ravens Rock Road; a newly refurbished 6 storey office complex to the southwest (now known as 'Three Rock Plaza') on Blackthorn Road; and 2-3 storey office and light industrial buildings on the opposite (eastern) side of Blackthorn Road.

3.0 Proposed Strategic Housing Development

3.1. The development involves the construction of a Build-To-Rent residential development comprising 334 no. apartment units as follows:

Apartment Type	No.	Percentage
Studio	79	24
1 bed	175	52
2 bed	80	24
Total	334	100

3.2. The development has a height ranging from 5-16 storeys over basement level, with a maximum height of c. 52.65 metres at the northeast corner. The proposal has an overall gross floor area of 33,630m² (28,830m² for residential and other uses). The scheme layout mainly consists of four blocks of varying heights (above basement level) which span along the northern and southern portion of the site. The blocks frame a central podium level courtyard which is mainly open to the west and includes a linked gap to the east. The scheme has been designed based on a co-ordinated masterplan with the adjoining 'Tack' site to the west which is the subject of a separate undecided SHD application (ABP Ref. 313338-22 – see section 4 for further details).

3.3. In addition to the proposed apartments, the development also proposes:

- A Creche (272m²)
- Residential amenity spaces 893 sq.m. (including a unit of 146.5 sq.m open to the public, resident's gym, business centre, multipurpose room, staff facilities, multimedia/cinema room, shared working space, concierge and games room)

- Landscaped communal space in the central courtyard
- Provision of a new vehicular entrance from Carmanhall Road and egress to Blackthorn Road
- Provision of pedestrian and cycle connections
- 125 No. Car Parking spaces, 6 No. Motorcycle spaces, and 447 cycle spaces at ground floor/undercroft and basement car park levels
- Plant and telecoms mitigation structures at roof level
- 2 no. ESB substations, lighting, plant, storage, site drainage works, and all ancillary site development works above and below ground.

3.4. The key figures relating to the proposed development are summarised in the table below. In calculating these figures, I acknowledge that the application site extends to an area of 0.99 ha, 0.2598 ha of which is comprised of DLRCC lands (including the Carmanhall Road carriageway). In accordance with the recommendations of 'Appendix A: Measuring residential density' of the 2009 'Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG)', I consider that the adjoining road carriageway (estimated at c. 0.09 ha) should be excluded as a 'distributor road' from the site area for the purposes of calculating density and other site standards. The remainder of the DLRCC lands could be included on the basis that they comprise 'incidental open space and landscaping' as described in the Guidelines, which would result in a site area of 0.9 ha. The figures for the net area owned by the applicant (0.73ha) are also provided below.

Key Figures for the Proposed Development

	Applicant's site & DLRCC lands	Applicant's Site Only
Site Area	0.9 ha	0.73
No. of apartments	334 units	
Other Uses	Crèche: 272m ² Residential amenity spaces: 893m ² (including unit of 146.5m ² open to the public)	

Gross Floor Area	33,630m ²	
Density	371 units per ha	457 units per ha
Plot Ratio	1 : 3.7	1 : 4.6
Site Coverage	36%	44%
Height	5-16 storeys	
Dual Aspect	124 units (37%)	
Car Parking	125 spaces	
Bicycle parking	447 spaces	
Motorcycle Parking	6 spaces	
Communal Amenity Space	1,755m ²	
Public Open Space	0	
Part V	34 units (10% of floor area)	

3.5. The application includes a draft Section 47 Agreement between Dun Laoghaire-Rathdown County Council and the applicant which would restrict and regulate the development for the period of 15 years from the date of the planning permission, such that the development shall remain owned and operated by a single entity and no individual residential unit within the development may be sold.

3.6. In addition to the standard drawings and documentation requirements, the application is accompanied by the following documents and reports:

- Environmental Impact Assessment Report (EIAR)
- Statement in accordance with Article 299B(1)(b)(ii)(II)(C)
- Operational Waste Management Plan
- Preliminary Construction Management Plan
- RWMP for Construction & Demolition Waste
- Preliminary Construction Demolition Waste Management Plan
- Construction Environmental Management Plan
- Appropriate Assessment Screening Report

- Preliminary Fire Safety and Access & Use Strategy
- Social & Community Audit
- Response to Opinion
- Statement of Material Contravention
- Planning Report & Statement of Consistency
- Property Management Strategy Report
- Architectural Design Statement
- Residential Quality Audit
- Engineering Assessment Report
- Utilities Report
- Site Lighting Report
- Building Life Cycle Report
- Flood Risk Assessment
- Storm Water Audit
- Traffic and Transport Assessment
- Travel Plan
- Statement of Consistency on DMURS
- Stage 1 Quality Audit (for DMURS, accessibility, cycling, walking, road safety)
- Verified Photomontages
- Energy Analysis Report
- Sunlight & Daylight Analysis Report
- Landscape Design Statement
- Tree Survey Report & Arboricultural Assessment
- Climate Change Impact Assessment Report.

4.0 Planning History

4.1. The following applies to the application site itself:

4.1.1. **ABP Ref. 310104-21:** SHD application refused on 12th August 2021 for Build to Rent residential development over 6-17 storeys comprising 428 apartments, creche (142m²), 392m² of resident's amenities and 696m² of resident's amenities / community infrastructure, 145 no. car parking spaces, 5 no. motorcycle spaces, 752 no. cycle spaces, replacement vehicular entrance, and all associated site works, open space, landscaping, and services. The reasons for refusal were as follows:

- 1. Having regard to the proposed quantum and resulting form of development, in particular the enclosed nature of the scheme layout and height on this restricted site, it is considered that the proposed development would result in a substandard quality of communal open space and an inadequate range and extent of resident support facilities and amenities serving the entire development. Furthermore, substandard bicycle parking facilities have been provided, in particular with regard to accessibility for all residents and the quantum provided for visitors, and the residential amenity of some individual apartments is deficient in relation to private amenity space and daylight availability. In the absence of suitable alternative proposals to compensate for design deficiencies in the proposed units and the scheme as a whole, the Board considered that the proposed development would result in a substandard level of residential amenity for the future occupants of the proposed development. In addition, the Board is not satisfied that the proposed development would provide a satisfactory interface with the adjoining site to the north-west in terms of proximity to the site boundary and sunlight and daylight impact, and that it would not prejudice the development potential of that site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development would materially contravene the height and density provisions of the Dun Laoghaire-Rathdown County Development Plan 2016-2022, including the Sandyford Urban Framework Plan. The Board is not satisfied that a material contravention of the Development Plan is justified in this instance, in that the proposed development fails to meet the criteria as set out in Section 3.2 and Specific Planning Policy Requirement 3 of the Urban Development and*

Building Height Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 4.1.2. **ABP Ref. 303467-19:** SHD Permission granted (30th April 2019) for 817-bedspace Student Accommodation development with ancillary student facilities, 2 no. commercial units, 57 no. car parking spaces, 586 no. bicycle parking spaces and 5 no. motorcycle parking spaces. The development has a height of 7-9 stories (max. height c. 29m) and an overall gross floor area of 25,459m².
- 4.1.3. **P.A. Ref. D16A/0158:** Permission granted by DLRCC (1st September 2016) for development comprising demolition of the existing building and the construction of a 5 - 8 storey mixed use development in 2 blocks comprising 147 no. apartments, crèche, gym, media suite, café; single level undercroft providing 151 no. car parking spaces, 158 no. cycle parking spaces, service and plant areas, waste management areas and storage areas; new vehicular entrance from Carmanhall Road and a fire tender / cycle access from Blackthorn Road, internal landscaped courtyard and all other associated works including the provision of 32 no. surface bicycle parking spaces and the relocation of the existing pedestrian crossing on Carmanhall Road.
- 4.1.4. **ABP Ref. PL06D.227592:** Under P.A. Ref. D07A/0453, permission was sought for modifications to development permitted under Reg Ref D05A/0239 (see details below) comprising provision of an additional floor of 3,352 sq.m. floorspace with 40 additional apartments between the permitted 3rd and 4th floors, bringing Block C to 7th floor level, Block D to 9th floor level, Block B partly to 9th and partly to 11th floor level and Block A to 10th floor level, with a portion of Block A on the corner of Carmanhall and Blackthorn Roads rising to 13th floor level. Two permitted apartments at second floor level given over to an increased crèche of 370 sq.m. floor area. The total number of apartments is increased by 38 no. to 300 no. Increased basement car-parking area to provide an additional 43 car parking spaces, bringing the total proposed to 380 spaces.
- 4.1.5. After the applicant appealed the decision of DLRCC to refuse permission on grounds of deficiencies in roads and public transport infrastructure, ABP issued an order to refuse permission (2nd October 2008) for the following reasons:

1. *The site of the proposed development is located in Sandyford Business Estate, where it is the land use zoning objective, as set out in the Dun Laoghaire-Rathdown County Development Plan 2004-2010, to provide for economic development and employment, with a related objective to support the area as a major employment centre, and for which area the planning authority has a vision for a high quality environment, accessible to sustainable modes of transport with a range of facilities. Having regard to the amount and type of development already existing or permitted in the Estate, to existing and significant constraints in the provision of adequate transport infrastructure to serve the area (in terms of road access and of public transport capacity), of water and drainage services, of social infrastructure (including educational facilities) and of recreation/amenity facilities, and to the absence of specific measures to address these constraints, it is considered that further development of the quantum proposed, notwithstanding the specific objective in the development plan to encourage high density apartment development in Sandyford Business Estate, would militate against the land use zoning objective for the area and conflict with the vision of the planning authority for a high quality and accessible environment. The proposed development would, therefore, by itself and by the precedent it would set for other, similar high density development in the area, be contrary to the proper planning and sustainable development of the area.*
2. *Development of the kind proposed on the land would be premature by reference to:*
 - (a) *the existing deficiency in the road network serving the area, including considerations of capacity, and the prospective deficiency in the road network serving the area, which would arise because of the increased road traffic likely to result from the development and other prospective development and which would render that road network unsuitable to carry the increased road traffic likely to result from the development,*
 - (b) *the existing deficiency in the provision of public transport facilities,*
 - (c) *the existing deficiency in the provision of foul sewerage facilities,*
 - (d) *the existing deficiency in the provision of recreation/amenity facilities,*

and the period within which the constraints involved might reasonably be expected to cease. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.1.6. **P.A. Ref. D05A/0239:** Permission granted (28th July 2005) for development (36,856m²) comprising 2,175 sq.m gross retail / commercial floorspace at ground floor level and 265 apartments in 4 blocks up to 12 floors in height; car (337 spaces) and cycle (348 spaces) parking; new service road off Carmanhall Road and access for emergency vehicles to 2nd floor podium level from Blackthorn Road.

4.2. The following are recent and relevant applications relating to other sites in the surrounding Sandyford area:

4.2.1. **P.A. Ref. D16A/0076:** On the opposite side of Blackthorn Road to the southeast, permission granted (1st September 2016) on 1.37 ha site for a 27,751 sq.m. development comprising 4 no. 6 storey over basement office buildings with a café on the ground floor of Block D; 277 no. car parking spaces, 168 no. bicycle parking spaces; vehicular access from Arena Road; public plaza incorporating soft and hard landscaping and water features and 80 no. cycle parking spaces and associated site works.

4.2.2. **P.A. Ref. D05A/0566:** On the adjoining site to the NW (i.e. Tack site), permission was granted (21st August 2006) for demolition of existing buildings; construction of 16,766 sq.m gross floor area mixed-use development comprising retail/commercial at ground floor in 3 units, gym/private health club and 15,947 sq.m of residential development comprising 182 apartments in three blocks ranging in height from 9 to 12 storeys. This permission was not implemented and has now expired. **ABP Ref. 313338-22** is now a current Strategic Housing Development application on the Tack site for 207 no. BTR apartments and associated site works. The application is based on a masterplan which has been co-ordinated with the Avid site.

4.2.3. **ABP Ref. 313209-22:** Current Strategic Housing Development application on site to the west of Ravens Rock Road for 101 no. BTR apartments and associated site works.

4.2.4. **ABP Ref. 301428-18:** On the 'former Aldi site' on the opposite Side of Carmanhall Road (c. 350m to the northwest), SHD permission granted by ABP (17th July 2018) for the construction of 460 no. apartments in 6 no. 5 to 14 storey blocks above

podium. Ancillary on-site facilities including gym, yoga / spin studio, crèche, lounge / café and communal meeting room. Basement with 454 no. car parking spaces and 516 no. bicycle parking spaces. Under **ABP Ref. 305940-19** a revised SHD proposal for the same site was granted (12th March 2020) for demolition of existing structures on site and construction of 564 no. build to rent apartments, creche and associated site works in 6 blocks ranging in height from 5 to 17 storeys. This development is at an advanced stage of construction.

4.2.5. **ABP Ref. 304405-19** – On a site to the immediate west of the ‘former Aldi site’ discussed above, SHD permission was granted (19th August 2019) for 428 no. apartments, creche, 4 no. local/neighbourhood retail units and associated site works in 2 blocks ranging from 5 to 14 storeys in height.

4.2.6. **ABP Ref. 311722-21** – On a site to the immediate east of the ‘former Aldi site’ discussed above, SHD permission was granted (31st March 2022) for 190 no. Build To Rent apartments and associated site works in 2 block up to 15 storeys in height.

5.0 Section 5 Pre-Application Consultation

5.1. Pre-Application Consultation ABP-312265-21

5.1.1. The pre-application consultation related to a proposal for 336 no. Build to Rent apartments and associated works at the application site. A section 5 consultation meeting took place via Microsoft Teams on the 27th of April 2022. Representatives of the prospective applicant, the planning authority and ABP were in attendance. An agenda was issued by ABP prior to the meeting and the main issues raised for discussion at the tripartite meeting were as follows:

1. Inconsistency in Site Area.
2. Previous reasons for refusal (ABP Ref. 310104-21)
3. Compliance with provisions of the County Development Plan and Sandyford Urban Framework Plan, including SLO 113, Quantum of development, Height and Density, Public Open Space.
4. Supporting Infrastructure (Transportation and Water Services).
5. Any other business.

5.1.2. Following consideration of the issues raised during the pre-application consultation process and having regard to the consultation meeting and the submission from the planning authority, ABP was of the opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for Strategic Housing Development. The applicant was advised to address the following issues in the documents submitted that could result in them constituting a reasonable basis for an application for Strategic Housing Development.

1. Development Strategy

- (a) Further consideration/justification of the documents to clearly set out how the Avid site can be developed independently of the Tack Packaging site, given the linked nature of the overpass pedestrian walkway, communal open space and access to undercroft car parking also the requirement for a creche. Clear justification that each scheme, which it is submitted are to comprise two separation planning applications can be delivered independently of one another, in particular, with respect of access, drainage and engineering technical matters, given the Masterplan for an overall scheme, the recent SHD pre application 308186-20 on the Tack Packaging site and land ownership.
- (b) Further consideration/justification of the documents as they relate to the Dun Laoghaire Rathdown Development Plan 2022 - 2028, specifically Appendix 5 and the Sandyford Urban Framework Plan, in relation to the scale, height, and design of the proposed development and the potential impact on the adjoining sites and surrounding environs of Sandyford. The further consideration/ justification should clearly address the proposed design and massing, inter alia the visual impact, and relate specifically to the justification for any material contravention of the density and height strategy in the development plan, issue of legibility, visual impact and compliance with Section 3.2 of the Urban Development and Building Heights: Guidelines for Planning Authorities (2018). The further consideration of these issues may require an amendment of the documents and/or design proposal submitted.

5.1.3. Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was notified that, in addition to the requirements as specified in articles 297 and 298 of

the Planning and Development (Strategic Housing Development) Regulations 2017, specific information should be submitted with any application for permission, which can be summarised as follows:

1. Statement that in the prospective applicant's opinion the proposal is consistent with the relevant zoning objectives of the development plan for the area. Such statement should have regard to the Dun Laoghaire Rathdown County Development Plan 2022 – 2028 and Sandyford Urban Framework Plan 2022, in particular SLO 113.
2. A detailed and justified Material Contravention statement.
3. A detailed statement demonstrating what precisely is being proposed and how the Avid Site and proposals for the adjoining Tack Packaging site, while reliant upon one another, will form two separate distinct applications that can be carried out independently.
4. A detailed statement and further CGI's, photomontages and visual impact assessment demonstrating how the proposed development ties in visually with the immediate and wider context of the site.
5. Consider further the permeability and pedestrian movement strategy between blocks, interface and access to podium level open space, clarity in relation to level changes, interface with proposed new streets, and potential conflict between pedestrians and vehicles using the basement access ramp/'street'.
6. Detail and justification of location and quantum of resident support facilities and resident services and amenities as defined by the Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018) and accessibility/ease of access to those spaces by future residents.
7. Detailed quantum and design of open space proposals at all levels including consideration of issues related to wind micro-climate, design, and usability of spaces, in particular at the upper levels, and any implications of the green / blue roof design.
8. Further justification for omission of a childcare facility to serve the proposed development.
9. Detailed Arboricultural Assessment.

10. A Social and Community Audit.
11. Further justification for the level of car and cycle parking proposed and detail the design of cycle parking spaces and secure storage areas.
12. Detailed landscape drawings that illustrate hard and soft landscaping, useable communal open space, meaningful public open space, quality audit and way finding, play equipment, street furniture, public lighting and boundary treatments.
13. A Daylight and Shadow Impact Assessment of the proposed development and neighbouring properties.
14. A response to matters raised within the PA Opinion.
15. A life cycle report shall be submitted in accordance with section 6.13 of the Sustainable Urban housing: Design Standards for New Apartments (2020).
16. As per SPPR7 of the Sustainable Urban housing: Design Standards for New Apartments Guidelines for Planning Authorities, March 2020 the development must be described in the public notices associated with a planning application specifically as including 'Build to Rent' housing and a covenant/legal agreement is required at application stage.
17. A rationale or evidence-based justification that the proposed resident support facilities and resident services and amenities are appropriate and accord with SPPR7 (b) of the Apartment Guidelines 2020.
18. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
19. Site Specific Construction and Demolition Waste Management Plan.
20. Details of public lighting

5.2. Applicant's Response to Pre-Application Opinion

- 5.2.1. The application includes a 'Statement of Response to the Pre-application Consultation Opinion', as provided for under Article 297(3) of the Planning & Development Regulations 2001 (as amended). The response is summarised in the following sections.

5.2.2. Development Strategy (Relationship with adjoining Tack site)

The application contends that there is no ambiguity regarding the capability of the Avid site to be developed independently having regard to the following:

- The Engineering Assessment Report, Services Report, and roads/services drawings outline that the two sites can be serviced independently.
- It is a positive planning strategy that both schemes have been designed to be complementary and they would be developed concurrently.
- The sites are in separate ownership, and it is in the applicants' interests that they can be developed and serviced independently.
- The vehicular access/egress arrangements for both sites are complementary.
- The sites can most effectively and efficiently work independently or in a complementary manner and would form streets in accordance with the SUFP.
- The pedestrian bridge connecting the two sites is a highly desirable feature and suitable conditions could be applied for the phasing and control of this feature.
- The scheme now includes a creche.

5.2.3. Development Strategy (Scale, height, and design)

The response states that the Design Statement and Masterplan provide a detailed design rationale, as well as the following:

- Although Map 3 of the SUFP sets out a 'permitted/developed' height limit of 9 storeys for the site, additional height can be permitted subject to policy objectives BHS1 and BHS2 of the CDP and associated safeguards.
- The Architectural Design Statement and other reports outline a detailed rationale for the development in respect of Objectives BHS1 and BHS2, as well as the 12 criteria set out in 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)'.
- The response outlines how the proposal responds to the criteria in Table 5.1 of the CDP Building Height Strategy.
- There is a strong economic rationale for the promotion of high-density mixed-use development at this location.

- The response states that the reports with the application outline how the proposal complies with the criteria in Section 3.2 of the Building Height Guidelines (2018).

5.2.4. With regard to the 'specific information' requested by the Board, the applicant outlines that the following has been included:

1. A detailed Statement of Consistency and proposals for community infrastructure in accordance with SLO 52 of the SUFP 2022-2028. The Statement of Consistency outlines how the proposed development complies with the relevant national, regional, and local planning policies and objectives.
2. Elements of the scheme which may be considered inconsistent with Development Plan policy are addressed in a detailed Statement of Material Contravention (See section 7 of this report).
3. Clarification that the Avid and Tack sites are co-ordinated but independent.
4. A Visual Impact Assessment and Verified Photomontages.
5. A Design Report which outlines access and permeability proposals.
6. A Property Management Strategy and details of resident support facilities and amenities.
7. Details of Open Space proposals and a Landscaping Design Report.
8. A childcare facility has been included which is supported by a Social Infrastructure Assessment.
9. A Tree Survey and Arboricultural Impact Assessment.
10. A Community Infrastructure Audit.
11. A TTA, Travel Plan, and DMURS Statement which justifies the design and extent of car and cycle parking.
12. A comprehensive landscaping plan and detailed drawings.
13. A Daylight & Sunlight Report.
14. A response to the Planning Authority's opinion.
15. A Building Lifecycle Report.
16. Statutory notices refer specifically to 'Build To Rent' and a covenant/legal agreement is included.

17. A Property Management Strategy and details of resident support facilities and amenities

18. Clarification of 'taking in charge' proposals, which does not include any area within the applicant's ownership.

19. A Preliminary Construction and Demolition Waste Management Plan.

20. A lighting Report.

6.0 Relevant Planning Policy

6.1. National Policy

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

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.2. Housing for All - a New Housing Plan for Ireland (September 2021)' is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price.
- Built to a high standard in the right place.
- Offering a high quality of life.

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

6.1.4. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the submissions from the Planning Authority, I am of the opinion that the directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, (December 2020, updated in July 2023) (hereafter referred to as the '*Apartments Guidelines*').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management including the associated Technical Appendices, 2009 (the 'Flood Risk Guidelines').
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018 (hereafter referred to as the '*Building Height Guidelines*').

- Childcare Facilities – Guidelines for Planning Authorities (June 2001) and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education Scheme (the ‘Childcare Guidelines’).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidance for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009)

6.2. Regional Policy

6.2.1. The primary statutory objective of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031 (RSES) is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The Dublin Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on several large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The ‘Metrolink – Luas Corridor’ involves upgrades to the Luas Green Line and will support development in the south of the county at Sandyford, Cherrywood and Ballyogan as new/emerging mixed-use districts and Strategic Employment locations.

6.2.2. The following (summarised) RPOs are of particular relevance:

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

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

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

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

6.3. **Local Policy**

Dun Laoghaire Rathdown County Development Plan 2022-2028

- 6.3.1. Sandyford is identified as a 'Mixed Use District' in the Core Strategy Map. Sandyford Business District is identified as a key strategic employment location within the M50 and on the Luas Greenline corridor which delivers sustainable growth through the alignment of employment growth with identified strategic residential growth areas. In Figure 2.11 'Compact Growth', the application site is identified one of the 'Residential sites relating to Dublin City and Suburbs'. The residential zones within the SUFP area are also designated as strategic regeneration sites. Relevant policy objectives can be summarised as follows:

CS7 – To support the delivery of strategic employment growth areas.

CS11 - To deliver 100% of all new homes, that pertain to Dublin City and Suburbs, within or contiguous to its geographic boundary.

CS13 - To support the development and renewal of strategic regeneration sites.

CS14 - To encourage and facilitate the re-use and regeneration of vacant sites.

- 6.3.2. Chapter 3 'Climate Action' outlines how the creation of a climate resilient county is an overarching strategic outcome of the plan and that this theme permeates the entire plan. This includes the Core Strategy approach of promoting compact growth and development along public transport corridors.
- 6.3.3. Chapter 4 'Neighbourhood – People, Homes and Place' aims to increase delivery of housing subject to alignment with the NPF and RSES; the Core Strategy, Housing Strategy, and Housing Need Demand Assessments; and embedding the concept of neighbourhood and community into spatial planning.

6.3.4. Section 4.2 deals with 'People' and aims to facilitate a balance between additional housing units, community facilities, and quality of life. It outlines that several school site locations (including Sandyford) have been identified following consultation with the Department of Education. Relevant policies/objectives can be summarised as follows:

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

PHP6: Encourage childcare facilities as an integral part of new residential developments. In general, at least one facility for all new residential developments.

PHP7: Protect existing schools and ensure the reservation of school sites in line with the requirements of the relevant education authorities.

6.3.5. 4.3 deals with 'Homes' and relevant policies/objectives can be summarised as follows:

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

PHP20: Seeks to protect the residential amenity of existing properties.

PHP27: Encourages an appropriate mix of housing.

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

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

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

- 6.3.8. Chapter 8 ‘Green Infrastructure and Biodiversity’ adopts the principle of sustainable development and identifies green infrastructure as a key strategic asset for the County, and one which can aid in the creation of a climate resilient County. It includes a range of policies for the protection, creation, and management of this resource in an integrated manner. Appendix 14 includes a Green Infrastructure Strategy.
- 6.3.9. Chapter 9 ‘Open Space, Parks and Recreation’ outlines the importance of such resources in terms of health and well-being, social interaction, connectivity, and biodiversity. Policy objective OSR4 promotes public open space standards in accordance with the ‘Sustainable Residential Development Guidelines’.
- 6.3.10. Chapter 12 of the Development Plan deals with Development Management. The following sections are relevant:
- 12.3** outlines guidance on criteria for residential developments and neighbourhood infrastructure. It aims for high quality design to improve the living environment and facilities for residents.
- 12.4** sets out Transport guidance, including standards relating to traffic management, road safety, and parking.
- 12.8** deals with Open Space and Recreation, including quantitative and qualitative standards for residential developments.
- 6.3.11. Chapter 13 deals with ‘Land Use Zoning Objectives’. The application site is zoned as A2, with the objective as follows:
- “To provide for the creation of sustainable residential neighbourhoods and preserve and protect residential amenity”.*
- 6.3.12. Specific Local Objective SLO 52 also applies at the site:
- “To facilitate the provision of community infrastructure at ground floor along the eastern outer edge of the Carmanhall residential neighbourhood along Blackthorn Road, to create active street frontage and to ensure the appropriate provision of social and community infrastructure to serve the needs of the resident and employee population”.*

Sandyford Urban Framework Plan (SUFP) 2022-2028

- 6.3.13. The SUFP is incorporated as Appendix 16 of the County Development Plan. It aims to transform Sandyford Business District from a collection of disparate, poorly connected estates, to a co-ordinated, cohesive, business district.
- 6.3.14. The application site is located within Zone 5 'Carmanhall Road Neighbourhood'. Residential development is to be the primary land use in Zone 5 and the environment should be designed to be conducive to the development of sustainable residential neighbourhoods. The Plan also highlights SLO 52 and the need for social and community infrastructure.
- 6.3.15. Particular objectives relating to Zone 5 can be summarised as follows:
- A2 1** - Ensure the residential neighbourhoods are developed at a density that is in accordance with the density provision set out in Map 2 (175/Ha applies to the application site).
 - A2 2** - Requires the provision of indoor community facilities.
 - A2 3** – Requires all residential development to benefit from public open space in accordance with CDP requirements, unless alternative proposals for indoor community facilities or a financial contribution are agreed.
 - A2 4** – Private open space to be provided in accordance with the CDP and the Apartment Guidelines.
 - A2 5** Requires a setback building line along Carmanhall Road to protect the existing sylvan character and provide a buffer from employment uses.
- 6.3.16. Policy SUFP 3 is that building height accords with the height limits indicated on Map 3, subject to policy objectives BHS1 and BHS2 of the CDP (consistent with NPO 35 of the NPF, SPPR 3 of the 'Building Height Guidelines'). Map 3 indicates that the 'Permitted/Developed Building Height Limit' for the application site is 7-9 storeys. However, the Plan (including BH5 SUFP) outlines that there may be instances where an argument can be made for increased height and/or taller buildings than those outlined in Map 3 in circumstances where it can be demonstrated that the proposal accords with policy objective BHS1 and BHS2 of the CDP, the safeguards outlined in these policies as per Table 5.1 of the BH Strategy, and any other development limits/phasing set out in the SUFP. Any application for increased height or taller

buildings over and above the parameters set out in Map 3 shall be subject to assessment under policy objective BHS1 and BHS2 of the CDP.

6.3.17. Section 3.5.4 sets out the following principles for the development of the Carmanhall Road residential neighbourhood:

- Carmanhall Road forms the base line for this neighbourhood and is essential in enhancing connectivity with the different aspects of the District.
- This neighbourhood shall be contained by tall buildings at either end of Carmanhall Road where the building line along the southern side of the road shall be set back to provide a linear greenway.
- The urban form shall provide a strong, animated and active outer edge onto Blackthorn Road, with commercial uses at ground floor level. This outer edge will promote permeability, whilst also acting as a buffer for inner residential uses.
- The inner 'softer centre' shall comprise of a number of square urban blocks in a grid pattern of suitable scale and size to facilitate good sun penetration.
- To promote connectivity, the urban blocks shall be individually modelled to provide visual variety and sufficient density to sustain urban living.
- Street frontages shall be predominately own door access, family type units to promote active frontages with corners emphasised according to orientation.
- Dwelling frontages shall be specific to the dwelling's location and orientation in relation to aspect and street hierarchy.
- Roads within the zone to be reduced in width and be tree lined to create an Avenue effect, in consultation with the Planning Authority.

6.3.18. Section 4.2 of the SUFP includes a range of Transport policies and objectives including the following:

TAM1 - Requires all future development to achieve a peak hour transport mode split of 45% trips by car drivers (maximum) and 55% trips by walking, cycling and public transport and other sustainable modes (minimum targets).

TAM2 - To construct a Luas/Bus Interchange in the vicinity the Stillorgan Luas stop.

TAM5 – Aims to include cycle routes on Blackthorn Road, from the junction of Burton Hall Road to Blackthorn Drive, and on Carmanhall Road.

TAM14 – Promotes shared access points with adjoining properties.

TAM15 – Sets out parking standards in accordance with the CDP.

6.3.19. Section 4.3 of the SUFP outlines a range of community infrastructure policies and objectives. It again references SLO 52, while objective OSC2 aims to provide Green Routes along streets, including Carmanhall Road and Blackthorn Road.

6.3.20. In relation to phasing, Objective P7 states that no additional apartment development will be permitted that exceeds 1500 units (cumulative total) until the planning approval process for the Sandyford Business District Civic Park at the corner of Corrig Road and Carmanhall Road shall be complete and planning permission granted. The 1,500 figure relates only to future applications.

7.0 **Material Contravention Statement**

7.1. A Statement of Material Contravention has been prepared as required under Section 8 (1)(iv)(II) of the Act of 2016. It addresses the issue of material contraventions of the Dun Laoghaire County Development Plan 2022-2028 and contends that there is justification to grant permission having regard to the relevant criteria under Section 37(2)(b) of the Planning and Development act 2000, as amended. The Material Contravention issues identified by the applicant and the submitted justification for same are outlined in the following sections.

7.2. **Building Height & Density**

The report refers to Policy SUFP 3 and Map 3 of the SUFP which set out blanket heights for individual parcels of land, including the subject site which has been designated as having a permitted/developed height limit of 6-9 storeys. It also refers to Policy SUFP 2 and Map 2 which provide for a density of 150 (*sic*) units per ha. for the site (N.B. the SUFP actually indicates 175 units per ha.).

Under s. 37(2)(b)(i) of the Planning and Development Act 2000, as amended, (i.e. the 2000 Act), the report outlines the following justification on the basis of 'strategic or national importance':

- The NPF sets out a range of objectives promoting compact growth.

- It is Government policy to provide more housing as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016 and Housing for All – Ireland’s new Plan for Housing.
- The development includes a significant number of residential units in a range of typologies. It contributes to the strategic provision of large-scale housing in the County and Region.
- On this basis, it is submitted that the proposed development is both, of strategic and national importance and the needs for housing has been clearly identified by the Government.

Under s. 37(2)(b)(ii) of the 2000 Act, the report outlines the following justification on the basis of ‘conflicting objectives’:

- Under PHP18, infill/brownfield sites such as the application site will be used to promote compact urban growth subject to proximity and accessibility. No cap on density is applied.
- The site is highly accessible by public transport, including high-capacity light rail. It is also located at the heart of the Sandyford Business District where numerous large employers are located.
- The capping of density at 150 uph (*sic*) should be viewed as being in direct conflict with PHP18 of the CDP.
- The proposed development should be considered having regard to PHP18 and not as a material contravention of the density set out in Map 2.

Under s. 37(2)(b)(iii) of the 2000 Act, the report outlines the following justification on the basis of ‘s.28 Guidelines and any relevant Government policy’.

- The NPF and the Apartments Guidelines support a move away from blanket restrictions on heights in favour of more flexible performance-based criteria appropriate to urban location type.
- The subject site meets all the criteria for ‘central and/or accessible locations’ as outlined in the Apartments Guidelines. These criteria allow the scheme to be considered under BHS 1 and BHS 2 of the CDP and as such may not constitute a Material Contravention.

- The Building Height Guidelines support increased building height and the 6 to 16-storey (*sic*) restriction at the site would be contrary to SPPR 1.
- SPPR 3 of the Building Height Guidelines applies. The proposal is consistent with the ‘broad principles’ set out in section 3.1 of the guidelines and the report outlines a detailed assessment which contends that it complies with the criteria outlined in section 3.2 of the guidelines.
- The Board may consider that a Material Contravention does not apply in respect of height as policy BH5 SUFP (which qualifies SUFP 3) allows that additional height may be permitted where it accords with policy objective BHS1 and BHS2 of the Building Height Strategy. The report contends that the safeguards outlined in these policies are fully addressed in the application.

7.3. Car Parking

The report refers to car-parking standards as outlined in Tables 12.5 and 12.6 of the CDP and the criteria for considering reduced provision as per section 12.4.5.2 of the Plan. It also refers to objective TAM10 of the SUFP which outlines the need for the management of car/cycle parking standards through Travel Plans.

Under s. 37(2)(b)(iii) of the 2000 Act, the report outlines the following justification on the basis of ‘s.28 Guidelines and any relevant Government policy’.

- The site qualifies as a ‘central and/or accessible urban location’ as per the Apartments Guidelines and s. 4.19 of the guidelines supports car parking provision to be minimised, substantially reduced, or wholly eliminated in certain circumstances.
- SPPR 8(iii) of the guidelines also outlines a default of minimal or significantly reduced car parking provision for BTR development. This supersedes the CDP standards as they apply to BTR apartments.

Under s. 37(2)(b)(iv) of the 2000 Act, the report outlines the following justification on the basis of the ‘Pattern of Development and Permissions Granted’:

- The TTA outlines a detailed analysis of parking policy and provision, and 125 spaces will be provided (0.375 per unit for 334 units). This includes facilities for disabled drivers (5 spaces), electric vehicle charging facilities (25 spaces), and car sharing (7 spaces).

- It includes 447 cycle spaces and provision for future additional demand for cycle parking of +10% has been incorporated.
- Table 11 in Section 12 of the TTA highlights a number of recent decisions where the Board has approved a much-reduced provision of car parking compared with maximum CDP standards. The contents of Table 12 (*sic*) are in broad agreement with the experience of existing BTR schemes where the demand for car parking is approximately 0.375 spaces per unit.

7.4. **Dual Aspect**

The report refers to section 12.3.5.1 of the CDP and the classification of the entire plan area as a suburban or intermediate location with a general requirement for a minimum of 50% dual aspect apartments in a single scheme.

Under s. 37(2)(b)(iii) of the 2000 Act, the report outlines the following justification on the basis of 's.28 Guidelines and any relevant Government policy':

- The site should be viewed as a 'central and/or accessible urban location' as per the Apartments Guidelines.
- SPPR8 (i) of the Apartments Guidelines clearly states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise, in respect of BTR developments.
- On this basis, the report contends that the proposed BTR development complies with the guidelines.

7.5. **Public Open Space**

The report refers to section 12.3.2.2 (ii) of the CDP and table 12.8 which sets out the requirement for public open space at 15% of the site area in residential developments in existing built-up areas. It highlights that the section also acknowledges instances where it may not be possible to comply with this standard but adequate communal space is provided. In such instances a development contribution in lieu may be acceptable.

Under s. 37(2)(b)(ii) of the 2000 Act, the report outlines the following justification on the basis of 'conflicting objectives':

- The CDP requires 15% of the site for public open space, which would equate to 1,485 sqm.
- The proposed development incorporates 1,716.1 sqm of communal open space, which is marginally below the stated requirements (1751m²). It includes 0.17 ha of communal open space (17% of the site area) and 38.5 sqm of public open space (cumulative total of 1,754.6 sqm.).
- The CDP acknowledges instances where it may not be possible to provide the public open space standards, including high-density schemes like that proposed. The communal open space provision is adequate and is of very high quality.
- Policy A2 3 of the SUFP also provides that in instances where it is not possible to provide meaningful and useable public open space or where a specific local objective requires, the applicant shall provide indoor community facilities (e.g., community rooms, indoor active recreational uses for residents), or a financial contribution in lieu of open space. The proposed development incorporates community facilities in accordance with SLO 52. On this basis, the development complies and is not in contravention of the public open space requirements.

7.6. **Private Open Space**

The report refers to section 12.8.3.3 of the CDP and table 12.11 which sets out the private open space standards of relevance to apartment units.

Under s. 37(2)(b)(ii) of the 2000 Act, the report outlines the following justification on the basis of 'conflicting objectives':

- The application is not underproviding private open space to any units. The applicants are however cognisant of comments made in the Chief Executive's Report on the adjacent Tack SHD (ABP.Ref.313338) which erroneously stated that a number of units did not avail of private open space. Private open space is in two forms: either that of a 'traditional' balcony or that of a 'Juliet' Balcony.
- Different parts of section 12.8.3.3 suggest that 'private amenity shall accord with the requirements set out in Table 12.11' but also that deviations are permissible, specifically referring to Built-to -Rent schemes availing of lower private amenity space based on the nature of the use. These statements are conflicting, and the applicants are of the view that they comply.

Under s. 37(2)(b)(iii) of the 2000 Act, the report outlines the following justification on the basis of 's.28 Guidelines and any relevant Government policy':

- SPPR8(ii) of the Apartments Guidelines states that flexibility shall apply in relation to private amenity space associated with individual units on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development.
- The proposed development includes high quality landscaped communal open space at podium and roof levels. In addition, in accordance with SLO52, the proposed development includes community facilities.
- Where units are catered for with Juliet balconies, this should not be interpreted as 'no open space' and these units have greater floorspace. Where possible, additional private amenity space was provided for off the bedroom.

8.0 Third Party Submissions

8.1. One third-party submission has been received on behalf of John Conway and the Louth Environmental Group. The issues raised can be summarised under the headings below.

8.2. The 2000 Act & Section 28 Guidelines

- The Board cannot grant permission in circumstances justified by the Building Height Guidelines and the Apartments Guidelines. These guidelines and the associated SPPRs are ultra vires and not authorised by s.28(1C) of the Act. S.28(1C) is unconstitutional and contrary to the SEA Directive as they authorise contraventions of the CDP/LAP without complying with SEA requirements.
- The proposal materially contravenes the CDP/LAP provisions/requirements in relation to density, housing mix, public open space, building height and visual impact, Architectural Conservation Area, and the Masterplan/Urban Design Framework. These material contraventions cannot be justified by reference to s.37(2) of the Act or s.28 guidelines.
- The proposal does not comply with the requirements of the Building Height Guidelines, including 'SPPR 2018 design guild lines for Build to rent developments' (*sic*). The Board cannot grant permission in such circumstances.

- It has not been demonstrated that the proposal is of strategic or national importance under s.37(2)(b) of the Act.
- The application has not demonstrated sufficient infrastructure capacity, including public transport, drainage, water services, and flood risk.

EIA / EIA Screening

- The EIAR/EIA Screening, including the Ecological report submitted, is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The documentation submitted, including that related to EIA Screening, does not comply with the requirements of the Planning and Development Regulations 2001 (the 2001 Regs), the 2000 Act, the 2016 Act and associated Regulations, or the EIA Directive.
- There is insufficient information on the impact on bird and bat flight lines/collision risks for the purposes of EIA Screening, AA Screening, and the specific assessments required by the Building Height Guidelines. EIA / EIA Screening does not adequately consider the impact of same on biodiversity pursuant to Article 3 of the EIA Directive, in particular with regard to species and habitats protected under the Habitats and Birds Directive.
- The EIAR has failed to provide a comprehensive cumulative assessment of the project and other similar SHDs.
- The Population and Human Health chapter of the EIA Screening Report fails to consider the impact of increased population on services including schools, childcare, and medical care.
- The impact on biodiversity and human health is inadequate and lacking in detail.
- The proposal does not comply with the BRE Guidelines.

AA Screening

- The information is insufficient, contains *lacunae*, and is not based on appropriate scientific expertise. Accordingly, the Board cannot comply with the Habitats Directive and the provisions of the 2000 Act.

- Competent authorities may only authorise development where they have made certain that it will not adversely affect the integrity of a European Site. An AA may not have *lacunae* and must contain complete, precise, and definitive findings and conclusions capable of dispelling all reasonable scientific doubt as to the effects on European Sites.
- The AA Screening Report has inadequacies and *lacunae* which does not comply with the 2000 Act or the Habitats Directive and does not permit the Board to carry out a complete AA Screening.
- The AA Screening does not provide sufficient reasons, methodology, analysis, or findings for its conclusions, including the reasons that protected sites were 'screened out'.
- AA Screening does not consider all aspects of the development, including the construction phase activities; the potential collision flight risk for protected bird species; and the cumulative effect with other developments.
- The AA Screening report impermissibly has regard to 'mitigation measures'.
- Insufficient site-specific surveys were carried out for AA Screening.
- Reliance on the Ringsend WWTP is flawed given the precarious status of same.

Build to Rent Development

- The Draft Dublin City Development Plan 2022-2028 (*sic*) has made a recommendation that BTR schemes of 100+ units would have to include at least 40% properties for sale. The scheme would not be permitted under this standard.
- There is a serious concern that this area of Dublin is becoming saturated with BTR development, which is putting enormous pressure on house prices. It purposefully excludes family sized units and facilities such as childcare, which will make the area unsustainable.
- BTR schemes do not play a role in implementing 'Rebuilding Ireland' or addressing the long-term housing and homelessness crisis.

9.0 Planning Authority Submission

9.1. The planning authority has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Dundrum Area Committee, as expressed at their meeting of the 26th of September 2022. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised below, incorporating several technical reports from the relevant departments of DLRCC.

9.1.1. Views of the Dundrum Area Committee

Concerns are raised in the relation to the following:

- Disturbance associated with the operation of the gym.
- Inadequate parking facilities given that the Luas is of no use and the site is in close proximity to the M50.
- Poor quality of development with inadequate landscaping, inappropriate location/accessibility of play area, substandard residential amenity, non-compliance with CDP public open space/green standards, and no loading bays.
- Safety concerns associated with residential development in an industrial estate.
- BTR would not solve the housing crisis and does not support communities. The CDP seeks to restrict a proliferation of such developments.
- Concerns about the small size, inadequate mix, and layout of units, which could be used for short-term letting.
- Breach of SLO52 of the CDP, including a lack of active street frontage.
- There is a lack of social and recreational facilities.
- Inadequate separation distances and an excessive scale, size, and density, which result in an overbearing visual impact.
- Appropriate residential development is supported on the site.

9.1.2. PA Comment on Principle of Development

- BTR development is 'open to consideration' in the A2 zone and needs to demonstrate compatibility with the overall policies and objectives and PHP28.
- The site is within 10-minute walking distance of Luas stops and therefore has accessibility to good quality public transport.
- On the question of BTR proliferation, the report considers the following BTR developments within a 10-minute walk/cycle of the site:
 - ABP Ref. 305940-19 – 564 units under construction at Sandyford Central
 - ABP Ref. 311540-21 – Decision to grant 463 units at Leopardstown Road now under Judicial Review.
 - ABP Ref. 311722-21 – 190 units granted on former Siemens Site, Ballymoss Road and Blackthorn Avenue.
 - ABP Ref. 313209-22 – Current application for 101 units, Ravens Rock Rd
 - ABP Ref. 313338-22 – Current application for 207 units on Tack site.
- It states that granted BTR developments equate to 1,217 units, which would rise to 1,525 units if current applications (excluding the subject application) are approved. However, given the unique nature of the SUFP area as a strategic employment zone, the principle of BTR tenure is considered acceptable and would not result in an undue proliferation.
- In terms of phasing and policy P7 of the SUFP, the 1500-unit cap has not yet been reached.

9.1.3. PA Comment on Density

- The density of the scheme is noted as 457 uph.
- The SUFP (Map 2) sets out a density cap of 175 uph for the site, which is based on Section 28 Guidelines and existing/planned infrastructure.
- The proposal would materially contravene the permitted density and there are serious concerns about the scale/quantum of development proposed.

9.1.4. PA Comment on Residential Amenity

- Proposals for setbacks along the SE, NE, and NW site boundaries are considered acceptable subject to conditions.
- The proposal for own-door units along the SW and SE boundary is welcomed in terms of streetscape activation but there are concerns about the privacy of these units and other units along the SW boundary (including amenity space) given the proximity to the adjoining office block (12.3m to 16.4m). This is less of a privacy issue given that office uses would generally cease in the evening, and it is difficult to improve the matter by way of condition.
- The proposed block separation distances are generally in excess of 22m except for Blocks E and F. However, angled windows could be added to the north-facing windows on Block F and agreed by condition.
- Given the nature and location of the site the planning authority would be open to reduced separation distances in these limited situations. Subject to conditions, there would not be significant levels of active and passive overlooking.
- There are concerns with the high reflectance value assumptions used in the Daylight and Sunlight analysis. There are also reservations that 27 no. units fail the Spatial Daylight Autonomy analysis, but the proposed compensation measures are acceptable.
- The assessment shows that sunlight to the ground level amenity spaces would meet standards and transient overshadowing times would be isolated and acceptable.
- A reduction of Block G by two storeys would enhance daylight / sunlight quality.
- The proposal would not cause material negative daylight/sunlight impacts on surrounding properties.

9.1.5. PA Comment on Standard of Accommodation

- A Housing Need and Demand Assessment has informed the CDP requirements for housing mix, which is consistent with SPPR1 of the Apartments Guidelines, and it is regrettable that an element of larger units is not included within the

application. However, given the suitability of the site for BTR development and SPPR 8(i) of the Apartments Guidelines which provides for 'no restriction on dwelling mix' for BTR, the proposed mix is acceptable.

- The apartment sizes appear to comply with the CDP, although larger unit sizes (including 3-bed units) would be preferable.
- The application proposes 25% dual aspect units. The 37% figure quoted by the applicant appears to include units with only a limited second aspect. There are serious concerns that this would materially contravene the 50% minimum CDP requirement for suburban or intermediate locations and result in substandard residential amenity. Permission should be refused in this regard and SPPR 4 of the Apartments Guidelines has already been addressed in the CDP.
- Any grant of permission should include a condition requiring improved external storage space.
- The proposal fails to comply with private amenity space standards which will seriously impact on amenity standards, particularly given that resident facilities and amenities are deficient.
- Excluding the unit which is open to the public (146.5m²), the application includes 746.5m² of residential facilities (i.e. 2.7m² per unit). A provision of 5m² per unit would be more suitable and on this basis there is a shortfall of 777m² which does not comply with s. 12.3.6 of the CDP. In the event of a grant of permission, some apartments could be repurposed to provide additional space, including a minimum 300m² for support facilities such as laundry, maintenance.

9.1.6. PA Comment on Open Space and Landscaping

- Despite the CDP provisions and Parks Department recommendation regarding development contributions in lieu of public open space, it is recommended that permission be refused given the absence of any such open space on site.
- Communal open space has been provided in excess of CDP requirements and roof gardens do not account for an excess proportion (i.e. <30%). However, shadow diagrams show significant overshadowing outside 12pm to 2pm which is indicative of overdevelopment (particularly the height of Block G). Boundary treatment should also be agreed with the planning authority.

- Play areas have not been adequately located, designed, or detailed and it would appear that permission should be refused on this basis. Any grant of permission should address the matter by condition.
- The communal open space would be significantly overshadowed for over half the year and there are inadequate linkages to the spaces. Permission should be refused based on the deficient quality of the communal space.
- Revised proposals for public realm and pedestrian/cycle infrastructure are required and should be agreed by condition of any grant of permission.
- Proposals for existing/proposed trees and associated landscaping and boundary treatment is generally acceptable subject to agreement of details by condition.

9.1.7. PA Comment on Design, Finishes, Height, and Visual Amenity

- The proposed high-quality materials and details can be agreed by condition.
- There are concerns about the 10-storey height of Block D and its overbearing impact along Carmanhall Road. It should be reduced by 2 storeys in any grant of permission.
- There are no such concerns about the 10-16 storey height of Block E, which would provide increased height towards the end of Carmanhall Road as per the SUFP, in a way that not overbearing and provides visual interest to mark the corner. There are no overbearing impacts for Blocks E and F along Blackthorn Road, or for Block G along the SW elevation.
- Notwithstanding the exceedance of the SUFP height policy (7-9 storeys) the proposal is considered with regard to the CDP Building Height Strategy (i.e. BHS1, BHS2, and Table 5.1). Having considered Table 5.1, the planning authority raises concerns including:
 - The height above 8 storeys along Carmanhall Road (excluding the 10-16 storey element of Block E which is supported).
 - Sub-standard ground level design frontage and safety concerns along the north-south access.
 - Infrastructural capacity as a result of excessive density.

- Non-compliance with the Urban Design Manual criteria, particularly regarding permeability and a sub-standard pedestrian environment.
 - Inadequate proposals to meet Objective SLO52.
 - The level of communal open space proposed.
- Any grant of permission should incorporate changes to building height as recommended in the report.
 - SPPR 3 of the Building Height Guidelines would not result in a different conclusion to that outlined in the report.

9.1.8. PA Comment on Community Facilities

- The proposed creche is acceptable subject to conditions relating to the safety of the play area and drop-off areas.
- No concerns arise in relation to school capacity given the information on demand/capacity as per the applicant's Social and Community Audit.
- A multi-purpose room / residents lounge and creche are proposed. However, the creche would be required in any event and the other facility does not appear to be for the local community. There are concerns that these facilities do not meet community facility needs as per the CDP definition and SLO52.
- It is noted that Conditions 7 and 8 of the extant student accommodation permission required access to facilities for the wider community in accordance with a strategy to be agreed with DLRCC.
- The proposed community and social infrastructure is not appropriate to serve the needs of the employee and resident population and are more akin to resident services and amenities as required for normal residential developments and BTR developments.
- Given that the area is changing from a largely employment-based area, the proposal would compound a lack of community facilities and is not considered acceptable in this regard. A suitable condition is recommended for the event of a grant of permission.

9.1.9. PA comment on Access & Parking

- There are concerns about pedestrian access/permeability as a result of railings along the shared north-south road; level changes; gated access; and footpath connectivity around the blocks.
- The north-south access road would not provide an active street environment.
- The proposed east-west link bridge is wholly dependent on the Tack site and its elevated position contributes to a substandard street environment below.
- Taking in charge arrangements for the public realm requires clarification.
- The application identifies future cycle lanes along Carmanhall Road and Blackthorn Road and a condition should require that these proposals are in accordance with the Sandyford Cycle Improvement Scheme.
- The DLR Transportation Report considers access concerns to be insurmountable and permission should be refused on these grounds.
- The 125 no. car-parking spaces is less than the CDP maximum standards and would contribute towards and improved modal split. If accepted, additional spaces shall be reserved for car share/clubs, mobility spaces, and EV charging points.
- Provision of ground level parking is not considered an optimal design solution.
- Deviation from CDP parking standards is provided for under s. 12.4.5.2(i) and the accessible location of the site and other urban design, regeneration and civic benefits of the proposal are noted.
- The car-parking ratio may change subject to the recommended removal of floors or the accommodation of additional storage/other uses in the basement level.
- The 447 cycle spaces at lower ground level would have limited accessibility and overlooking but would be a significant improvement on the previously refused SHD application.
- Quantum of cycle parking exceeds CDP standards (401 spaces) but not the Apartments Guidelines standards (581). While the quantum is welcomed, there are concerns about the lack of ground floor parking, particularly for visitors.

- The cycle conditions recommended by DLR Transportation section go beyond the scope of conditions. It is recommended that conditions based on those recommended for the 'Tack' SHD application should be attached.

9.1.10. PA Comment on AA & EIA

- The applicant's EIAR and AA reports are noted, and the Board is the competent authority in this regard.

9.1.11. DLRCC Interdepartmental Reports

Transportation Planning: Recommends refusal based on the following concerns:

- The masterplan access arrangements are not acceptable.
- The entrance at Carmanhall Road conflicts with the relocated signalised pedestrian crossing. The existing site access (further east) would be more favourable and ties in with the cycle improvement scheme.
- Pedestrian/cycle accessibility across the site is extremely poor.
- The exit onto Blackthorn Road is unnecessary. With improved access from the ESB link road M50 link this may be more viable as an access only point.

In addition to issues already identified in the CE Report, the Transportation report also outlines concerns and recommends conditions in relation to the following:

- The agreement of Travel Plans and Mobility Management.
- Agreement of cycle facilities in accordance with CDP standards.
- The design and layout of underground parking.
- Carmanhall Road access and egress is required in conjunction with addressing servicing and emergency access needs.
- The requirement for a Quality Audit.

Drainage Planning:

- Surface water drainage details are acceptable at this planning design stage subject to agreement of further details by condition.
- The Site-Specific Flood Risk Assessment conclusions are accepted.

Parks Department:

- Notes that no open space is provided and recommends a condition for payment of €2,000 per unit to offset open space delivery in the SUFFP area.

Housing Department:

- Outlines the council's preference for the purchase of Part V units and outlines the arrangements should be agreed by condition of any permission.

Environmental Health:

- Proposals are acceptable subject to the agreement of a Construction Environmental Management Plan and operational measures to reduce noise/odour impacts.

9.1.12. PA Recommendation

The Planning Authority recommends that planning permission be refused for reasons which can be summarised as follows:

1. The proposal represents piecemeal development as it is wholly dependent on the east-west pedestrian bridge link which cannot be guaranteed. The bridge and the associated frontage to the north-south street represents substandard design, permeability, and placemaking. The proposal would set an undesirable precedent for similar development. The proposed layout would materially contravene the zoning objective to create sustainable residential neighbourhoods and to preserve/protect residential amenity.
2. The proposed density (457 uph) does not accord with the CDP provisions for the site (175 uph) and the height of Block D has not been justified in relation to table 12.1 of the CDP. The scale/quantum of development would materially contravene CDP density policies and the overdevelopment of the site results in deficiencies in terms of the absence of public open space, the quality of communal open space by reason of overshadowing, cycle parking access, footpath links, play areas, dual aspect provision, and private open space, which would be contrary to the zoning objective.
3. The lack of community facilities as required by SLO52 would materially contravene the CDP and would not provide appropriate non-residential facilities for the site and wider area.

4. Dual aspect proportions would not comply with s.12.3.5.1 of the CDP (minimum 50%) and would materially contravene CDP objectives relating to residential amenity.
5. Inadequate separation distances from the adjacent sites to the west and southwest would result in an unreasonable level of overlooking which would negatively impact on the development potential of the site to the immediate west.
6. Access arrangements and the internal access layout and parking arrangements are sub-standard and unsurmountable. The proposed access arrangements would endanger public safety by reason of a traffic hazard or obstruction.

In the event that the Board is minded to grant permission, the Planning Authority recommends the inclusion of 43 no. conditions. Notable conditions can be summarised as follows:

5. (a) Phasing plan for the construction of the pedestrian bridge to be agreed.
 - (b) Details of the pedestrian bridge or any alternative to be agreed.
 - (c) The 4th and 5th floors of Block D shall be omitted.
 - The 1st and 2nd floors of Block G shall be omitted.
 - The 4th and 5th floors of Blocks E and F shall be omitted.
 - (d) A minimum 50% of the units shall have dual aspect.
 - (e) The residents' facilities/amenities at lower ground floor level of Block E shall be relocated to the ground floor level to replace apartments. The space vacated at lower ground level shall be repurposed for community uses.
 - (f) Details shall be agreed of the apartment units at lower ground floor, ground floor, and first floor of Blocks E and F to be used for communal BTR services/facilities and amenities (shortfall of 777m², a minimum of 300m² of which shall be for residential support facilities).
9. Details of external storage facilities to be agreed.
20. Details of ground floor loading bay/drop-off zone to be agreed.
21. Details of car-parking (137 spaces) and/or alternative shortfalls to be agreed.
22. Cycle parking details to be agreed, including details of short/long-term parking.

- 32. Taking in charge proposals to be agreed.
- 37. Details of play areas to be agreed.
- 40. Section 48 Development Contribution shall apply.
- 41. Section 49 Development Contribution shall apply (Luas Line B1).
- 43. Section 48 (2)(c) Development Contribution shall apply (€2,000 per unit for the delivery of Open Space in the SUFP area).

10.0 **Prescribed Bodies**

10.1. **Transport Infrastructure Ireland**

TII will rely on the Board to abide by official policy relating to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), including the provisions in Chapter 3. A Section 49 development contribution should apply in relation to the 'Extension of LUAS Line B1 – Sandyford to Cherrywood'.

10.2. **Inland Fisheries Ireland**

Any discharge to the Carrickmines River and the Brewery Stream/Carysforth Maretimo Stream may pose a risk to water quality and the aquatic environment. All proposed protection and mitigation measures to surface water and ground water sources should be adopted in entirety, including SuDS maintenance measures. The submission also encourages nature-based solutions in drainage attenuation and surface water management as per recently published interim guidance from the DoHLGH. All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

10.3. **Department of Defence**

Operation of cranes should be co-ordinated with Air Corps Air Traffic Services no later than 28 days before use.

10.4. **Irish Water**

Water: There is sufficient capacity to facilitate the proposed development. The IW Confirmation of Feasibility does not extend to fire flow requirements and the applicant should provide adequate fire storage capacity.

Wastewater: There is sufficient capacity to facilitate the proposed development. Separate foul and storm connection services must be provided.

Storm/surface water: Discharge should not be to an IW combined/foul sewer and connection arrangement shall be agreed with the local authority.

11.0 **Assessment**

11.1. I have considered all the documentation and drawings on file, the DLRCC Chief Executive's Report, the submissions from prescribed bodies and third-party submissions, the statutory Development Plan, as well as relevant national policy, regional policy, and section 28 guidelines. Having regard to the foregoing, I consider that the main planning issues arising from the proposed development can be addressed under the following headings:

- Principle of Development
- Building Height and Quantum of Development
- The Standard of Residential Amenity Proposed
- Impact on surrounding properties
- Daylight and Sunlight
- Design, Layout, and Visual Amenity
- Community Facilities and Public Open Space
- Traffic and Transport
- Material Contravention
- The Local Authority Recommendation.

11.2. Principle of Development

Zoning

11.2.1. The site is located within Zone 5 of Sandyford Business District as per the SUFP, which is to consist of areas where residential development should be the primary land use and the environment should be designed to be conducive to the development of sustainable residential neighbourhoods. The A2 zoning objective applies to the site as follows: *'To provide for the creation of sustainable residential neighbourhoods and preserve and protect residential amenity'*.

11.2.2. As per Table 13.1.15 of the CDP, 'Residential – Built to Rent' is 'open for consideration' within the A2 zoning objective. Uses shown as 'Open for Consideration' are uses which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area. Therefore, the proposal requires further assessment to determine whether or not the BTR element is acceptable in accordance with the zoning objective. The proposal incorporates a childcare facility which is 'permitted in principle' in the 'A2' zone.

Build to Rent Policy

11.2.3. In terms of national policy/guidance, I acknowledge that the Section 28 Guidelines 'Design Standards for New Apartments' were amended in December 2022 and again in July 2023. I also note the contents of the associated Circular Letters NRUP 07/2022 and NRUP 01/2023. The amendments remove Specific Planning Policy Requirements (SPPRs) 7 and 8, the effect being that BTR is no longer a distinct class of development for planning purposes, and that planning standards for BTR development are required to be the same as those for all other generally permissible apartment types. Section 5.0 of the Guidelines continues to recognise BTR development as a valid form of rental accommodation and sets out typical characteristics, but with no allowable divergence from the minimum standards for apartments generally, which are set out in Sections 3.0 and Section 4.0 of the Guidelines. This ensures that apartment developments, irrespective of the intended end user, will be designed to the same minimum standards.

- 11.2.4. However, section 5.10 of the 2023 Guidelines outlines transitional arrangements which outline that any outstanding SHD applications (such as the current application) that are subject to consideration within the planning system on or before 21st December 2022, will be considered and decided in accordance with the 2020 version of the Apartment Guidelines, which includes SPPRs 7 and 8. Therefore, the current application will be assessed accordingly.
- 11.2.5. With regard to local policy, section 4.3.2 and Policy PHP28 of the CDP facilitates BTR accommodation at locations within a 10-minute walking time of high frequency public transport routes, subject to avoiding a proliferation of BTR accommodation in any one area. The application site is within c. 500m or a 6-minute walking distance of the Stillorgan and Sandyford Luas stops. Furthermore, I note that the Luas stops operate at a frequency of 3-4 minutes during peak hours and complies with the description of 'high frequency' services as outlined in the Apartments Guidelines.
- 11.2.6. In relation to the concentration of BTR developments, I note that the DLRCC Dundrum Area Committee has raised concerns about the contribution that such developments make towards housing supply and sustainable communities, while the 3rd party observation has also raised similar concerns about an excess of BTR development. The DLRCC CE Report has referred to a total of 1,217 BTR units in the surrounding area. However, only one development (564 units) has commenced construction. Another development is subject to Judicial Review (463 units), leaving a remaining 'permitted' total of 190 units. I acknowledge the other two current BTR applications on sites to the west of the application site (i.e. the Tack Site (207 units) and Ravens Rock Rd site (107 units).
- 11.2.7. Notwithstanding the referenced BTR developments at various stages of construction/consent, the planning authority has concluded that the proposed development would not contribute to a proliferation of BTR schemes. I would agree that the question of proliferation must have regard to the nature and location of the site. In this regard, I acknowledge the proximity of the site to high frequency public transport services and within a strategic employment zone, and I would concur with the planning authority's view that the extent of BTR development would not be excessive for this area. Accordingly, I am satisfied that the proposal is acceptable in accordance with Policy PHP28 of the CDP.

Relationship with the Tack site

- 11.2.8. The proposed development has been clearly designed in a co-ordinated masterplan approach with the adjoining Tack site to the west. In my opinion, this is a positive and appropriate approach which aims to address some of the concerns raised in the Board's decision to refuse the previous SHD application (ABP. Ref. 310104). I acknowledge that the sites are in separate ownership and that it would obviously be in the developer's interests to ensure that each site could be developed independently if necessary.
- 11.2.9. The scheme proposes an entrance adjoining the Tack site exit off Carmanhall Road. However, the application site proposes a separate exit point onto Blackthorn Road and does not therefore rely on the Tack site for access/egress purposes. Similarly, the Engineering Assessment Report accompanying the application confirms that foul and surface water disposal and water supply for the Tack site will be separate to the proposed development.
- 11.2.10. I acknowledge that a pedestrian bridge is proposed to link both sites. However, I do not consider that this is a major element of the masterplan. It would clearly be unnecessary if only one site was developed and could be easily achieved if both sites were developed in tandem. And in the event of one site being developed in advance of the other, I consider that the conditions of any permission could easily control the phasing and delivery of this element.
- 11.2.11. Having regard to the above, I am satisfied that the proposed development can be suitably delivered, both independently and in conjunction with the development of the Tack site. Of course, the suitability of the adjoining developments requires further consideration, but I would have no objection in principle to the proposed delivery arrangements.

Phasing

- 11.2.12. Objective P7 of the SUFP states that no additional apartment development will be permitted that exceeds 1500 units (cumulative total) until the planning approval process for the Sandyford Business District Civic Park at the corner of Corrigan Road and Carmanhall Road shall be complete and planning permission granted. The 1,500 figure relates only to future applications. Consistent with the planning authority

view, I note that the threshold of 1,500 units has not been reached since the adoption of the CDP and, accordingly, I would have no objections in this regard.

Conclusion

11.2.13. Having regard to the above, I consider that the proposed development would be generally consistent with the residential vision for the area as outlined in the CDP and SUIP. And although BTR development is only 'open to consideration' in the A2 zone, I consider that the proposal would comply with BTR policy (PHP28) in that it would be at a suitably accessible location and would not contribute to a proliferation of BTR developments. The remaining sections of this report will assess compliance with the overall policies and objectives for the zone, the potential for undesirable effects, and the proper planning and sustainable development of the area. However, I would have no objection to the principle of BTR development and a creche at this location.

11.3. Building Height and Quantum of Development

11.3.1. The development has a height of up to 16 storeys and contains 334 no. apartments at a density of 457uph (net) or 371 uph (gross). I note that permission has previously been granted on the site for a Student Accommodation development of 9 storeys and 131 student apartments (with a total of 817 no. bedspaces). Previous to that, a 5-8 storey mixed use development with 147 apartments and a residential density of 182 units / ha was permitted at the site under D16A/0158. The proposed height and quantum of development has therefore significantly increased compared to previous permissions. However, the density would be a significant reduction on that previously refused under ABP Ref. 310104 (i.e. 450 uph (gross)).

National Policy & Guidance

11.3.2. The 2009 Guidelines on 'Sustainable Residential Development in Urban Areas' recommend that increased densities should be promoted in 'public transport corridors'. This includes locations within 500 metres walking distance of a bus stop, or within 1km of a light rail stop/rail station. It also states that the capacity of public transport (e.g. no. of train services during peak hours) should be taken into consideration. In general, minimum net densities of 50 dwellings per hectare should be applied and specified in LAPs, with the highest densities being located at rail stations / bus stops.

11.3.3. Chapter 3 of the *Building Height Guidelines* outlines a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility. It outlines broad principles for the consideration of proposals which exceed prevailing building heights, including the extent to which proposals positively assist in securing National Planning Framework objectives of focusing development on key urban centres, and the extent to which the Development Plan/LAP comply with Chapter 2 of the Guidelines and the NPF. SPPR 3 outlines that, subject to compliance with the criteria outlined in section 3.2 of the Guidelines, the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

11.3.4. Section 2.4 of the Apartments Guidelines states that 'Central and/or Accessible Urban Locations' are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including (not exhaustively):

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

Local Policy

11.3.5. The Development Plan (including Policy PHP18) generally supports proposals to optimise density on suitable sites and subject to suitable design. It supports minimum densities of 50 units per hectare in central/accessible locations and 35 units per hectare throughout the county. The SUFP contains more detailed guidance for the site. Objective 'A2 1' is to ensure that residential neighbourhoods are developed at a density that is in accordance with the density provision set out in Map 2, which indicates a residential density of 175 units / ha for the subject site (the highest residential density in the entire SUFP area).

- 11.3.6. The planning authority has calculated the proposed density at 457 uph and has stated that the scale/quantum of development would materially contravene CDP density policies. The applicant has also addressed the issue of density in the Material Contravention Statement. As previously outlined, I consider that a lower gross density of 371 uph could be considered for the overall site. I would also highlight that the SUFP does not clarify if the 175 uph (as per Map 2) is a maximum or minimum standard. In the absence of same, it may be assumed that 175 uph is a specific density standard for the site. In any case, unless the stated 175 unit/ha is a minimum standard (which has not been stated), I would accept that the proposed development would significantly exceed and materially contravene the apparent density standard for the site as per the SUFP.
- 11.3.7. In relation to building height, Objective SUFP 3 aims to ensure that development accords with the limits indicated on Map 3, subject to policy objectives BHS1 and BHS2 of the CDP (consistent with NPO 35 of the NPF, SPPR 3 of the 'Building Height Guidelines'). Map 3 indicates that the 'Permitted/Developed Building Height Limit' for the application site is 7-9 storeys. However, the Plan (including BH5 SUFP) outlines that there may be instances where an argument can be made for increased height and/or taller buildings than those outlined in Map 3 in circumstances where it can be demonstrated that the proposal accords with policy objective BHS1 and BHS2 of the CDP; the safeguards outlined in these policies as per Table 5.1 of the BH Strategy; and any other development limits/phasing set out in the SUFP. The plan ultimately states that any application for increased height or taller buildings over and above the parameters set out in Map 3 shall be subject to assessment under policy objective BHS1 and BHS2 of the CDP.

Assessment & Conclusion

- 11.3.8. Having regard to the aforementioned policy provisions, it is clear that national and local policy/guidelines encourage increased height/density in significant employment locations and public transport corridors. In this regard, I would acknowledge the location of the site within a strategic employment location and within 1km/10-minute walking distance of two Luas stops which offer high frequency rail services. The Apartments Guidelines also reference the capacity of services and specifically classify the Luas as a '*high capacity urban public transport stop*'. Similarly, I would highlight that the Sustainable Residential Development Guidelines refer to capacity

in the context of the number of trains during peak hours rather than a detailed capacity by person. At local policy level, Policy BHS 1 also classifies sites within 1000 metre/10-minute walk band of a LUAS stop as being '*well served by public transport links*'.

- 11.3.9. Having regard to the above, I am satisfied that the site is within a 'central and/or accessible urban location' (as described in the Apartments Guidelines) where large-scale higher-density development can be considered. The planning authority does not appear to disagree with this conclusion, although it clearly raises serious concerns about the exceedance of the 175 uph density standard. I would also acknowledge that the 16-storey proposal would exceed the 'Permitted/Developed Building Height Limit' for the site (7-9 storeys), although I am satisfied that the CDP allows for additional height subject to further assessment as previously outlined. Indeed, the planning authority supports the proposal to exceed the 'Permitted/Developed Building Height Limit' with 16-storeys at the north-eastern corner of the site.
- 11.3.10. In conclusion, I consider that the proposal for increased density and height at this location would be consistent with the overarching objectives of the National Planning Framework, the RSES, and the CDP in promoting compact urban growth on an accessible brownfield site. However, it is acknowledged that the proposal would exceed the SUFP height standards and the apparent density standards. The suitability of these exceedances will be further assessed throughout this report, with particular reference to the assessment criteria outlined in Section 3.2 of the *Building Height Guidelines* and policy objectives BHS1 and BHS2 of the CDP.

11.4. **The Standard of Residential Amenity Proposed**

- 11.4.1. This section assesses the standard of residential development proposed, particularly with regard to the quantitative and qualitative standards outlined in the Development Plan and the 2020 Apartments Guidelines.

Housing Mix

- 11.4.2. The development proposes a mix of apartments including 79 no. studios (24%), 175 no. 1-bed units (52%) and 80 no. 2-bed units (24%). The third-party observation contends that this materially contravenes the CDP and I note that the Dundrum Area Committee also raised concerns about the inadequate mix of units, particularly an

excess of smaller units. And while the DLR CE Report highlights a regrettable absence of larger units, it concludes that proposals are acceptable given the suitable location for BTR development and the provisions of SPPR 8(i) of the Apartments Guidelines which provides for 'no restriction on dwelling mix' for BTR.

- 11.4.3. I note that Table 12.1 of the Development Plan sets out apartment mix requirements, including those which apply to 'lands within SUFP'. This would include up to 60% studio, one and two bed units with no more than 30% of the overall development as a combination of one bed and studios and no more than 20% of the overall development as studios. A minimum of 40% 3+ bedroom units would also apply.
- 11.4.4. However, notwithstanding that section 12.3.3 of the CDP aimed to apply the apartment mix requirements of Table 12.1 to BTR developments, I note that this requirement has not come into effect as a result of a Ministerial Direction (28th September 2022) relating to the adoption of the CDP. Accordingly, the CDP does not include a specific mix requirement for BTR developments.
- 11.4.5. In terms of national policy and guidance, the NPF acknowledges that apartments will need to become a more prevalent form of housing in Ireland's cities, noting that one, two and three person households comprise 80 percent of all households in Dublin City. As acknowledged by the planning authority, the Apartments Guidelines also highlight the need for greater flexibility on apartment mix, including SPPR 8 (i) of the Apartment Guidelines which states that no restrictions shall apply on dwelling mix for proposals that qualify as specific BTR development. I am satisfied that the proposed development has been described and proposed to qualify as BTR development in accordance with the requirements of SPPR 7(a) of the Apartments Guidelines. Accordingly, consistent with SPPR 8 (i), I have no objection to the proposed housing mix.
- 11.4.6. For sites purchased between 1st September 2015 and 31st July 2021, a Part V requirement of 10% applies in accordance with Section 96(3)(j) of the Act of 2000. The application proposes to lease 34 no. units (10%) and it has been confirmed that Part V discussions have been held with the local authority. The DLRCC submission outlines a preference for the purchase of units in accordance with national policy and refers to Department of Housing advice that Part V units can be acquired notwithstanding the long-term rental requirements outlined in SPPR7(a) of the

Apartments Guidelines. Consistent with the DLRCC submission, I am satisfied that Part V arrangements should be agreed as a condition of any permission.

Floor Areas and Dimensions

- 11.4.7. The Development Plan requirements in this regard are consistent with the standards outlined in the Apartment Guidelines. The application includes a Residential Quality Audit (RQA) which outlines that all proposed units exceed the minimum overall apartment floor areas as set out in SPPR 3 of the Apartment Guidelines. Furthermore, with regard to 'Safeguarding Higher Standards', the Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1-, 2- or 3-bedroom unit types, by a minimum of 10%. SPPR 8 (iv) outlines that this requirement does not apply to BTR development. Notwithstanding this, I calculate that 43% (145 no. units) would exceed the 10% requirement. When marginal shortfalls are discounted, 66% (222 no. units) would meet the 10% standard, thereby indicating a generous floor space for BTR units.
- 11.4.8. I have also considered the other internal floor space requirements of Appendix 1 of the Apartment Guidelines, including the areas/dimensions for living/kitchen/dining areas, bedrooms, and storage. Having reviewed the applicant's RQA and the floor plans submitted, I am satisfied that the room widths and areas are satisfactorily provided in accordance with the Guidelines. Again, notwithstanding the flexibility allowable for reduced storage areas under SPPR8(ii), I note that all units would comply with and/or exceed the minimum storage requirements of the Guidelines.

Aspect

- 11.4.9. The Development Plan requirements are generally consistent with SPPR 4 of the Apartment Guidelines, which requires a minimum of 33% dual aspect units in more central and accessible urban locations, and at least 50% in suburban or intermediate locations. However, the CDP classifies the entire County as a suburban or intermediate location and therefore applies the 50% requirement. The planning authority has outlined serious concerns that the proposed development would materially contravene this requirement. I have previously outlined my opinion that this is a 'central and/or accessible urban location' in the context of its strategic employment location and proximity to the Luas stops. Section 3.17 of the Apartments

Guidelines also outlines that the 33% requirement can even apply to some intermediate locations near town centres or close to high quality public transport. Therefore, I am satisfied that the 33% requirement should apply in accordance with the Apartments Guidelines.

11.4.10. The application outlines that 124 no. units (37%) are dual aspect. The planning authority has challenged this figure and submits that, based on windows opposing other blocks, only 25% of the units are dual aspect and would materially contravene CDP requirements. I note that section 12.3.5.1 of the CDP outlines guidance of the classification of dual aspect units, which accepts corner windows but does not accept windows, indents or kinks on single elevations. However, it does not place any restriction on dual aspect windows opposing other blocks.

11.4.11. Having reviewed the proposed designs, I am satisfied that the proposed dual aspect designs achieve substantive aspects in at least two directions to satisfactorily achieve the stated 37% proportion. I note that this is not consistent with section 12.3.5.1 of the CDP which states that '*There shall generally be a minimum of 50% dual aspect apartments in a single scheme.*' However, given that this is a general provision, I consider that there is scope within the CDP to allow a lesser proportion without a material contravention of the plan. In this regard, the proposal would exceed the 33% requirement for accessible locations as per the Apartments Guidelines (including intermediate locations as per s. 3.17) and I am satisfied that this is acceptable in this case.

Ceiling Heights

11.4.12. The CDP and the Apartments Guidelines (SPPR 5) outline that ceiling heights for ground floor apartments should be a minimum of 2.7m, while a minimum of 2.4m applies at upper floor levels. The application contends that the proposed scheme complies with these requirements. However, having reviewed the 'section through podium' drawing, it would appear that the 'ground floor' and 'lower ground floor' heights (2.55m) would not comply with the 2.7m standard. However, I am satisfied that this is a minor issue which could be easily resolved through a condition of any permission and would not result in any other significant effects.

Lift and Stair Cores

11.4.13. Consistent with SPPR 8(v) of the Apartments Guidelines, the Development Plan acknowledges that the normal standard (up to 12 apartments per floor per individual stair/lift core) does not apply to BTR developments. The application proposes a maximum of 13 no. apartments per core. Consistent with the planning authority report I have no objections in this regard.

Private Amenity Space

11.4.14. Appendix 1 of the Guidelines also sets out the normal minimum requirements for the provision of private open space, which is consistent with Development Plan standards. The Guidelines state that such space should be provided in the form of gardens or patios/terraces for ground floor apartments (with appropriate privacy and security) and balconies at upper levels. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking. Balconies should adjoin and have a functional relationship with the main living areas of the apartment and have a minimum depth of 1.5 metres.

11.4.15. Notwithstanding the above, SPPR 8(ii) of the Guidelines states that flexibility shall apply in relation to the provision of a proportion of the private amenity space associated with individual units on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. The CDP also states that a reduction in the area of private open space serving each unit will only be considered in instances where at least an additional 10% high quality, useable, communal and/or additional compensatory communal support facilities are provided.

11.4.16. I note that the vast majority of apartments comply with the requirements of the Apartments Guidelines and the CDP. However, a total of 23 units (7%) do not comply and have been provided with 'juliet' type balconies in order to facilitate adequate daylight into the lower-level units. A range of mitigation measures have been incorporated into these units to include access to private terraces; large levels of glazing; and the incorporation of the private amenity space requirements within larger internal floor areas. Furthermore, the application includes 893m² of residential amenity space which I would consider to be compensatory measures as per SPPR 8(ii) of the Apartments Guidelines.

11.4.17. The CDP allows for similar compensatory measures, but it is unclear as to what exactly the 'additional 10%' requirement refers to. It could be an additional 10% on the standard private amenity space requirements. In that case, I would calculate that the total private amenity space requirement for the 23 no. apartments (without amenity space) would be 110m², resulting in a requirement for 121m² of compensatory space. As previously outlined, the proposal for 893m² would comfortably exceed this requirement.

11.4.18. Having regard to the foregoing, I am satisfied that the shortfalls in private amenity space could be satisfactorily addressed through the provision of compensatory measures for individual apartments and the overall communal facilities. Subject to further assessment of the facilities in the following section of this report, this would be acceptable in accordance with the flexibility allowed under the CDP policy and the Apartments Guidelines.

Communal Open Space, Facilities, and Amenities

11.4.19. Regarding the provision of communal open space, the Development Plan standards are consistent with those outlined in Appendix 1 of the Apartments Guidelines. Based on those standards, the proposed development requires 1,751m² of communal open space. The proposed development contains a total of 1,755m² and the planning authority appears to be satisfied with this quantitative standard. The main courtyard/podium space is centrally located and is easily accessible to all units. The roof terrace is also an acceptable form of communal open space and does not account for an excessive contribution to the overall space (i.e. <30% as per s. 12.8.5.4 of the CDP).

11.4.20. I note that the planning authority has raised concerns about the quality of the space in terms of overshadowing. However, in section 11.6 of this report I have considered the level of sunlight to these spaces, and I have no objection in this regard. Chapter 12 of the EIAR also includes a 'Microclimate – Wind' assessment based on the Lawson pedestrian comfort/distress criteria. For the pedestrian circulation areas (including the podium in the table in the table space), it demonstrates that conditions are calmer than required for the intended use. For the roof terraces, it demonstrates that the spaces are suitable for the intended uses of short/long-term sitting.

Accordingly, I have no objection in relation to the wind impacts on the communal spaces.

- 11.4.21. The spaces will be suitably landscaped and incorporate play areas for children. For developments with 25-100 no. 2-bed+ units, the Apartments Guidelines outline that play needs should be catered for within small play spaces (about 85 – 100 sq. metres) for the specific needs of toddlers and children up to the age of six. The scheme includes 4 no. play areas for young children (c. 100m²), an informal lawn space for older children/teens (c. 300m²), and 3 no. exercise areas (c. 60m²). I am satisfied that this play provision complies with the recommendations of the CDP and the Apartments Guidelines.
- 11.4.22. Section 5.5 of the *Apartments Guidelines* states that the provision of dedicated amenities and facilities specifically for residents is usually a characteristic element of BTR. SPPR 7 (b) of the Guidelines outlines that BTR developments must be accompanied by detailed proposals for supporting communal and recreational amenities, to be categorised as ‘resident support facilities’ and ‘resident services and amenities’.
- 11.4.23. The application states that 893m² of such facilities/amenities are included, 146m² of which would be open to the public. I calculate that 811m² has been proposed, consisting of a resident gym, business centre, multi-purpose rooms, multimedia room/cinema, concierge, and residents’ lounge/games room. When the public space (146m²) is omitted, there is a total of 665m² dedicated solely to resident facilities/amenities. The planning authority has outlined that the proposals are insufficient, and that space should be provided at a rate of 5m² per unit, resulting in a shortfall of 777m².
- 11.4.24. There would not appear to be any policy basis for the 5m² standard suggested by the planning authority as neither the CDP nor the Apartments Guidelines specify such quantitative standards. I have considered the standards previously considered by the Board based on a rate of m² per bedroom. With a total of 414 bedrooms, the proposed 665m² would result in a rate of 1.6m² per bedroom, which compares favourably with previous Board decisions as outlined in the table below. It should be noted that a childcare facility (142m²) was counted as a resident amenity/facility for

the previous application (ABP Ref. 310104) but has not been counted in the current application or the other referenced applications.

Scheme	No. of Bedrooms	Facilities / amenity space (m²)	Space per bedroom (m²)
Current application	414	665	1.6
ABP. Ref. 310104 (refused)	538	535 (including childcare facility)	0.9
ABP. Ref. 305940	894	1095	1.2
ABP. Ref. 311722	300	465	1.55

11.4.25. The application is accompanied by a Property Management Strategy which outlines other support services including storage/parcel drop-off, security and access, waste management, parking management, event management, cleaning/maintenance, and stakeholder engagement. An onsite Property Manager will oversee a management team in the provision of these services, and I am satisfied that this will make an important contribution to the level of residential amenity.

11.4.26. Having regard to the foregoing, I consider that the proposed development will provide an acceptable level of communal open space and other communal amenities and services to support the proposed development. Furthermore, I am satisfied that this will satisfactorily compensate for the minor shortfall in private amenity space (as per SPPR 8(ii) of the Apartments Guidelines and s. 12.3.6 of the CDP) as previously discussed. I note that the uses of the resident amenity spaces are quite general in some cases and the planning authority has concerns about the absence of specific services such as laundry etc. However, I am satisfied that these details could be agreed by a condition of any permission.

Access, Circulation, & Security

11.4.27. I am satisfied that the access and services within the proposed development have been appropriately designed to ensure universal access for people of all ages and abilities. The proposed apartments generally overlook the public realm or communal areas to provide for natural/passive surveillance of streets, open spaces, and play areas. Entrance points would be clearly distinguished and overlooked, including the

own-door access to lower ground/ground floor apartments and access to internal and external communal areas. I note the security concerns raised by the Dundrum Area Committee based on the location of residential development within a business park. However, I do not consider that serious concerns are warranted, and I am satisfied that the residential use would be consistent with the mixed-use vision for the overall SUFP area.

Separation Distances

- 11.4.28. Section 12.3.5.2 of the Development Plan outlines that such developments should provide for acceptable separation distances between blocks. It states that a minimum clearance distance of circa 22 metres, in general, is required between opposing windows in apartments up to three storeys, while taller blocks may require a greater separation distance having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. In all instances where the minimum separation distances are not met, the applicant shall submit a daylight availability analysis for the proposed development.
- 11.4.29. Consistent with the NPF preference for performance-based standards and a range of tolerance (NPO13), the Apartments Guidelines advise against blanket restrictions on building separation distance. The Guidelines highlight a need for greater flexibility in order to achieve significantly increased apartment development in Ireland's cities and points to separate guidance to planning authorities as outlined in the Building Height Guidelines. The Sustainable Residential Development Guidelines (s. 7.4) also advise that such rules regarding separation distances should be applied flexibly and that shorter separation distances can be achieved through appropriate design.
- 11.4.30. The proposed scheme generally provides separation distances in excess of 22metres, except for the distance between blocks E and F (c. 7.5m). However, this interface includes staggered window arrangements and louvres/opaque glass to protect privacy. Consistent with the planning authority view, I consider this to be an acceptable solution given that the living rooms in these dual aspect units are otherwise served by larger glazed elements.
- 11.4.31. The planning authority CE Report contains somewhat conflicting commentary on the matter of separation distances. It appears to accept that reduced separation

distances and suitable mitigation measures would satisfactorily avoid any significant overlooking/privacy concerns. However, one of the recommended reasons for refusal contends that separation distances from the adjacent sites to the west and southwest would result in an unreasonable level of overlooking which would negatively impact on the development potential of the site to the immediate west.

- 11.4.32. The separation distance from the proposed Tack development to the west would be c. 11-12m. I acknowledge that this is also only a current application, but I consider that the proposed arrangement warrants consideration. Again, I note that window arrangements are generally staggered and that the interface involves dual aspect units where mitigation measures such as screening could be suitably provided. Accordingly, I consider this arrangement to be acceptable subject to conditions. These two adjoining developments have been proposed on the basis of a mutually agreed masterplan and I am satisfied that the separation distances would not adversely affect the development potential of the Tack site.
- 11.4.33. To the southwest of the site, the proposed separation distance from the existing office development would be in excess of 12 metres. It should be noted that the 22m separation standard is based on residential blocks and would not apply to the office development to the southwest as the site. I acknowledge the overlooking/privacy concerns raised by the Planning Authority, but I consider that the periods of intensive usage of the existing offices and the proposed residential units are unlikely to coincide and that overlooking impacts are less sensitive in this context. Accordingly, I have no objection to the proposed separation distances.
- 11.4.34. In conclusion, I have previously outlined that this is a central and accessible built-up area, and I am satisfied that reduced separation distances can be allowed in accordance with the flexibility of the Development Plan. I have considered the layout, size, and design of the proposed development, as well as its orientation and location. Having regard to the foregoing, I am satisfied that the proposed separation distances are acceptable for both the lower levels (up to three storeys) and higher levels of the proposed development. Furthermore, I consider that this approach is supported by the aforementioned national policy and guidance provisions which recommend a more flexible performance-based application of any such standards. I would accept that reduced separation distances should be dependent upon daylight implications which will be assessed in section 11.6 of this report.

Noise and Vibration

11.4.35. Chapter 9 of the EIAR considers the potential noise and vibration effects for apartments within the proposed scheme. It outlines that effects would be mitigated through appropriate specification of alternative ventilation within residential units to ensure that target noise levels will be met using closed-window attenuation. Effects will also arise from road traffic on Carmanhall Road and Blackthorn Road, as well as noise from commercial/industrial sources. However, these are not predicted to be significant.

Conclusion on the Standard of Residential Amenity

11.4.36. As outlined in the foregoing, I have considered the location, nature, scale, design, and layout of the proposed development. I have reviewed the applicant's Residential Quality Audit and the associated plans and particulars, and I am satisfied that the information provided regarding floor areas, dimensions, and aspect is accurate. Subject to conditions, I am satisfied that the proposed development would provide a suitable mix of units that would provide an acceptable level of residential amenity for the prospective occupants, supported by an appropriate level of communal services and facilities. Accordingly, I would have no objections in this regard. Residential amenity impacts in relation to daylight/sunlight, traffic/transport, and other issues will be dealt with separately in later sections of this report.

11.5. Impacts on Surrounding Properties

11.5.1. I have previously addressed the separation distances between the proposed development and the Tack site to the west, as well as existing office development to the south. Having considered these separation arrangements and the height and scale of the proposed development, I do not consider that there would be any unacceptable impacts in terms of privacy, overlooking, or overbearing impacts. Accordingly, I do not consider that the proposal would seriously detract from either the existing amenity/property value or the future development potential of these properties.

11.5.2. Otherwise, the northern and eastern surrounds are largely dominated by the Carmanhall Road and Blackthorn Road, which provide a suitable buffer between the proposed development and the existing commercial uses which are at a significant separation distance. Accordingly, I do not consider that there would be

any unacceptable impacts on the surrounding commercial properties to the north and east.

- 11.5.3. I note that the Dundrum Aea Committee has raised concerns about potential disturbance effects of the operation of the gym. However, I consider this to be a suitable ancillary use for this BTR development and I am satisfied that it would not result in any unacceptable effects for surrounding properties.
- 11.5.4. I would accept that the height and scale of the proposed development will significantly change the visual outlook from surrounding properties. However, given the adequate separation distances involved, as well as the largely commercial nature of surrounding development, which is less sensitive to visual impacts, I do not consider that there would be any unacceptable visual overbearing impacts.
- 11.5.5. I would also accept that the construction stage would result in some level of disturbance and disruption for surrounding properties as a result of traffic and parking, noise & vibration management, excavation, and dust & dirt impacts. The application includes an Environmental Impact Assessment, a Preliminary Construction and Demolition Waste Management Plan (CDWMP), a Preliminary Construction Management Plan, a Construction Environmental Management Plan (CEMP), and a RWMP for Construction and Demolition Waste. Chapter 9 of the EIAR considers noise and vibration effects, noting that this is predominantly a commercial/light industrial area with no high-sensitive noise receptors nearby. It outlines that construction phase noise impacts will be addressed through the CEMP and CMP to meet the threshold criteria derived from baseline conditions. I am satisfied that the application appropriately addresses the relevant matters in order to avoid any unacceptable construction impacts on surrounding properties. The final details of same should be agreed by condition with the planning authority.
- 11.5.6. In conclusion, I do not consider that the proposed development would unacceptably detract from the privacy or amenity of surrounding properties by reason of overlooking or overbearing impacts. Furthermore, I am satisfied that construction impacts would be consistent with standard urban development of this scale and subject to mitigating conditions, would not result in any unacceptable disturbance to the local commercial/resident population. Other potential impacts on surrounding

properties, including those relating to daylight/sunlight and traffic, will be addressed in later sections of this report.

11.6. Daylight and Sunlight

11.6.1. As previously outlined in sections 11.4 and 11.5 of this report, this section now assesses the impact of daylight and sunlight, both within the proposed development and for surrounding properties.

Policy

11.6.2. Section 3.2 of the Building Height Guidelines outlines that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE (BR 209) 'Site Layout Planning for Daylight and Sunlight' (2nd edition, 2011) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

11.6.3. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2020) also highlight the importance of provision of acceptable levels of natural light in new apartment developments, which should be weighed up in the context of the overall quality of the design and layout of the scheme and the need to ensure an appropriate scale of urban residential development. It states that planning authorities '*should have regard*' to guidance like the BRE (BR 209, (2011)) or BS (8206-2 (2008)) standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Again, where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative,

compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

- 11.6.4. The Sustainable Residential Development Guidelines (2009) highlights the importance of daylight, sunlight, and energy efficiency. It states that daylight and shadow projection diagrams should be submitted and the recommendations of “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” (B.R.E. 1991) or B.S. 8206 “Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting” should be followed in this regard.
- 11.6.5. The Development Plan also acknowledges the importance of good levels of sunlight and daylight in relation to communal open space (s. 12.8.5.3), house design (s. 12.3), and block separation (s. 12.3.5.1). Section 12.3.4.2 requires a daylight analysis for all proposed developments of 50+ units, which should also consider the impact on existing habitable rooms. It states that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE Report, 2011) and/or any updated, or subsequent guidance.

Information and Assessment

- 11.6.6. The application is accompanied by a ‘Daylight and Sunlight Analysis’ report, compiled by IN2 Engineering Design Partnership. The report has been carried out having regard to the recommendations of the 2020 Apartments Guidelines; Site Layout Planning for Daylight and Sunlight, A guide to good practice (BRE, Third Edition, 2022); British Standard BS EN 17037:2018 – Daylight in Buildings; and Irish Standard IS EN 17037:2018.
- 11.6.7. Although the aforementioned national planning policy/guidelines refer to earlier versions of the BRE Guidance, I note the publication of the updated (3rd) edition of the BRE Guide in June 2022. I also note that the updated British Standard (BS EN 17037:2018) replaced the 2008 BS 8206 (in the UK) and that the UK National Annex brings recommended light levels for dwellings more in line with the former 2008 BS 8206. The British Standard has been adopted in Ireland without a National Annex.
- 11.6.8. Having regard to the above, I acknowledge that relevant standards and guidance have gone through a transitional period in recent years. However, this has been reflected in the Development Plan which allows for flexibility by stating that development shall be guided by the principles of the BRE Report (2011) and/or any

updated, or subsequent guidance. Relevant national guidance (i.e. the Building Height Guidelines and the Apartments Guidelines) also allow for flexibility in methodology by stating that regard should be taken of guidance/standards 'like' the BRE Guide (2011)) or BS (8206-2 (2008)). Therefore, I am satisfied that the applicant's assessment is based on updated guidance/standards which are 'like' those referenced in national and local policy. The methodology employed for the assessment of daylight and sunlight is suitably robust and is based on documents that are considered authoritative on the issues of daylight and sunlight. Therefore, I consider it appropriate to apply these standards in my assessment.

- 11.6.9. At the outset, I would also highlight that the standards described in the BRE guide allows for flexibility in terms of application. Paragraph 1.6 of the guide states that the advice given '*is not mandatory*', '*should not be seen as an instrument of planning policy*', and '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The guide notes that other factors that influence layout include considerations of views, privacy, security, access, enclosure, and microclimate etc.
- 11.6.10. In this assessment I have considered the report submitted by the applicant and have had regard to the BRE Guide (2022), IS EN 17037:2018, and BS EN17037:2018 (including the UK National Annex). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the submissions from 3rd parties and the local authority.
- 11.6.11. I note that the applicant's assessment acknowledges the co-ordinated masterplan approach including the proposed Tack development on the adjoining site, and that the same consultants (IN2) have prepared a Daylight & Sunlight Analysis for the Tack application. A letter of support for the proposed development has been submitted on behalf of the Tack site owners and both adjoining applications consider the interactive daylight and sunlight impacts.

Daylight to existing properties

- 11.6.12. The applicant's assessment highlights that the BRE Guide recommendations are intended for use for rooms in adjoining dwellings where daylight is required. The guidelines may also be applied to any non-domestic buildings where the occupants

have a reasonable expectation of daylight, which would normally include schools, hospitals, hotels and hostels, small workshops, and some offices.

- 11.6.13. I note that the surrounding properties are commercial in nature, including a large proportion of office use. However, it is not evident that these properties have any particular expectation or requirement for daylight and no third-party submissions have been received in this regard.
- 11.6.14. Appendix B of the analysis submitted with the adjoining Tack application considers the daylight impacts of the proposed development and concludes that 94% of rooms were in excess of the prescribed guidelines. I note that the Tack analysis was carried out in accordance with the earlier BRE Guide (2nd edition, BR 209), although Appendix A includes a comparative analysis of BS EN17037 and IS EN17037 and concludes that there is good correlation between BR 209 and BS EN17037, which are both relevant for residential application. On this basis, I am satisfied that the daylight impacts on the proposed Tack development have been suitably considered and will be assessed further as part of that application.
- 11.6.15. Having regard to the above, I would have no further concerns in relation to daylight impacts on existing properties and I would concur with the applicant's conclusion that no further assessment is required.

Sunlight to existing Properties

- 11.6.16. Section 3.2 of the BRE Guide outlines that care should be taken to safeguard the access to sunlight both for existing dwellings, and for any nearby non-domestic buildings where there is a particular requirement for sunlight. It states that obstruction to sunlight may become an issue if some part of a new development is situated within 90° of due south of a main window wall of an existing building and the new development subtends an angle greater than 25° to the horizontal measured from the centre of the lowest window.
- 11.6.17. Consistent with my previous comments, I am satisfied that the surrounding buildings are commercial in nature and do not have any particular expectation or requirement for sunlight. The analysis submitted with the Tack application considers sunlight standards through compliance with the dual aspect requirements of the Apartments Guidelines. It outlines that 45% of units would be dual aspect and contends that this would exceed the 33% requirement for central and/or accessible locations. The only

windows within the Tack development which face the Avid development (in close proximity) and are within 90° of due south are those on the southeast elevation along the shared access. This includes 18 no. apartments, all of which are dual aspect corner units with at least one window facing within 90° of due south resulting in good levels of expected sunlight.

- 11.6.18. Section 3.3 of the BRE Guide highlights the need to consider sunlight impacts on existing gardens, open spaces, sitting out areas, and nature reserves. It recommends that at least 50% of the space should receive at least two hours of sunlight on 21st March. If, as a result of new development, the area which can receive 2 hours of sunshine on the 21st March is reduced to less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. I do not consider that there are any existing amenity areas of significance in the surrounding area. The analysis submitted in the Tack application considers the impact of the current (Avid) application and concludes that the main courtyard space will receive at least 2 hours of sunlight to 68% of its area on 21st March, thereby exceeding the 50% minimum requirement.
- 11.6.19. In addition to the above, the applicant's assessment (Appendix A) includes Site Shading Diagrams for the 21st March, 21st June, and 21st December. It demonstrates that impacts on the Tack site to the northwest would largely be limited to the morning hours. Otherwise, afternoon shading impacts to the north and east would largely impact on the surrounding roads and adjoining commercial properties which are not considered to be overly sensitive to shadow impacts.
- 11.6.20. Having regard to the above, I consider that sufficient information exists to consider sunlight impacts on existing/planned surrounding properties and I do not consider that any further detailed assessment is required. Having considered the information available, I do not consider that the proposed development would result in any unacceptable sunlight impacts for the existing/planned properties in the surrounding area.

Daylight to proposed apartments

- 11.6.21. The applicant's assessment uses a Spatial Daylight Autonomy (SDA) which uses historic climate data for Dublin to predict internal illumination on an hour-by-hour basis and accounts for both diffuse skylight and direct sunlight. It adopts targets of

100 lux for bedrooms and 200 lux for Kitchen/Living/Dining rooms (KLDs) for at least 50% of the room based on the recommendations of the BRE guide.

- 11.6.22. I note that the recommendations of EN17037 were intended for internal areas of all types and the target values (at least 50% of the working plane should receive above 300 lux for at least half the daylight hours, with 95% of the working plane receiving above 100 Lux) would be very difficult to achieve for domestic rooms in an urban environment. The UK National Annex recognises this and sets alternative targets to be achieved over at least 50% of the points on a reference plane for at least half of the daylight hours, i.e. 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens (200 lux in combined kitchen/living rooms). These targets are also echoed in the BRE Guide (2022).
- 11.6.23. I note that the applicant has applied the higher 200 lux target to KLDs and that no 'galley' type kitchens are proposed within the scheme. I am also satisfied that the applicant has acceptably excluded circulation/entrance areas in the definition of areas to be assessed. Having regard to the foregoing, I consider that the methodology and standards applied in the application are acceptable.
- 11.6.24. The applicant's assessment outlines that 96% of all rooms comply with or exceed the BRE guidance standards for SDA compliance. Compliance rates for the individual blocks range as follows: Block D (100%), Block E (96%), Block F (97%), and Block G (85%). I note that the lower levels of Block G account for a particularly high proportion of units below the recommended standards (15 no. units).
- 11.6.25. Having regard to the above, I am satisfied that the application clearly identifies where the proposed development does not meet the relevant daylight requirements. I consider that the level of non-compliance is relatively minor and insignificant, particularly given that the higher 200lx value has been applied for LKDs and this accounts for the vast majority of non-compliant rooms. This target is more appropriate in a traditional house layout. In apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 200lx, and even more so when higher density and balconies are included. Therefore, there are often challenges in urban schemes in meeting the 200lx target in all instances. To do so may unduly compromise the design/streetscape quality and an alternate 150lx target is commonly considered to be more appropriate.

- 11.6.26. I also note that there are no windows serving several bedrooms in the 2-bed apartments (Type 01) at the southwest corner of Block G. There would not appear to be any overriding reason to omit windows at this location and I consider that a condition of any permission should address this matter, thereby improving the level of daylight compliance within the scheme.
- 11.6.27. Otherwise, the Apartments Guidelines (2020) provide for alternative, compensatory design solutions and discretion based on context and wider planning objectives. I have already outlined that the Building Height Guidelines provide for similar discretion in the context of SPPR3 and the section 3.2 criteria. The application includes compensatory measures which are discussed later in this report.

Sunlight to proposed dwellings

- 11.6.28. The BRE Guide refers to BS EN17037, which recommends minimum, medium and high levels for sunlight exposure. This is measured via the duration received to a point on the inside of a window on a selected date (21st March) and gives a minimum target of 1.5 hours, medium target of 3 hours, and high target of 4 hours. Section 3.1.15 of the Guide outlines that a dwelling will appear reasonably sunlit if it has at least one main window facing within 90° of due south and a habitable room, preferably a main living room, can receive at least 1.5 hours on sunlight on 21st March. It acknowledges that it may not be possible for every window to face south in larger apartment developments and that compensating factors may apply such as an appealing view to the north.
- 11.6.29. The applicant's assessment applies the above standards and demonstrates that 98% of all units comply with the BRE Guide standards (i.e. at least 1.5 hours). The units which do not comply are limited to 4 no. units on the lower floors of Block F. Consistent with the BRE Guide, I acknowledge that the criteria are unlikely to be met for all units in larger apartment developments. Notwithstanding this, I consider that there would be only a minor and insignificant rate of non-compliance with BRE standards. I would also highlight that the requirements for alternative, compensatory design solutions (as per the Apartments Guidelines and Building Height Guidelines) apply to daylight provisions, not sunlight.

Sunlight to proposed open spaces

11.6.30. The BRE Guide recommends that at least half of the proposed space should receive at least two hours of sunlight on 21st March. The application demonstrates that 58% of the main courtyard/podium space would comply with this standard, while 75% of the roof terrace space would comply. Accordingly, I am satisfied that this is acceptable in accordance with BRE standards.

Compensatory measures

11.6.31. In response to the requirements as outlined in the Apartments Guidelines and the Building Height Guidelines, the applicant has demonstrated how compensatory measures have been incorporated to address any daylight deficiencies for individual apartments. These can be summarised as follows:

- Daylight – Other spaces within the unit receive excellent daylight.
- Sunlight – The relevant windows receive minimum levels of direct sunlight (>1.5 hours), with some windows receiving medium levels (>3 hours).
- Aspect – Direct aspect onto landscaped communal or public open space providing an excellent view from the KLD space.
- Dual Aspect – Ensuring multiple options for aspect and sunlight/daylight.

11.6.32. I have reviewed these measures for the limited number of non-compliant individual units, and I am satisfied that the measures would provide compensation for the lower levels of daylight. The planning authority has also confirmed acceptance of these measures. And for the wider scheme as a whole, I have outlined in section 11.4 of this report how the proposed development exceeds minimum standards of residential amenity. This includes a generous floorspace for BTR units which are not required to exceed minimum floor areas by more than 10%; an exceedance of minimum requirements regarding dual aspect units; and a high standard of communal open space, resident amenities, and facilities.

Submissions and observations

11.6.33. I note that the third-party submission contends that the proposal does not comply with BRE guidelines. I have addressed this matter throughout this section of my report.

- 11.6.34. The planning authority has raised concerns about the high reflectance value assumptions used in the analysis. However, while the values used for ceilings (0.8), walls (0.7), glazing (0.68), and floors (0.4) exceed the default values as per Tables C4 and C5 of the BRE Guide (Appendix C), the values do not exceed the maximum allowable values as per C24 and C26 of the guide. Accordingly, I have no objections in this regard.
- 11.6.35. The DLRCC CE Report contains conflicting commentary in relation to sunlight to the proposed communal amenity spaces. Section 8.3 of the report confirms that the spaces would meet the requirements of the BRE guide and that the transient overshadowing study results are acceptable given that overshadowing times will be limited. However, section 8.5 states that the shadow diagrams for March 21st show significant overshadowing outside the hours of 12pm and 2pm, which it deems to be indicative of overdevelopment (particularly the height of Block G). It states that the communal space would be significantly overshadowed for over half of the year, limiting its use in the mornings and afternoons, and recommends refusal in relation to the deficient quality of communal open space.
- 11.6.36. I have previously outlined my acceptance that 58% of the courtyard/podium space would comply with the recommended BRE minimum standard of 2 hours sunshine on 21st March, thereby comfortably exceeding requirement for at least 50%. Furthermore, 75% of the roof terraces would comply with the requirement, which indicates a high standard of sunlight. The shadow diagrams also indicate high levels of sunshine for 21st June when such spaces are more likely to be used. I acknowledge that podium space would be overshadowed on 21st December, but I consider this to be reasonable in a high-density development of this nature with a perimeter block layout as recommended in the SUIP (Drawing 8). I also note that Dublin receives only mean daily sunshine of 1.7 hours in December, which means that overshadowing impacts are least noticeable during winter months. Ultimately, I am satisfied that the BRE-recommended date of 21st March is representative of average values throughout the year, which are in excess of the 50% standard and are acceptable in this case.

Conclusions on Daylight/Sunlight

- 11.6.37. In conclusion, I would again highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application. And while the Apartments Guidelines and the Building Height Guidelines state that appropriate and reasonable regard should be had to the quantitative approaches as set out in guides like the BRE BR209 (2011) and BS 8206-2: 2008 publications, where it has been identified that a proposal does not fully meet the requirements of the daylight provisions and a rationale for alternative, compensatory design solutions has been set out, the Board can apply discretion having regard to local factors including site constraints and the need to secure wider planning objectives. Similarly, the Development Plan states that developments should be 'guided by the principles' of the BRE guide, rather than any mandatory requirement for strict compliance.
- 11.6.38. I have considered the issues raised by 3rd parties and the local authority in carrying out this daylight/sunlight assessment, including concerns about compliance with BRE guidelines and overshadowing impacts on the proposed communal amenity spaces. I am satisfied that the applicant has carried out a competent assessment in accordance with the relevant BRE/BS guidance and methodology.
- 11.6.39. I have outlined that the proposed development would not result in any unacceptable daylight/sunlight impacts for existing/planned adjoining properties or amenity spaces. I have acknowledged the instances where the relevant BRE recommendations and standards are not fully met in relation to daylight and sunlight for the apartments within the proposed development. However, having regard to the nature and design of the proposed development; the relatively minor scale of non-compliance with recommendations and standards; the overall quality of amenity for the prospective residents; and the central and accessible location of the site; I consider that the proposed development would provide an acceptable level of daylight and sunlight.
- 11.6.40. I am satisfied that alternative compensatory design solutions have been included which would significantly benefit units which fall below the relevant standards, particularly in relation to daylight as required by the Apartments Guidelines and the Building Height Guidelines. Furthermore, I consider that increased height and density should be encouraged at such locations in order to achieve wider NPF planning objectives relating to compact, sustainable development at central and

accessible locations. Accordingly, I am satisfied that increased height and scale of development is appropriate at this location and that, on balance, the limited level of non-compliance with daylight/sunlight standards for the proposed units is acceptable having regard to the need to achieve wider planning objectives.

11.7. Design, Layout, and Visual Amenity

- 11.7.1. The planning authority has raised concerns about substandard design, permeability, layout, and placemaking. It considers that the proposed design and layout is substandard and would include inadequate public/communal open space and other supporting facilities, which would be unsuitable for the creation of a sustainable residential neighbourhood. In coming to this conclusion, it has outlined that the proposal does not comply with the criteria as outlined in Table 5.1 of the CDP Building Height Strategy.
- 11.7.2. In relation to building height and visual impact, the planning authority raises particular concerns about the 10-storey height of Block D along Carmanhall Road and recommends that 2 storeys should be omitted. Interestingly, it supports the increased height of Block E (10-16 storeys) and would not appear to have concerns about the visual impact of Blocks F and G, although there are overshadowing concerns relating to the height of Block G. Ultimately, it recommends that any permission should require the removal of 2 storeys in all blocks, which would appear to be a consequence of the perceived primary need to reduce Blocks D and G. The planning authority outlines that the Building Height Guidelines have been considered in the preparation of the CDP and contends that the application of SPPR 3 would not change its conclusion in this regard.
- 11.7.3. I have previously addressed the issues of scale, density, and height in section 11.3 of this report. On this basis, and notwithstanding the 'Permitted/Developed Building Height Limit' of 7-9 storeys as per the SUFP, it is my opinion that CDP policy allows for additional height subject to further assessment in accordance with the applicable policy guidance at national and local level.
- 11.7.4. As previously outlined, the '*Urban Development and Building Heights Guidelines*' promotes Development Plan policy which supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. Section 3 of the Guidelines deals with the assessment

of individual applications and appeals and states that there is a presumption in favour of buildings of increased height in city cores and urban locations with good public transport accessibility.

11.7.5. The Guidelines set out broad principles and criteria for the assessment of proposals for buildings taller than prevailing heights. In response to these broad principles, I would state the following:

- Having regard to my assessment outlined in section 11.3 of this report, I consider that the proposal assists in securing the NPF objectives of focusing development on key urban centres, fulfilling targets related to infill/brownfield development, and supporting the National Strategic Objective to deliver compact growth in urban centres.
- The proposal for increased height (above 7-9 storeys) can be considered in accordance with development plan policy (BHS 1 and BHS 2), which has taken clear account of the requirements set out in Chapter 2 of the guidelines.
- The development plan/SUFP does not pre-date the guidelines.

11.7.6. SPPR 3 of the Building Height Guidelines sets out that where a planning authority concurs that an application complies with the criteria outlined in section 3.2 of the Guidelines, taking account of the wider strategic and national policy parameters, the planning authority may approve such development even where specific objectives of the relevant development plan may indicate otherwise. In this case, I am satisfied that Development Plan policy allows for additional height (above 7-9 storeys) at this location subject to further assessment (i.e. as per BHS1, BHS2, and Table 5.1 of the CDP Building Height Strategy) which will be considered in this section. Therefore, subject to further assessment, the proposal would not materially contravene CDP building height policy and would not rely upon SPPR 3. Notwithstanding this, I acknowledge that the proposed development would be significantly higher than the prevailing building height and I consider it appropriate to apply the criteria outlined in Section 3.2 of the Guidelines. Section 3.2 outlines criteria to be assessed at various scales, as discussed in the following paragraphs.

City/Town Scale

- 11.7.7. I have already addressed the matter of public transport services in section 11.3 of this report. I am satisfied that the site is within the 1km/10-minute walking distance of the Luas stops at Sandyford and Stillorgan and that this constitutes a high frequency and high-capacity public transport service. There are three bus stops within 6 minutes' walk time of the site which provide services to/from the city centre, Ballymun, Dum Laoghaire, Blackrock, Tallaght, and the airport. The Luas service would also benefit from a much more comprehensive network of rail and bus services further north along the line towards the city centre. On this basis, I am satisfied that the site is well served by public transport with high capacity, frequent service, and good links to other modes of public transport.
- 11.7.8. In terms of integration with the character and public realm of the area, I would highlight that the site is not located within an architecturally sensitive area or any of the Landscape Character Areas identified in Appendix 8 of the Development Plan. Furthermore, there are no specific CDP objectives relating to the protection of views or prospects at this location. I acknowledge that the proposed development is of a greater height and scale compared to immediately surrounding development. However, there is an emerging trend of increased height and scale in the wider Sandyford area, as outlined in the planning history (section 4 of this report).
- 11.7.9. Chapter 13 of the EIAR outlines a Townscape and Visual Impact Assessment of the proposed development. Although it concentrates principally on 'townscape', it uses the methodology prescribed in the Institute of Environmental Management and Assessment (IEMA) and Landscape Institute (UK) 'Guidelines for Landscape and Visual Impact Assessment' (2013). The assessment is based on 16 Viewshed Reference Points within a 3km study area which are illustrated by accompanying Verified Photomontages. The photomontages compare the existing baseline environment, the proposed development, and the cumulative impact of the masterplan (i.e. including the Tack proposal).
- 11.7.10. From Blackthorn Road / Burton Hall Road to the east, as shown in Views 1, 2 and 5, I consider that the 16-storey height would create a major visual feature at the local level. I would acknowledge that its vertical emphasis and the graduated height approach provided by the lower adjoining shoulders, together with a wide variation in

layers and materials, helps to provide a level of articulation and visual interest that reduces the overall scale and massing of this facade. The adjoining roads also help to provide additional space and visual relief, particularly on the perpendicular approach from Burton Hall Road. From these views, I note that only the eastern façade will be prominent, and that the remainder of the scheme and the Tack proposal will effectively be screened by existing development and the eastern façade itself.

- 11.7.11. The applicant's assessment generally indicates that Views 1, 2, and 5 would not be of more than moderate significance and would largely result in positive impacts. As previously discussed, the planning authority does not appear to have an objection in principle to the height and visual impacts of Blocks E and F along this eastern façade. In my opinion, the proposed development would significantly impact on these views, but I would accept that the views are of low sensitivity. The proposal would provide a strong façade and increased height at this end of Carmanhall Road, as envisioned in the SUIP, and I do not consider that it would seriously detract from the townscape character or visual amenity of the area.
- 11.7.12. Views 3 and 4 relate to Carmanhall Road. From this aspect, the planning authority has raised serious concerns about the excessive height of Block D and concerns were also raised about excessive scale and bulk in the Inspector's Report on the previous application (ABP Ref. 310104). In these views, I consider that the current proposal has a significantly reduced bulk and scale compared to the previous proposal. The limited height of Block G (to the rear) and the open courtyard to the northwest side of the site serves to significantly reduce the scale and visual impact when viewed from the Carmanhall Rd and Arkle Rd approaches. The height along Carmanhall Rd (Block D) has been reduced to 10 storeys and now provides a more slender and simpler façade. However, its massing is still appropriately controlled through the use of varying setbacks, materials, and colours. These are employed effectively to break up the visual impact, both vertically (i.e. the central portion of the Block) and horizontally (i.e. the top 2 floors of the Block).
- 11.7.13. I acknowledge that Block D will have cumulative visual impacts with the 16-storey element of Block E and the Tack proposal to the west. However, I consider that these elements will be suitably setback and/or separated from the proposed development to avoid any unacceptable cumulative impacts. In conclusion, I

consider that the proposed development would significantly impact on these views of low sensitivity, but I do not consider that it would seriously detract from the townscape character or visual amenity of the area.

11.7.14. Views 14, 15, and 16 are taken from the southwest of the site. I note that the proposed development would effectively be screened in View 16, while the height of the proposed development would have a background visual impact above existing commercial premises in Views 14 and 15. However, this would be largely limited to Block E which would have only a slender visual impact which befits its landmark location at the end of Carmanhall Road. It would not result in an excessive scale or bulk and would not seriously detract from the townscape character or visual amenity of the area.

11.7.15. The remaining viewpoints are taken from the wider surrounding area. From these viewpoints, I acknowledge that the proposed development, particularly Block E, will be prominently visible in some instances. However, I consider that it would consolidate the existing scale and character of development within the SUIFP area and would be consistent with the height and visual impact of other recent developments. In some instances, I acknowledge that it would impact on the skyline and views of Dublin Bay. However, I do not consider this to be significant in the context of this built-up urban area. Accordingly, I do not consider that the proposed development would seriously detract from the townscape character/visual amenity of the area or from the landscape character of the wider surrounding area.

11.7.16. The guidelines state that proposals on larger urban redevelopment sites should make a positive contribution to place-making, including the incorporation of new streets and public spaces. I would not consider this site of c. 0.9ha to constitute a particularly large urban redevelopment site, although I acknowledge that it should be seen as part of the larger masterplan site of c. 1.7ha.

11.7.17. In any case, the scheme does propose a new street through the centre of the masterplan block and along its southern perimeter. I note that the planning authority has raised concerns about this proposal, particularly regarding a perceived sub-standard quality of design frontage at ground level. I consider that the proposed perimeter street is largely bounded by active frontage including the creche and resident gym along the northwest boundary, and the own-door residential units along

the southwest boundary. The north-south portion would be particularly wide and open when considered in conjunction with the planned access for the Tack site and the adjoining courtyard spaces. The streets have been designed as shared surfaces with suitable landscaping to prioritise pedestrian movement over vehicles.

Accordingly, I do not consider that refusal of permission would be warranted on the basis of street design.

11.7.18. The application acknowledges that no new public open space is provided within the site. I would acknowledge that meaningful public open space would be difficult to achieve within the site which effectively requires a strong perimeter in accordance with SUFP recommendations. However, it does facilitate the upgrade of the existing public space around the site perimeter to contribute towards a linear green network along Blackthorn Rd and Carmanhall Rd. As outlined in section 11.8 of this report, I consider that public open space proposals are acceptable subject to conditions.

11.7.19. As previously outlined, I am also satisfied that the proposed massing and height would achieve high densities for the site in accordance with national planning policy. It would positively contribute to place-making, particularly Block E which would provide a landmark feature at the end of Carmanhall Rd in accordance with SUFP recommendations. Otherwise, the development responds to the scale and character of adjoining development and incorporates a variety of height levels and setbacks to create a variety of character. The elevational details, materials, and finishes are also suitably modulated to create visual interests in the streetscape.

District / Neighbourhood / Street Scale

11.7.20. As previously outlined, the existing natural and built environment is not of any particular sensitivity or valuable character. The proposed development would provide a better utilisation of this site and would appropriately respond to surrounding development. I acknowledge that there would be a significant transition in height compared to existing development, but I am satisfied that the height and scale can be accommodated to establish a strong character around the site perimeter. The proposed new pedestrian/cycle routes and the upgrade of existing routes and public space around the site perimeter would provide improved links between existing development. Furthermore, the introduction of a variety of active uses at ground level of the site perimeter would bring a new vitality to the wider neighbourhood.

Accordingly, I am satisfied that the proposal would make a positive contribution to the urban neighbourhood and streetscape.

- 11.7.21. The form and massing of the development is primarily broken down through the arrangement of the 4 blocks in 2 larger combined blocks (i.e. D-E & F-G), which are separated by a large central courtyard space and a smaller gap along Blackthorn Rd. The varied height, form, and massing of the blocks introduce further articulation and identity to the appearance of the scheme. And with regard to materials, the blocks are designed to incorporate a wide variety of materials, finishes, and colours which helps to create a distinctive identity, both individually and collectively. It employs high quality materials with the aim of creating a sustainable residential neighbourhood, including three-toned brick, glass spandrel panel cladding, metal frame and metal frame cladding to the upper floors. Accordingly, despite the significant height and scale of the proposal, I do not consider that it would appear monolithic in its context.
- 11.7.22. There are no existing key thoroughfares or public spaces within the site. However, the adjoining roads (Carmanhall Rd and Balckthorn Rd) are acknowledged as busy routes which are bounded by a linear public space around the southeast and northeast perimeter of the site. As previously outlined, I consider that the proposed design would provide an active and distinctive frontage along this perimeter. Furthermore, the application proposes to retain the existing setback and perimeter trees in accordance with SUFP policy and the existing linear open space will be upgraded with planting to replicate the existing DLRCC planting of wildflower and perennial plant mix. I have already outlined that the proposed new internal streets will be suitably designed and landscaped. I consider that these elements will combine to enhance the urban design context for public spaces and key thoroughfares.
- 11.7.23. The site does not include marine/waterway frontage. However, the application includes a Flood Risk Assessment (FRA) which outlines that flood risk is limited to the drainage network. I would concur with the FRA conclusion that the flood risk is low and would be suitably addressed through mitigation measures.
- 11.7.24. In terms of legibility, I consider that the proposed development will significantly improve this underutilised site by providing a high-density residential development with a strong identity and varied form. The design and layout will positively contribute

to the legibility of the site and wider urban area and will facilitate improved visual and functional integration in a cohesive manner. It will create new streets and will upgrade the public open space around the site perimeter pedestrian/cycle routes and landscaping in accordance with SUFP policy. I would have no objection to the planning authority's recommendation that detailed proposals for public realm landscaping, boundary treatment, and pedestrian/cycle infrastructure should be agreed by condition of any grant of permission.

11.7.25. The planning authority has outlined serious concerns about the standard of permeability and a sub-standard pedestrian environment. The concerns appear to relate particularly to a lack of permeability through the podium courtyard space; a lack of pedestrian connectivity along the southwest boundary of the site; and inappropriate proposals for footbridge connection with the Tack site. I acknowledge that permeability through the courtyard is compromised by the steps at either end. However, I do not consider this to be an important or necessary 'through route' given the limited size of the site and the availability of existing/proposed routes around the site perimeter. As previously outlined, I am satisfied that the pedestrian bridge connection can be suitably controlled with or without the adjoining Tack development. Finally, I consider that pedestrian connectivity along the southwest perimeter can be achieved subject to agreement by condition.

11.7.26. The proposal involves primarily residential use which is consistent with the zoning objective for the site. However, it includes a range of supporting residential services/facilities and a childcare facility, which I consider to be suitable for this residential zone. I note that SLO52 requires the incorporation of social and community infrastructure on the site. As outlined in section 11.8, I am satisfied that this requirement can be suitably addressed subject to conditions.

11.7.27. In terms of residential typologies, I consider that the proposed mix of units is acceptable in accordance with local/national policy, and I do not consider that it would result in a proliferation of BTR developments in the area.

Scale of the Site / Building

11.7.28. In previous sections of this report, I have outlined my acceptance that the form, massing and height of the proposed development has been carefully modulated so as to maximise access to natural daylight, ventilation and views and to minimise

overshadowing and loss of light. I have outlined how appropriate and reasonable regard has been taken of quantitative performance approaches to daylight provision in guides like the Building Research Establishment's '*Site Layout Planning for Daylight and Sunlight*' (2nd edition), BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*', including the more recently updated guidance on the matter.

11.7.29. I consider that the impacts of the proposed development on the availability of sunlight and daylight to both existing and proposed properties would be acceptable. While some shortfalls have been identified in relation to daylight and sunlight for the apartments within the proposed development, I am satisfied that alternative, compensatory design solutions have been incorporated. Furthermore, I consider that the proposed standards are acceptable in order to achieve wider NPF planning objectives relating to compact, sustainable development at accessible locations.

Specific Assessments

11.7.30. Finally, the Guidelines state that to support proposals at some or all of these scales, specific assessments may be required. The assessments mentioned are discussed in the following paragraphs.

11.7.31. Chapter 12 of the EIAR also includes a 'Microclimate – Wind' assessment based on the Lawson pedestrian comfort/distress criteria. It also considers the cumulative impacts of the Tack site. In section 11.4 of this report, I have already outlined that assessment results would be acceptable for the communal open spaces (i.e. podium and roof terraces). The assessment also demonstrates that the surrounding roads, properties, and public spaces would be suitable for the intended uses. No area is unsafe, and no conditions of distress are created by the proposed development. In fact, the proposed development would have a beneficial effect on the surrounding wind microclimate. There would be no negative down draft effects and even a reduction in height to a maximum of 9 storeys would not significantly improve the wind environment.

11.7.32. Chapter 5 of the EIAR considers potential impacts on birds and bats. It concludes that a Bat Survey is unnecessary due to the lack of potential roosting features and bat foraging habitat. It also outlines that the site does not support adequate nesting, foraging, and shelter habitat for birds, and that the site could not support even

common and widespread species for more than infrequent limited occupation. Accordingly, I am satisfied that this is not a sensitive area for birds or bats, and I do not have any significant concerns regarding potential impact on flight lines and / or collision.

- 11.7.33. Appendix 14.1 of the EIAR is an assessment of potential effects on important telecommunications channels such as microwave links. It identifies two channels that will be affected by the proposed development. To allow the retention of these links it is proposed to install six 300mm microwave link dishes at roof level of Block D. I am satisfied that this is adequate mitigation for the potential effects.
- 11.7.34. In relation to safe air navigation, Table 3.4 of the EIAR confirms that all requirements of the Irish Aviation Authority will be complied with. Furthermore, I note the Department of Defence submission which outlines that there are no objections subject to notification regarding crane operations. The proposed development would be consistent with the height of other buildings with the SUFP area, and I have no objections in relation to air navigation.
- 11.7.35. An Architectural Design Statement has been included with the application and there are no historic built environment features in the immediate area. I have considered these documents and I am satisfied that they appropriately assess and justify the urban design approach, as well as the absence of any significant impacts on the historic built environment.
- 11.7.36. An EIAR and an AA Screening Report have been submitted with the application. Impacts on Ecology and Biodiversity have been covered in the EIAR. I am satisfied that these assessments satisfactorily demonstrate that the proposed building heights would not have adverse impacts on European sites or the local environment.
- 11.7.37. In conclusion regarding SPPR 3 and section 3.2 criteria of the Building Height Guidelines, I consider that the proposed approach is appropriate given the need to encourage compact sustainable development on underutilised and accessible sites such as this. I have considered the relevant policy in relation to design criteria and guidance, and I am satisfied that the proposed design and layout is an acceptable approach which would satisfactorily integrate with the surrounding townscape and public realm and would positively contribute to the emerging character of the area.

11.7.38. As well as the Building Height Guidelines, it is important that developments comply with the design criteria outlined in the Urban Design Manual (2009) which are addressed in the applicant's Architectural Design Statement. Many of these criteria have already been satisfactorily covered in the Building Height Guidelines and other sections of my report. However, in relation to any outstanding criteria, I would state the following:

- Connections – The site is within a central and accessible location. The proposed development will provide improved pedestrian/cyclist connectivity and will be within walking distances of a wide range of neighbourhood services and public transport facilities.
- Inclusivity & Variety – In addressing the sloping site the proposed development will provide levelled Part M-compliant access from Carmanhall Rd and Blackthorn Rd, while also providing new streets and a discrete, undercroft car park. Own-door access is provided to Blocks F and G, while secondary pedestrian access from the east and west provide level access to bicycle parking and other residential amenities. Access routes and open spaces will be suitably landscaped and overlooked and have been designed following universal design principles. The scheme provides a suitable mix of residential units and supporting facilities and has been designed to cater for all transport users with a particular emphasis on sustainable modes.
- Efficiency – The proposed high-density development would be an efficient use of this underutilised site in a central and/or accessible location. The scheme has been designed using passive solar principles and will be fully compliant with Part L Building Regulations as outlined in the Energy Analysis Report. The application also includes an Operational Waste Management Plan which aims to minimise waste and SuDs measures have been incorporated to manage rainwater and protect biodiversity.
- Adaptability – The layout of apartments allows for internal layout/adaptation options within the apartment itself. The overall layout also groups studio and 1-bed apartments with the option of combining these units to form larger units in the future.

- Parking – Proposals are acceptable subject to conditions. See section 11.9 of this report for further details.

11.7.39. In relation to local planning policy, I have noted that the SUFP ultimately allows increased height above the stated parameters (i.e. 7-9 storeys) subject to assessment under BHS1 and BHS2 of the CDP. Both BHS1 and BHS2 require that such proposals demonstrate compliance with the criteria outlined in Table 5.1 of the Building Height Strategy, which has been addressed in Table 11 of the applicant's Planning Report and Statement of Consistency.

11.7.40. Again, these criteria are generally consistent with those outlined in the Building Height Guidelines, the Urban Design Manual, and other relevant policy/guidance on issues covered elsewhere in this report. However, in relation to any relevant outstanding matters not already covered in this report and any other concerns raised by the planning authority, I would state the following:

- As outlined in sections 11.8, 11.9, and 12 of this report, I am satisfied that the social and physical infrastructure is adequate to accommodate the proposed development.
- The proposal would provide an appropriate level of enclosure for the internal site spaces and the adjoining Tack site and would establish a strong frontage to the public realm along the site perimeter.
- The building levels, particularly the lower levels, have been suitably designed with active uses to provide an urban grain with meaningful human contact with streets and spaces.
- In addition to the Energy Analysis Report, a Climate Change Impact Assessment Report has outlined that the proposed development has been designed to comply with Development Plan climate policy and national climate policy as outlined in the Climate Action and Low Carbon Development Act 2015, as amended.

Conclusion

11.7.41. Having regard to the foregoing, I am satisfied that the proposed development would be of a suitable design and layout which would be consistent with Development Plan policy, including building height policy as outlined under policy objectives BHS1 and BHS2 of the Building Height Strategy. It would also be supported by national and

regional policy/guidance to support increased height and density subject to compliance with the measures as outlined in this section. Notwithstanding its comparative significant scale and height, the proposed development would satisfactorily integrate with its environment and would not detract from the character or amenities of the area in any unacceptable way. Accordingly, I have no objections in relation to design, layout, and the visual amenity impacts of the proposed development.

11.8. Community Facilities and Public Open Space

- 11.8.1. The planning authority has raised serious concerns about the absence of any public open space on the site. It has also concluded that social/community infrastructure and facilities, both within the development and in the wider area, are inadequate to meet the needs of the proposed development.

Community Facilities

- 11.8.2. I note that SLO 52 requires the provision of social/community infrastructure to serve the needs of the resident/employee population at ground floor along the eastern outer edge of the Carmanhall residential neighbourhood along Blackthorn Road. The Plan does not specify any particular quantum required. In terms of the nature of such facilities, section 2.3.5 (a) of the SUIFP indicates that 'indoor community facilities' could consist of community rooms or indoor active recreational uses for residents. Also, section 13.2 of the Development plan defines a community facility as "*A building or part thereof used for (community) activities organised primarily by the local community and to which the public may be admitted on payment of a charge or free of charge and includes Community meeting space, parish centres, youth clubs, scouts' dens, clubhouses, family resource centres*".
- 11.8.3. In response to this requirement, the applicant has proposed a creche (272m²) along Carmanhall Rd., although the planning authority concludes that a creche would be required in any event. The Apartments Guidelines state that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision. The proposal includes only 80 no. 2-bed units, which, as per the Childcare Guidelines (i.e. 20 spaces per 75 dwellings), would lead to a requirement for approximately 21 child spaces. Based on CSO population figures from 2016, the

application estimates that the development would include c. 30 pre-school age children.

- 11.8.4. Based on the above, the development would generate a requirement for between 21-30 child spaces. However, the Apartments Guidelines also state that, subject to location, childcare requirements may not even apply in part or whole, to units with two or more bedrooms. Having regard to the nature of this central and accessible mixed-use location, and the BTR nature of the proposed development, I consider it reasonable to conclude that the proposed development may generate a requirement of less than the stated 21-30 range. In any case, the proposed childcare facility has an estimated capacity of 61 spaces, and I am satisfied that this would provide significant capacity to the wider resident/employee population in accordance with objective SLO 24. I also note the planning authority recommendations that the safety of the creche play area and drop-off area should be addressed through condition.
- 11.8.5. In addition to the creche, the application proposes resident amenity spaces to comply with SLO 52. However, only one space of c. 146m² (along Blackthorn Rd.) is stated to be open to the public and the remaining spaces have been reserved for consideration as resident amenities/facilities. According to the floor plans, the one proposed public space is indicated as being a shared amenity multi-purpose room (with public access) consisting of a residents' lounge, games room, and kitchenette/store. I would concur with the planning authority concerns regarding the lack of clarity on the use of this space. However, I am satisfied that this could be readily addressed by clarifying its community use as part of any permission. This would deliver additional social/community space which would comply with the requirements of SLO 52. In the event that the Board considers the quantum of such space inadequate, I would recommend a condition to change the use of other lower ground level spaces rather than warranting a refusal of permission.
- 11.8.6. In terms of the social/community infrastructure in the wider area, the applicant has submitted a Social and Community Audit. Based on a study area radius of 3.5km and CSO population trends, the Audit estimates that the proposed development would accommodate a population of 510 persons, while the adjoining Tack development would accommodate 302-453 persons. The proposed development would have c. 80 no. children of school-going age, while the Tack development would have c. 67.

- 11.8.7. The Audit identifies 78 no. facilities consisting of open space, sports and leisure use. It also highlights the internal/external spaces within the proposed development and the substantial planned open spaces within the SUFP area.
- 11.8.8. In relation to education, it is stated that there are 19 no. primary schools and 8 no. secondary schools, catering for a population of 7,310 and 3,179 respectively. The Audit highlights Department of Education projections of a c. 10% decrease in primary enrolments, while post-primary enrolments are projected to increase by c. 8% and decrease thereafter. I note that the predicted school age population associated with the development (i.e. 80 children) would comprise less than 1% of the predicted school population for 2025/26 (10,018), which cannot be considered a significant increase.
- 11.8.9. Ultimately, I consider that the statutory plan-making process is the preferred instrument to assess and identify school requirements. Under the 'Agreed Actions' of the 'Provision of Schools and the Planning System, A Code of Practice for Planning Authorities, the Department of Education and Science, and the Department of the Environment, Heritage and Local Government (2008), planning authorities should identify suitable lands, policies and objectives for school requirements under statutory plans in consultation with the Department of Education. The CDP (SLO51) identifies two such sites within 1km of the application site and it is reasonable to expect that these sites will be subject to ongoing planning to cater for future demand as part of the 'Large Scale School Building Programme'.
- 11.8.10. In terms of the Development Management process, I acknowledge that the Code of Practice highlights the potential requirement for major housing proposals to be accompanied by school capacity assessments. I am satisfied that this has been complied with in the current application, albeit that the nature and scale of this BTR development would not be likely to create a major increase in demand.
- 11.8.11. In relation to childcare facilities, I have already identified that the proposed development will result in a net increase on the availability of childcare spaces in the area. In addition to this, the applicant's Audit identifies 31 no. other childcare facilities in the study area.
- 11.8.12. And with regard to other social/community facilities, the Audit identifies 29 no. facilities providing a range of health and social services, 14 no community facilities,

14 no. religious facilities, and 9 no. neighbourhood/district/town centres providing a range of retail and entertainment facilities.

- 11.8.13. Having regard to the above, I am satisfied that the proposed development would be served by a comprehensive range and extent of social and community facilities within reasonable proximity of the site. While the study area covers a radius of 3.5km, I note that the majority of facilities are within c. 2km of the site. I have previously outlined my acceptance of suitable public transport services in the area, and this will facilitate sustainable travel to those facilities located further afield. I am satisfied that the Development Plan has appropriately considered the reservation of lands for social/community facilities which will continue to serve residential-zoned sites like this as development progresses, and that the proposed development would meet the specific requirements of SLO 52 as per the SUFP. Accordingly, I do not consider that refusal of permission would be warranted on this basis.

Public Open Space

- 11.8.14. Objective 'A2 3' of the SUFP requires all residential development to benefit from public open space in accordance with CDP requirements, unless alternative proposals for indoor community facilities or a financial contribution are agreed. Those CDP requirements (s.12.8.3.1) outline that public open space is required as a minimum 15% of the site area. It must be publicly accessible and useable; generally free from attenuation measures; and capable of being taken in charge. The CDP acknowledges that the above standards may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted.
- 11.8.15. Notwithstanding the proposal to deliver upgraded public open space on the DLRCC lands at a rate of c. 17% of the gross site area, the application does not purport to provide on-site public open space in accordance with CDP requirements. It refers to the CDP provisions which allow for the alternative provision of indoor community facilities or payment of a financial contribution in lieu.
- 11.8.16. Although the proposed development would not significantly increase the quantum of public open space, I consider that it would significantly contribute to the quality of existing space through the upgrade of the DLRCC lands around the site perimeter. I would submit that the nature of the site effectively demands a strong urban edge along Blackthorn Road and Carmanhall Road and that the potential for public open

space is generally limited to the south-eastern and north-eastern perimeters of the site. The applicant has generally provided for these arrangements in accordance with the design principles of the SUFP and, more particularly, the requirement to provide a 'linear greenway' around the site edge. I feel that any public space on this site would in all likelihood function as a circulatory/linear space rather than a 'destination' space for active recreation.

- 11.8.17. This is a high-density scheme on a relatively small urban infill/brownfield site at a central and/or accessible location. Having regard to the location and nature of the site as discussed above, I consider that the absence of public open space is acceptable in accordance with section 12.8.3.1 of the CDP. The scheme provides adequate communal open space and includes indoor community facilities as required under SLO 52. However, I am not satisfied that the nature and extent of these indoor community facilities would adequately compensate for the absence of public open space as per objective 'A2 3' of the SUFP. Accordingly, I would recommend that a financial contribution should apply for the shortfall in public open space, and I am satisfied that this is consistent with CDP policy.
- 11.8.18. The planning authority recommends the imposition of a special contribution under section 48(2)(c) of the Act to address the shortfall of public open space. This provision allows for special contributions where specific exceptional costs not covered by a development contribution scheme are incurred by a local authority in respect of public infrastructure and facilities which benefit the proposed development. Section 48(12) also outlines that any such condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.
- 11.8.19. Further guidance is contained in the Development Management Guidelines for Planning Authorities (DoEHLG, 2007). This states that it is essential that the basis for the calculation of the special contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development. Circumstances which might warrant the attachment of a special contribution condition would include where the costs are incurred directly as a result of, or in order to facilitate, the development in question and are properly attributable to it.

11.8.20. The requirement for 15% public open space is a general and standard provision of the CDP and the planning authority has not specified/calculated the particular works that a special contribution may fund. Having regard to the legislation and guidance on special contributions, I do not consider that the basis for a special contribution (under s.48 (2)(c)) is warranted on the basis that it would be neither 'specific' nor 'exceptional'.

11.8.21. The DLRCC Development Contribution Scheme 2016-2020 is the operating scheme under Section 48 of the Planning & Development Act 2000 (as amended). The scheme outlines the classes of infrastructure for which contributions shall be paid in the SUFP area, including 'Class 1: Community & Parks facilities and amenities', and 'Appendix II – Project Lists' includes Benildus Park and Town centre Civic Park. Accordingly, I consider that public open space is covered under the normal section 48 scheme. And although the current scheme does not specifically address the issue of shortfalls in public open space, I note that the Draft Development Contribution Scheme 2023-2028 does address such instances at a rate of €7.5m per hectare. Having regard to the foregoing, I consider that the shortfall in public open space would be most appropriately covered under the normal section 48 Development Contribution Scheme.

11.9. **Traffic and Transport**

11.9.1. The application is accompanied by a Traffic and Transport Assessment (TTA), a Travel Plan, a Statement of Consistency on DMURS, and a Stage 1 Quality Audit. The issue of 'Traffic and Transport' is also addressed in Chapter 11 of the EIAR, which has been considered in this assessment. The TTA outlines the existing transport infrastructure in the area, including the public transport network for rail and bus. I have already discussed this matter in section 11.3 of this report, and I have concluded that the site is included within a central and/or accessible urban location which is well served by public transport links.

Traffic Impact

11.9.2. The TTA considers the results of a traffic survey (25th February 2020) carried out for the previous application (ABP Ref. 310104-21) covering 9 junctions. Considering the impact of Covid restrictions, a supplementary survey was carried out in January 2022 covering 2 junctions (i.e. the junctions of Carnmanhall Rd with Ravens Rock

Rd and Blackthorn Rd). Comparative flows suggested that 2022 flows were only 65% of the 2020 flows. Therefore, a 'no-growth' scenario was adopted to establish base flows for 2022, while TII Growth Factors were used to predict flows for the opening year (2026), design year (2031), and future year (2041). The impacts of the proposed ESB Link Road were also considered, resulting in significant reductions in flow on Burton Hall Road to the east.

- 11.9.3. For trip generation and assignment, the TTA considers the cumulative impact with the Tack development (total of 541 apartments and 204 carpark spaces). The modal split is based on car driver/passenger rates of c. 15% (2026) and 13% (2031) and the TRICS database is used to predict total arrivals and departures of 130 vehicles per hour (AM Peak) and 113 vehicle per hour (PM peak). The trips allocated to the surrounding network are then predicted, including the scenario post-completion of the ESB Link Road.
- 11.9.4. The TTA considers the impact of the development on 3 existing junctions and the 3 proposed new junctions as follows:
- Junction 1 – Ravens Rock Rd / Carmanhall Rd
 - Junction 2 – Carmanhall Rd / Blackthorn Rd
 - Junction 3 – Blackthorn Rd / Burton Hall Rd
 - Junction 4 – Site access – Ravens Rock Rd
 - Junction 5 – Site access – Carmanhall Rd
 - Junction 6 – Site access – Blackthorn Rd.
- 11.9.5. The post-development results of the TTA predict that the junctions will remain well under capacity for the opening year (2026) through to the future year (2041). The predictions have considered planned changes to the network including the Sandyford Business District Pedestrian and Cycle Improvement Scheme proposals for signals at Junction 2.
- 11.9.6. I note that neither TII nor the planning authority has raised significant concerns in relation to traffic impact or road capacity. I would concur with the conclusions of the applicant's TTA. The development will have only a limited impact on established

traffic conditions at this location, particularly given its proximity to public transport services and the limited car parking provision.

Parking

11.9.7. I note that the Dundrum Area Committee has raised concerns about the quantum of car parking. However, the CE Report outlines that the quantum of car parking is acceptable, albeit that there are concerns about its design and layout. The planning authority also confirms that cycle parking proposals exceed the quantitative CDP standards but not those of the Apartments Guidelines. Again, the planning authority raises concerns about the design and layout of cycle facilities.

11.9.8. The proposed development includes a total of 125 car spaces, including 80 spaces at basement level and 45 spaces at lower ground level. Table 12.5 of the CDP outlines car parking standards for zones 1-3, while Table 12.6 of the CDP outlines specific standards for the SUIFP area where maximum parking allowances apply. A comparison between the maximum CDP requirements and the proposed development is outlined in the table below.

Unit Type	No. of Units	CDP Standard (spaces per unit)	Maximum Spaces
1-bed Apt (Including studios)	254	0.6	152
2-bed Apt	80	0.8	64
Creche	1 (272m ²)	1 per 60m ²	4
Community Facility	1 (146m ²)	1 per 100m ²	1
Total			221

11.9.9. The proposal for 125 spaces therefore represents a parking ratio of 0.37 spaces per unit or 0.56 of the maximum allowance of 221 spaces. Otherwise, the applicant proposes 7 no. car-sharing spaces which is in accordance with CDP requirements (i.e. 334 units @ minimum of 0.02 spaces per unit). The proposal is therefore consistent with CDP standards and does not rely on any provisions to justify a deviation as per section 12.4.5.2 of the CDP.

11.9.10. In addition to the CDP provisions, Chapter 4 of the Apartments Guidelines addresses car-parking requirements. For large scale and higher density proposals in central and/or accessible urban locations, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. And specifically in relation to BTR development, SPPR 8(iii) outlines that a default of minimal or significantly reduced car parking provision shall apply based on central locations and/or proximity to public transport. Therefore, having regard to the BTR nature of the development and its central and/or accessible urban location, I have no objection in principle to a reduced rate of parking in this instance.

11.9.11. In cases where reduced parking is accepted, the Apartment Guidelines states that it is necessary comply with certain criteria. In this regard, I would state the following:

- A drop-off area has been provided near the car park entrance.
- I am satisfied that service/visitor parking can be accommodated within the overall provision.
- It is proposed to provide dedicated spaces for the creche (4), electric charging (25 or 20%), disabled (5 or 4%), and car-sharing (7), as well as 6 separate motorcycle spaces.
- A Travel Plan has been included which demonstrates specific measures to reduce reliance on car transport and enable reduced parking provision.
- I am satisfied that the site is sufficiently well located in relation to employment, amenities and services, and that sufficient non-car-based modes of transport are available to meet the needs of residents.

11.9.12. In relation to cycle parking, it is proposed to provide a total of 447 no. spaces. This would exceed the CDP standard of 400 spaces (based on 1 long-term space per unit and 1 short-stay space per 5 units), although it would be below the Apartment Guidelines general standard of 581 spaces (based on 1 space per bedroom and 1 visitor space per 2 apartments). Given the reduced car-parking provision proposed, I considered it important to achieve adequate compensatory cycle parking. However, I consider that there are opportunities to increase cycle space numbers within the scheme and I am satisfied that this could be satisfactorily addressed by a condition of any permission.

- 11.9.13. In relation to the design and layout of car parking, the basis for planning authority concerns about lower ground level parking is not clear given that it will be in a comparatively discrete undercroft. As previously outlined, I have no objection in principle to this arrangement. And contrary to the DLRCC CE Report, I consider that adequate external storage has been provided so additional space would not be required which would detract from the car parking quantum and layout. I note that the planning authority has raised concerns about the parking layout details but I am satisfied that this can be addressed by a condition and compliance with the UK's Institution of Structural Engineers 'Design Recommendations for Multi Storey and Underground Car Parks'.
- 11.9.14. I consider that the location and layout of the proposed cycle storage at lower ground floor level is suitably accessible from the new 'inner street' and Blackthorn Road. The storage is suitably dispersed through this level and can be accessed from several different routes. I note the Planning Authority's view that cycle storage design standards are not in accordance with requirements (Standards for Cycle Parking & Associated Cycling Facilities for New Developments, 2018), which prefer the use of 'Sheffield' stands and do not recommend stacked cycle stands. Apart from 29 no. visitor spaces, the remainder of standard cycle spaces are to be stacked. However, the Apartments Guidelines do not prohibit the use of stacked cycle spaces and I am satisfied that they are an acceptable and commonly used solution which maximises space efficiency in higher-density schemes like this. I would accept that there is a lack of surface level cycle parking, particularly for visitor spaces. However, I am satisfied that this could be addressed through a condition of any permission.
- 11.9.15. In conclusion on parking, I consider that the quantum of car-parking proposed is both below and consistent with the maximum allowable standards as per the CDP. The reduced level of car parking is also supported in the Apartment Guidelines and subject to conditions, I am satisfied that the proposal can accommodate alternative measures, including a sufficient level of cycle parking to appropriately reduce car-parking dependency. I acknowledge some outstanding concerns regarding the design and layout of car/cycle parking, but I am satisfied that these matters can be satisfactorily addressed through the conditions of any permission.

Access and Permeability

- 11.9.16. The planning authority has outlined that the masterplan access arrangements are not acceptable on grounds of accessibility and safety. I have previously outlined that the proposed access points would not affect the capacity of the adjoining road network in any unacceptable way. I have also reviewed the Quality Audit and DMURS compliance proposals accompanying the application, including the auto tracking analysis and the sightline availability relating to the access/egress points. I am satisfied that the proposal would comply with applicable DMURS standards, and I do not consider that the traffic movement would interfere with the safety of vehicles, pedestrians, or cyclists. I note the concerns about the relationship between the Carmanhall Road access and proposals to relocate the existing signalised pedestrian crossing. However, I consider that the proposed access at the western extremity of the site is the most efficient and effective approach to achieving co-ordinated development with the adjoining Tack site, and I am satisfied that alternative pedestrian crossing arrangements could be agreed through condition. Accordingly, I have no objection to the proposed access arrangements.
- 11.9.17. I have previously outlined my satisfaction with the permeability of the scheme. Given the limited size of the site, I do not consider that full permeability 'through' the site is essential as sufficient movement can be accommodated around the site perimeter. As previously outlined, I would concur that improved footpath access should be provided along the southern site boundary. I note that the planning authority is generally satisfied with footpath/cycle facilities around the site perimeter subject to agreement of further details regarding design and taking in charge.
- 11.9.18. In relation to connectivity with the Tack site, I have previously outlined my opinion that the proposed pedestrian bridge arrangements are acceptable in principle. I am satisfied that the bridge would achieve sufficient head room and it is not likely that any collision would obstruct access and/or safety. I would accept that ground level permeability could be improved with the Tack site through the provision of openings in the boundary railing. Details in this regard could be agreed by condition.

Other Traffic and Transport Issues

- 11.9.19. The application has included details of servicing and emergency access, including auto track analysis of vehicular movements. I note the planning authority opinion that

the use of on-road parking bays is not favoured and that Carmanhall Road access and egress is required for serving needs. However, I consider that the application drawings have adequately demonstrated accessibility and I do not consider that the limited intensity of servicing/emergency traffic would have any significant impact on congestion/obstruction or pedestrian/cyclist safety.

- 11.9.20. The Preliminary Construction Management Plan includes details of construction traffic routes and management. Two inbound and two outbound routes are proposed, which mainly involves access/egress via the M50 or N11. The construction traffic management measures aim to minimise impacts on the surrounding area. I would accept that construction traffic, access, and parking arrangements should be agreed prior to construction when more detailed and up-to-date measures can be designed. I am satisfied that this can be appropriately addressed through a condition of any permission.

Traffic & Transport Conclusion

- 11.9.21. Having regard to the foregoing, I consider that the proposed development would provide a residential development which would be appropriately located and designed to promote sustainable transport modes. This would be consistent with local and national transportation planning policy which aims to reduce reliance on the private car and would not unacceptably impact on the safety or capacity of the surrounding road network. Suitable pedestrian/cycle facilities and other mobility management measures have been incorporated to appropriately support the limited level of car reliance. Accordingly, I would have no objections subject to conditions as previously discussed.

11.10. **Material Contravention**

Legislative Provisions

- 11.10.1. Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 outlines that the Board may grant permission for an SHD even where the proposed development materially contravenes the Development Plan or LAP concerned, except in relation to the zoning of land. In any such case, the Board must be satisfied that the provisions of section 37(2)(b) of the Act of 2000 would apply, which are as follows:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

or

(iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

11.10.2. The application includes a 'Statement of Material Contravention', the grounds for which have been outlined in section 7 of this report. This statement has been referenced in the public notices for the application in accordance with the requirements of the Act of 2016 and the Regulations of 2017. The referenced 'material contravention' issues are now discussed below.

Height and Density

11.10.3. In section 11.3 of this report, I have outlined my conclusion that the site is covered by policy objectives BHS1 and BHS2 of the Development Plan which do not place any maximum limit on building height. Furthermore, in section 11.7 of this report I have outlined satisfaction that the proposal complies with the relevant criteria as outlined in Table 5.1 of the CDP Building Height Strategy. Therefore, I do not consider that there is a material contravention in relation to building height.

11.10.4. In section 11.3 I have concluded that the proposed density could materially contravene Objective 'A2 1' of the SUFP. Therefore, the criteria outlined in s. 37(2)(b) of the Act must be addressed.

11.10.5. In relation to s. 37(2)(b)(i), I note the classification of the proposed development as 'strategic housing development' as per the definition in section 3 of the Act of 2016, and its significant scale comprising 334 residential units. As part of the Dublin MASP contained in the RSES, the development would be along the 'Metrolink – LUAS'

strategic development corridor where upgrades to the existing LUAS Green line aim to support development at Sandyford as a new/emerging mixed-use district and Strategic Employment location. In the CDP, Sandyford Business District is identified as a key strategic employment location within the M50 and on the Luas Greenline corridor which delivers sustainable growth through the alignment of employment growth with identified strategic residential growth areas. In Figure 2.11 'Compact Growth', the application site is specifically identified to support 'Compact Growth', which is one of the strategic aims of the CDP, and in s. 2.6.2.1 the residential zoned lands in the SUIP area are designated as 'strategic regeneration sites'.

- 11.10.6. Having regard to this strategic context, together with the current national housing shortage and national policy to substantially increase national housing output as set out in 'Housing For All', I consider that the proposed development would be of strategic and national importance and that a material contravention would comply with the terms of section 37(2)(b)(i) of the Act of 2000.
- 11.10.7. Under s. 37(2)(b)(ii) of the Act, the applicant contends that there are conflicting objectives between PHP18 which supports compact urban growth (without specifying a density cap) and the SUIP which places a cap of 150 uph (*sic*). In my opinion, PHP18 is a general policy approach, and I would have no objection in principle to the consequent specification of densities for individual sites/areas at local level. Accordingly, I do not consider that this would constitute conflicting policy under s. 37(2)(b)(ii).
- 11.10.8. However, as outlined in section 11.3 of this report, I do feel that there is a lack of clarity regarding the density specification itself. Map 2 of the SUIP indicates a residential density of 175 units / ha for the site but does not clarify whether this is a maximum or minimum standard. The planning authority appears to interpret this as a maximum density cap, but I am not aware of any specified basis for this. And in the context of national, regional, and CDP policy which supports compact development, it would not be unreasonable to apply minimum densities to strategic regeneration sites such as this. In the absence of clarity, it could be assumed that 175uph is a target density standard, albeit one which is impractically specific and for which it would be unreasonable to expect accurate compliance. Accordingly, I consider that the density policy is unclear and that a material contravention would be justified under s. 37(2)(b)(ii).

- 11.10.9. In relation to s. 37(2)(b)(iii), the applicant contends that the proposal complies with policies for increased height and density in accordance with the NPF, the Apartments Guidelines, and SPPR 3 and section 3.2 of the Building Height Guidelines. I note that the Building Height Strategy of the CDP contends that SPPR3 has been incorporated and that its ability to materially contravene CDP/LAP policy is defunct. I accept that the new CDP 2022-2028 has had regard to these policy/guidance documents to an appropriate extent at the strategic plan-making level. However, at a more detailed planning application level, I am satisfied that a material contravention can still be considered by reference to these documents, where appropriate. These provisions continue to be legislated for under sections 9(3) and 9(6) of the Act of 2016, irrespective of whether a new Development Plan has been adopted or not. Section 3 of the Building Height Guidelines addresses scenarios both where the plan pre-dates the guidelines and/or where a plan has taken clear account of the requirements outlined in chapter 2 of the Guidelines. In either case, I consider that SPPR3 can be considered by the Board.
- 11.10.10. I have already addressed compliance with the Building Height Guidelines and other national policy to increase height and density in sections 11.3 and 11.7 of this report. Subject to conditions, and while taking into account the wider strategic and national policy parameters set out in the NPF and the *Building Height Guidelines*, I consider that the proposal complies with the criteria set out in SPPR3 and section 3.2 of the Guidelines. I also consider that the proposed height (and consequent density) would be consistent with national/regional policy and guidance (i.e. NPF, RSES, Apartments Guidelines, Sustainable Residential Development Guidelines) to increase density along public transport corridors. Accordingly, I am satisfied that a material contravention would comply with the terms of section 37(2)(b)(iii) of the Act of 2000.
- 11.10.11. The applicant has not put forward any argument for material contravention under s. 37(2)(b)(iv) and I am not aware of any applicable cases since the making of the Development Plan. Other decisions to permit increased density in the SUFP area were made under the previous Development Plan and cannot be considered in light of the making of a new Development Plan.

Car Parking

11.10.12. In section 11.9 of this report, I have outlined that Table 12.6 of the CDP outlines maximum parking allowance for the SUFP area. The proposed development would not exceed the maximum allowance. It is therefore consistent with CDP standards and does not rely on any provisions to justify a deviation as per section 12.4.5.2 of the CDP (which in any case relates to a deviation from Table 12.5, not Table 12.6). Therefore, consistent with the planning authority view, I do not consider that there is a material contravention in relation to the quantum of car parking.

Dual Aspect

11.10.13. I have previously addressed this matter in section 11.4 of this report where I outline my opinion that a 33% ratio requirement should apply for a central and/or accessible location in accordance with the Apartments Guidelines. In this regard, the Board may wish to consider the provisions of s. 34(2)(ba) of the Act of 2000, which states that *'Where specific planning policy requirements of guidelines referred to in subsection (2)(aa) differ from the provisions of the development plan of a planning authority, then those requirements shall, to the extent that they so differ, apply instead of the provisions of the development plan'*. Notwithstanding this, I consider that the CDP reference (s. 12.3.5.1) to a minimum of 50% ratio throughout the county is only a general provision. In my opinion, the use of the term 'generally' allows for flexibility in the application of standards which would allow less than 50% in some circumstances. Therefore, notwithstanding the view of the planning authority, I do not consider that there is a material contravention in relation to the proposed dual aspect ratio (37%).

11.10.14. In the event that the Board is not satisfied that there is not a material contravention regarding dual aspect proposals, the provisions of s. 37(2)(b) of the Act can be addressed. I would state that the following applies:

- I have already outlined that s. 37(2)(b)(i) applies to the proposal.
- As outlined in sections 11.4 and 11.10.13 of this report, I consider that the Development Plan provision (s. 12.3.5.1) only applies 'generally'. Therefore, it is not a clear policy/objective requirement and I consider that s. 37(2)(b)(ii) could apply.

- As outlined in sections 11.4 and 11.10.13 of this report, I consider that a 33% dual aspect ratio requirement should apply for a central and/or accessible location in accordance with the Apartments Guidelines. Therefore, I consider that s. 37(2)(b)(iii) could apply.

Public Open Space

11.10.15. I have already addressed this matter in section 11.8 of this report. The planning authority has raised serious concerns about the lack of public open space, but it has not specifically cited this as a material contravention. I acknowledge that the proposal may not comply with Objective 'A2 3' of the SUFP which requires all residential development to benefit from public open space in accordance with s. 12.8.3.1 of the CDP (minimum 15% of the site area). However, the CDP also recognises that this may not be possible in all instances and that a financial contribution in lieu of any shortfall may be accepted.

11.10.16. I have outlined that this high-density proposal on an infill/brownfield site of limited size would be an acceptable case to set aside the 15% on-site requirement for public open space, and that adequate communal open space has been provided in accordance with CDP standards. Accordingly, I consider that the application of a financial contribution for the shortfall in public open space would be consistent with CDP policy and would not materially contravene the Development Plan

11.10.17. In the event that the Board is not satisfied that there is not a material contravention regarding public open space, the provisions of s. 37(2)(b) of the Act can be addressed. I would state that the following applies:

- I have already outlined that s. 37(2)(b)(i) applies to the proposal.
- As per my opinion in section 11.8 of this report, I consider that CDP policy clearly allows for financial contributions in lieu of public open space shortfalls. However, it is unclear on whether this should be addressed as a contribution under the normal Development Contribution Scheme or as a special contribution under Section 48 (2) (c) of the Act. Therefore, I consider that s. 37(2)(b)(ii) applies.
- As previously outlined, the proposal complies with policies for increased height and density in accordance with the NPF, the Apartments Guidelines, and the Building Height Guidelines, and this has a consequent impact on the availability

of public open space. More specifically, section 4.21 of the Sustainable Residential Development Guidelines (2009) states the need for planning authorities to take a more flexible approach to quantitative open space standards. Alternatively, it states that planning authorities may seek a financial contribution towards public open space or recreational facilities in the wider area in lieu of public open space within the development. Therefore, I consider that s. 37(2)(b)(iii) applies.

Private Open Space

11.10.18. I have already addressed this matter in section 11.4 of this report. The planning authority has raised serious concerns about the lack of private open space and adequate compensatory measures, but it has not specifically cited this as a material contravention. I have acknowledged that 23 units (or 7%) do not comply with the stated CDP private amenity space standards and have been provided with 'juliet' type balconies instead. However, the CDP also allows a reduction in the area of private open space serving each unit in instances where at least an additional 10% high quality, useable, communal and/or additional compensatory communal support facilities are provided.

11.10.19. I have highlighted a lack of clarity as to what exactly the 'additional 10%' requirement refers to, but I am satisfied that the application would provide suitable compensatory measures in the form of communal support facilities, and that this would be allowable in accordance with CDP policy. Therefore, I do not consider that there would be a material contravention of CDP policy in relation to private amenity space.

11.10.20. In the event that the Board is not satisfied that there is not a material contravention regarding private open space, the provisions of s. 37(2)(b) of the Act can be addressed. I would state that the following applies:

- I have already outlined that s. 37(2)(b)(i) applies to the proposal.
- I consider that CDP policy is unclear on what exactly the 'additional 10%' requirement refers to when considering compensatory measures for a reduction in private open space. Therefore, I consider that s. 37(2)(b)(ii) applies.
- SPPR 8(ii) of the Apartments Guidelines states that flexibility shall apply in relation to the provision of a proportion of the private amenity space associated

with individual units on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. I have outlined that the proposal satisfactorily complies with this provision and, accordingly, I consider that s. 37(2)(b)(iii) applies.

Other Material Contravention Matters

- 11.10.21. The planning authority contends that the proposed layout would materially contravene the zoning objective to create sustainable residential neighbourhoods and to preserve/protect residential amenity. In section 11.2 of this report, I have outlined that BTR development is 'open to consideration' within this zone, which requires further demonstration of compatibility with the overall policies and objectives for the zone, that it would not have undesirable effects, and that it would otherwise be consistent with the proper planning and sustainable development of the area. Throughout this report, I have demonstrated my satisfaction in this regard. Furthermore, I have considered the design and layout of the proposed scheme and I consider that it would positively contribute towards the creation of sustainable residential neighbourhoods and the preservation/protection of residential amenity. Accordingly, I do not consider that the proposed development would materially contravene the zoning objective for the site.
- 11.10.22. The planning authority also contends that the lack of community facilities as required by SLO52 would materially contravene the CDP. However, as previously outlined in Section 11.8 of this report, I am satisfied that, subject to conditions confirming the nature and extent of community space use, the proposed development would provide social/community infrastructure to comply with the requirements of SLO 52.
- 11.10.23. The third-party submission has contended that the Board cannot justify a material contravention by reference to the Building Height Guidelines and the Apartments Guidelines. It contends that these guidelines and the associated SPPRs are not authorised by s. 28(1C) of the Act as it is unconstitutional and contrary to the SEA Directive as they authorise contraventions of the CDP/LAP without complying with SEA requirements. However, I consider that the EIA Directive must be interpreted as not precluding national legislation which requires competent authorities, when deciding whether or not to grant development consent for a project, to act in accordance with SPPRs, where possible, and which have been subject to an

environmental assessment under SEA Directive. Accordingly, I have no objection to the application of SPPRs in justifying material contraventions. The environmental effects of the proposal are fully addressed in section 12 of this report.

11.10.24. In addition to those issues already addressed, the third-party submission contends that the proposal materially contravenes the CDP in respect of housing mix, building height and visual impact, Architectural Conservation Area, and the Masterplan/Urban Design Framework. In response to these matters I would state the following:

- Section 11.4 of this report outlines that the CDP does not specify a housing mix for BTR development by virtue of the Ministerial Direction.
- Sections 11.3 and 11.7 of this report outline that the proposed development does not materially contravene the CDP or the SUFP in respect of building height and visual impact.
- The site is not within or adjoining an Architectural Conservation Area.
- With the exception of density provisions, I am satisfied that the proposed development would not materially contravene the masterplan/urban design framework as outlined in the SUFP.

Conclusions on Material Contravention

11.10.25. Having regard to the foregoing, I consider that the proposed development would only materially contravene the Development Plan in respect of the density provisions of the SUFP. However, I consider that permission can be granted in accordance with the provisions of section 37(2)(b) of the Act of 2000 for the reasons as outlined in this section of my report.

11.11. Planning Authority Recommendation

11.11.1. Section 9.1.12 of this report outlines the Planning Authority's recommendation that the proposed development should be refused. The recommended reasons for refusal are addressed (by number) as follows:

1. As previously outlined in this report, I am satisfied that the pedestrian bridge can be satisfactorily addressed and conditioned with and without the Tack development on the adjoining site. In this report, I have outlined that the proposal

would provide adequate frontage activity along the new street, would satisfactorily contribute to permeability and place-making, and would not materially contravene the zoning objective for the site.

2. The height and density of the proposed development has been justified in sections 11.3 and 11.7 of this report. Furthermore, various sections of this report have outlined that there would be no unacceptable deficiencies in relation to public open space, overshadowing of communal open space, cycle parking access, footpath links, play areas, dual aspect provision, or private open space.
3. Sections 11.8 and 11.10 of this report outline that, subject to conditions confirming the nature and extent of community space use, the proposed development would provide social/community infrastructure to comply with the requirements of SLO 52 and would not result in a deficient level of non-residential facilities in the wider area.
4. As outlined in sections 11.4 and 11.10 of this report, I am satisfied that dual aspect proposals are acceptable and would not materially contravene the CDP.
5. As outlined in sections 11.4 and 11.5 of this report, I consider that the separation distances from adjoining sites are acceptable, would not result in an unreasonable level of overlooking, and would not negatively impact on the development potential of adjoining sites.
6. As outlined in section 11.9 of this report, I consider that the proposed access and parking arrangements are acceptable and would not endanger public safety by reason of a traffic hazard or obstruction.

11.11.2. I note the recommended conditions from the planning authority and, where appropriate, these should be incorporated into any grant of permission. In particular, I note the significant changes recommended to the scheme as per conditions 5(c)-(f). However, for the reasons outlined throughout this report, I do not consider that the scale of these recommended changes is warranted.

11.12. Planning Assessment Conclusion

- 11.12.1. As outlined in the foregoing assessment, I consider that high-density BTR residential development would be acceptable at this location having regard to the zoning of the site and its location in close proximity to public transport infrastructure and a wide range of other facilities and services. The proposed scheme would provide an acceptable level of residential amenity for prospective occupants and would not seriously detract from the amenities/value of existing property in the surrounding area. Furthermore, I am satisfied that the standard of physical and social/community infrastructure in the area would not justify a refusal of the proposed development.
- 11.12.2. I would have no objection to the height and density of development proposed and I consider that the design and layout of the proposed development would be in accordance with relevant local and national planning policy/guidance. The proposed development would satisfactorily integrate with its surrounding environment and would not detract from the character or amenities of the area in any unacceptable way.
- 11.12.3. Furthermore, in my opinion there is sufficient information on file to allow for a proper and full assessment of the case and I do not consider that there is a compelling case for an oral hearing in this instance. Having regard to the information on file, to the nature of the proposed development and to the location of the development site, I do not recommend that an oral hearing should be held.

12.0 Environmental Impact Assessment (EIA)

12.1. Introduction

- 12.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and should be read in conjunction with the planning assessment above. The development provides for the construction of a Built to Rent residential development containing 334 no. apartments, resident amenity spaces/facilities, a creche, open spaces and landscaping, public realm works, and all associated siteworks and services, on a maximum site area of 0.99 ha. Several of the topics and issues addressed in the planning assessment (section 11 of this report) concern

environmental matters. However, where relevant, I have cross-referenced between sections to avoid unnecessary repetition.

12.1.2. 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 Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

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

12.1.3. The development would clearly not exceed any of the thresholds outlined above. However, Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be required for *‘Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7’*. Having regard to those criteria, the applicant has submitted a sub-threshold EIAR on a precautionary basis.

12.1.4. Under Article 299A of the Planning and Development Regulations 2001, as amended, where a planning application for a sub-threshold development is accompanied by an EIAR and a request for a determination under section 7(1)(a)(i)(l) of the Act of 2016 was not made, the application shall be dealt with as if the EIAR had been submitted in accordance with section 172(1) of the Act.

12.1.5. I also note that the development is part of the overall masterplan with the Tack site, the cumulative total of which would be 541 units and 1.7 hectares. The EIAR has considered the cumulative impact of the two developments. Similarly, an EIAR has been submitted for the Tack site application (ABP Ref. 313338) which considers the cumulative impact of both developments.

12.1.6. The EIAR contains a Non-Technical Summary (Vol. 1), the EIAR (Vol. 2), and supporting appendices. Chapters 1-3 set out an introduction and description of the proposed development (including alternatives considered), as well as the planning and policy context. Chapters 4 to 15 describe and assess the likely significant direct,

indirect and cumulative effects of the proposed development in accordance with the relevant factors listed in Article 3(1) of the 2014 EIA Directive, including the interactions, cumulative, and combined effects. The proposed mitigation and monitoring measures are summarised in Chapter 16.

- 12.1.7. This section of my report evaluates the information in the EIAR and carries out an independent and objective environmental impact assessment (EIA) of the proposed project in accordance with the requirements of relevant legislation. In carrying out an independent assessment, I have examined the information submitted by the applicant, including the EIAR, as well as the written submissions made to the planning authority and the Board as set out in Sections 8 to 10 of this report.
- 12.1.8. I am satisfied that the information contained in the EIAR has been prepared by competent experts (as outlined in section 1.7 of the EIAR) to ensure its completeness and quality; that the information contained in the EIAR and supplementary information adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment; and that it complies with article 94 of the Planning and Development Regulations 2001 (as amended) and the provisions of Article 5 of the EIA Directive 2014.
- 12.1.9. I am satisfied that the participation of the public has been effective, and that the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that the third-party submission has raised concerns that the EIAR has not adequately addressed some issues including ecological/biodiversity impacts, legislative requirements, bird/bat flight lines, cumulative impacts, and population and human health impacts. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains a sufficient level of information, as is demonstrated throughout my overall assessment.

12.2. **Consideration of Alternatives**

- 12.2.1. Article 5(1)(d) of the 2014 EIA Directive requires the following:

“a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.”

12.2.2. Annex IV (2) of the Directive (Information for the EIAR) provides more detail on 'reasonable alternatives' as follows:

A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

12.2.3. Section 3.5 of the EIAR deals with 'Project Alternatives'. The conclusions reached on the reasonable alternatives examined can be summarised as follows:

- Previously granted Development: The proposal offers additional positive social effects through increased land efficiency and the standard of accommodation and amenities. The proposal is appropriate based on its proximity to transport links and its contribution to the character and public realm of the area.
- Location: Alternative locations were not considered having regard to the zoning and objectives that relate to the site, as well as its brownfield nature.
- Technology / processes: Given the residential nature of the project, reasonable alternative technologies or processes were not considered. However, an energy analysis was carried out as part of the design and demonstrates that the proposal can meet future benchmarks on carbon targets. A SuDS Assessment has also been completed to inform the surface water drainage design.
- Design, Size and Scale: The scheme has been designed based on the feedback from the pre-application process. Environmental considerations have been incorporated at the core of the design. Alternative building heights were considered but there is a strong rationale for the 16-storey block based on urban design and national policy/guidelines. The approach is also supported by the application information including the Architectural Design Statement, the wind microclimate analysis, and the sunlight and daylight analysis.
- Phasing: Given the limited site area, construction over a number of phases is not practical.

- Mitigation: The measures identified in Chapter 16 of the EIAR are considered appropriate.
- 'Do-Nothing': The socio-economic benefits of the proposal would not be realised in accordance with policy objectives. It would likely result in less suitable sites being developed and negative impacts on spatial patterns and transportation.
- Current Design: The current scheme is the preferable alternative. It has been designed having regard to the amenities of adjoining sites and is an appropriately scaled residential development on zoned land. It will be close to employment centres and public transport and can be accommodated on the site to respond to the current housing shortage.

12.2.4. Having regard to the above examination of alternatives as per section 3.5 of the EIAR, I am satisfied that the EIA Directive requirements in relation to the consideration of alternatives have been satisfied.

12.3. **Consideration of risks associated with major accidents and/or disasters**

12.3.1. Article 3(2) of the 2014 EIA Directive includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and/or disasters that are relevant to the project concerned are considered. I note that there are no Seveso sites within 5km of the site.

12.3.2. Section 3.6 of the EIAR deals with 'Major Accidents and Disasters'. It identifies a range of potential risks which are regarded as 'very unlikely' to occur. Given the nature and scale of development, the EIAR concludes that any identified risks would not have the potential for 'very serious' or 'catastrophic' consequences and that, therefore, the project has a low-risk potential, both individually and cumulatively. Having regard to the location and zoning of the site, the nature of the site and surrounding uses, and the nature and scale of the proposed development, I am satisfied that effects deriving from major accidents and/or disasters are not likely.

12.4. **Assessment of the likely significant direct and indirect effects**

12.4.1. The likely significant effects of the development are considered below in accordance with the factors set out in Article 3 of the EIA Directive 2014/52/EU.

12.5. Population and Human Health

- 12.5.1. Chapter 4 of the EIAR describes the human environment and identifies and assesses the potential impacts of the proposed development on the 'quality of life'. The geographical study area covers the development area and a buffer of 500m from the site boundary, while the study area for demographic trends is the Electoral Division of Dundrum-Balally.
- 12.5.2. The EIAR anticipates that the construction phase will provide temporary employment for 250-300 construction staff, but that the population/demographic impacts associated with the phase will only be of 'slight' significance. The construction phase has potential for environmental impacts on the existing population relating to noise, dust, visual, water and traffic, which is evaluated in the EIAR as a 'slight' adverse effect. Mitigation measures are set out in various chapters and are to be addressed by good construction practice and mitigation as defined in the Construction Environmental Management Plan (CEMP) and Construction Management Plan (CMP). It is stated that the operational stage will have an effect on the local population of 'slight' permanent significance.
- 12.5.3. The EIAR states that the economic effects of direct and indirect employment during the construction phase will be short-term beneficial, and the construction works will have only a slight impact on existing businesses and workers. It states that the operational phase will add to the local economy through demand for local services and will result in a slight permanent beneficial effect.
- 12.5.4. The EIAR acknowledges that the construction phase has potential to impact on existing local services and amenities through construction nuisance and traffic but predicts that these impacts will be addressed through mitigation measures, including the CEMP and traffic management plans. It states that the operational stage will see existing amenities and services benefitting from increased population, resulting in a slight permanent beneficial effect.
- 12.5.5. With regard to 'Land-use', the EIAR acknowledges that the construction stage has potential for short-term adverse impacts on the local environment. Mitigation measures and the CEMP / CMP are proposed to address these issues and the EIAR evaluates impacts as 'imperceptible'. It states that the operational land-use will be

consistent with planning policy and will result in a 'moderate' permanent beneficial effect.

- 12.5.6. In terms of 'Human Health', the EIAR assesses the air quality impacts of construction dust and construction /operational traffic as being slight adverse effects. Similarly, the noise / vibration and water impacts at construction and operational stages are evaluated as being 'slight adverse'. The Sunlight and Daylight analysis for the proposed development indicates 'negligible' impacts on prospective residents, which the EIAR evaluates as being a 'slight' effect. The Sunlight and Daylight analysis was not deemed relevant for neighbouring commercial buildings/spaces and effects were evaluated in the EIAR as 'imperceptible'. The EIAR states that mitigation measures relating to 'human health' will prevent significant effects and that this will include effective construction and operational management practices.
- 12.5.7. The EIAR also addresses 'Health & Safety' and outlines that construction and operational management practices (including COVID-19 protocols) will be implemented to avoid significant impacts. The impacts of 'wind' have been assessed and the EIAR does not identify any significant effects.
- 12.5.8. I note that the third-party submission has raised concerns that the proposed development does not comply with BRE Guidelines relating to daylight and sunlight. It also contends that the EIAR does not adequately consider the impact of increased population of local services and human health impacts. The EIAR does cover the issue of daylight/sunlight and I have addressed the matter in detail in section 11.6 of this report. I do not consider that there would be any significant or unacceptable daylight/sunlight effects. I have addressed the impact on local services in section 11.8 of this report and I do not consider that the proposed development would result in any significant adverse effects. Finally, I consider that the potential effects on human health have been adequately covered in the EIAR and I agree with the conclusion that the mitigation measures will avoid significant effects.
- 12.5.9. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the

proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

12.6. Ecology and Biodiversity

- 12.6.1. Chapter 5 of the EIAR evaluates the importance of ecological resources present and defines the significance of potential impacts. The study includes a desktop review of available information (February 2022) including designated nature conservation sites. A habitat and flora walkover survey was carried out (January 2022), while surveys for birds and non-volant mammals were also carried out. A Bat Survey Report (July 2020) prepared for the adjoining Tack site was also reviewed.
- 12.6.2. The EIAR surveys outline that the habitats and botanical species present are of low ecological value. The non-volant mammal assessment found no significant suitability for relevant species. Based on the finding of the bat assessment for the Tack site, the EIAR concludes that a Bat Survey is unnecessary for the application site due to the lack of potential roosting features and foraging habitat. Similarly, it concludes that the site does not support an adequate nesting, foraging, and shelter habitat for birds. The evaluation of relevant ecological features outlines that surrounding 'Designated Sites' (excluding Natura 2000 sites) are 'scoped out' due to their separation distance and the absence of connections.
- 12.6.3. The EIAR states that the loss of trees on the site does not represent a loss of a valuable biodiversity resource and that the planting of new trees will offset impacts. Tree removal will be managed and timed to avoid the bird nesting season. The EIAR acknowledges that the increased nutrient and suspended sediments loading has the potential to impact aquatic receptors but concludes that this will be addressed by mitigation measures and the upgrade of the Ringsend Wastewater Treatment Plant (WTP), which will also address cumulative effects.
- 12.6.4. The EIAR highlights 'embedded design mitigation' relating to surface water and wastewater, as well as best practice measures relating to construction, lighting, landscaping and invasive species, and concludes that the implementation of mitigation measures will ensure that any residual effects will not be significant.
- 12.6.5. I note that the third-party submission contends that there is inadequate assessment of ecological impacts, legislative requirements, bird/bat flight lines, and cumulative

impacts. However, I would accept that the site is not of significant sensitivity in terms of ecology and biodiversity, and I am satisfied that the EIAR has adequately considered all potential effects. I note the submission of the Planning Authority and its desire to clarify treatment of existing/proposed planting along the perimeter of the site. I consider that this matter could be satisfactorily dealt with by condition and will not result in significant effects on ecology or biodiversity.

- 12.6.6. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to ecology and biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of ecology and biodiversity.

12.7. Land, Soils and Geology

- 12.7.1. Chapter 6 addresses the magnitude and significance of impacts on land soils and geology, as well as potential impacts to human health from contaminated land and the effect from soils and geology on the proposed development.
- 12.7.2. The EIAR does not identify any geological heritage or mineral sites and states that the superficial tills and bedrock geology on site are unlikely to represent significant resources. The development would not sterilise any limited geological resources and there are no soils mapped at the site. Site investigations (undertaken in 2020) do not indicate any widespread contamination and the proposed development should not lead to new contamination.
- 12.7.3. The EIAR identifies potential construction impacts relating to land (soil/sub-soils) and human health (construction workers and occupiers). These impacts relate to disturbance and/or contact with existing ground contamination, and discharge of wheel-washing water/sludge. The operational stage has potential effects relating to ground discharges, but they are predicted to be negligible. In addition to embedded mitigation, additional measures relating to contamination investigation, construction waste disposal and operational management will apply. It is stated that any subsequent residual effects are not predicted to be significant.

12.7.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to land, soils and geology would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of land, soils and geology.

12.8. **Water**

- 12.8.1. Chapter 7 addresses the potential and significance of impacts on surface water and groundwater receptors, including levels, flow regime, quality, and flood risk. In relation to the baseline groundwater condition, the EIAR outlines the local aquifer properties and states that site investigations concluded that the site was suitable for disposal of storm/surface water via public drainage systems. Investigations also outline that depth to groundwater is typically between 2-3 metres and that groundwater flow would be limited at shallow depths. With regard to surface water, there are no watercourses on site, but the EIAR acknowledges the presence of the Stillorgan reservoir (200m north), as well as the Carrickmines / Racecourse stream (600m south) and Brewery / Carysfort Maretimo stream (800m northeast). The existing surface and wastewater drainage systems are outlined, and it is stated that there are localised areas of low to medium flood risk to the east of the site (along Blackthorn Road). No likely private water sources are identified, and the nearest 'designated site' is 1.6km from the application site.
- 12.8.2. The EIAR acknowledges that the construction phase has the potential to impact on water quality through discharges of contaminants, dewatering and suspended solids, some of which could result in high adverse impacts. Potential impacts on surface water flow are evaluated as negligible (adverse) having regard to the intended management system and practices. The EIAR also considers that impacts on the groundwater flow regime and secondary receptors will be negligible (adverse), as well the likely after-use phase impacts. In addition to embedded mitigation, additional measures relating to pre-construction surveys, contamination investigation, construction waste disposal and piling activities will apply. Any subsequent residual effects are not predicted to be significant.

- 12.8.3. The operational effects of the development on water/wastewater infrastructure are considered in Chapter 14 of the EIAR under 'Material Assets'. The EIAR outlines that Irish Water have confirmed capacity for foul water connection for both the proposed development and the Tack site, and that the upgraded capacity of the Ringsend WWTP will satisfactorily accommodate the proposal. It states that Irish Water has also confirmed that connection to the public watermain is feasible without infrastructure upgrade. Surface water will be separated from foul water and has been designed based on a SuDS strategy. It will connect to the local drainage system in accordance with the requirements of DLRCC. The EIAR concludes that construction and operational effects associated with water infrastructure would be imperceptible.
- 12.8.4. I note that the submissions received from Irish Water and DLRCC Drainage Planning effectively outline that there is no objection to the water services proposals. A Flood Risk Assessment (FRA) has been submitted with the application. I note that the Planning Authority submission accepts the FRA and having reviewed its contents I am satisfied that the proposed development will not be subject to flood risk or result in an increased flood risk elsewhere in the area.
- 12.8.5. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to water would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of water.

12.9. **Air and Climate**

- 12.9.1. Chapter 8 assesses the potential air quality and climate effects and includes a Construction Dust Assessment (Appendix 8.1) and a quantitative assessment of road traffic emissions at the operational phase (Appendix 8.2 – Air Dispersion Modelling).
- 12.9.2. The EIAR considers the magnitude of potential construction phase effects relating to earthworks, construction and trackout activities (medium to large) in the context of the low sensitivity of the area and concludes that the risk of impacts (prior to mitigation) is medium to low. A wide range of dust management mitigation measures will be incorporated into the CEMP for agreement with the planning authority and no significant residual effects are predicted.

- 12.9.3. The operational phase assessment predicts concentrations of NO₂, PM₁₀ and PM_{2.5} at identified sensitive receptors. The assessment models scenarios for the 'current baseline', the 'future baseline 2038' without the development, and the 'future 2038' with the development. In all cases, the EIAR predicts that changes in air quality associated with the operational phase will be negligible and no mitigation measures are deemed necessary.
- 12.9.4. The EIAR considers that effects on climate will not be significant at construction stage or operational stage (as it relates to air, noise, landscape/visual, water and flood risk, geology and groundwater, or ecology and biodiversity). Regarding climate change, the EIAR outlines that the generation of Greenhouse Gas (GHG) at the construction stage will be short-term and insignificant. Operational GHG emissions are predicted to be less than 0.03% and 0.05% of EPA projections for transport and residential sectors respectively, which the EIAR deems to be negligible. Additional climate mitigation measures are proposed in relation to landscaping and no significant residual effects are predicted in relation to climate.
- 12.9.5. Chapter 12 of the EIAR outlines a Wind Microclimate analysis based on the Lawson pedestrian comfort/distress criteria. It also considers the cumulative impacts of the Tack site and other developments in the area. It outlines that construction stage impacts would be in line with baseline conditions and would have only negligible effects. At operational stage, the assessment results would be acceptable for the communal open spaces (i.e. podium and roof terraces) and that the surrounding roads, properties, and public spaces would be suitable for the intended uses. No area is unsafe, and no conditions of distress are created by the proposed development. In fact, the proposed development would have a beneficial effect on the surrounding wind microclimate and there would be no negative down draft effects. The embedded landscape design measures will have the effect of reducing wind impacts and no further mitigation measures are deemed necessary.
- 12.9.6. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to air quality and climate would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air quality and climate.

12.10. Cultural Heritage

- 12.10.1. Chapter 10 of the EIAR assesses the impact of the proposed development on cultural heritage, which refers to all assets of archaeological, architectural, and historical or cultural value. It is informed by the results of desk-based and archival research, as well as the results of a separate archaeological impact assessment, and includes a study area of more than 1km surrounding the site.
- 12.10.2. The EIAR study of 'baseline conditions' identifies no archaeological assets on site, the nearest being c. 420m to the NE. There are 9 architectural assets listed on the NIAH Building Survey (8 of which are Protected Structures), the nearest being Burton Hall c. 410m to the SE. The remainder of structures are at least 780m from the site and are concentrated within Leopardstown Park and Glencairn Estate.
- 12.10.3. The archaeological impact assessment prepared for the site concludes that the potential for significant remains is low and that an historic field boundary is the only known feature present. It states that previous ground disturbance is likely to have disturbed shallow archaeological deposits, but not deeper substrates. As such there is potential for disturbance during construction works. The EIAR predicts that there will be no indirect effects on cultural heritage assets as a result of air or noise emissions and that, while the development may be visible from cultural heritage sites at operational stage, it is not expected that visual changes will result in material effects when considered in the context of existing development. The EIAR proposes archaeological supervision as a mitigation measure during construction works and predicts no significant residual effects thereafter.
- 12.10.4. Having regard to the foregoing, I am satisfied that impacts predicted to arise in relation to cultural heritage would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of cultural heritage.

12.11. Landscape and Visual

- 12.11.1. Chapter 13 assesses the impact of the proposed development on the receiving environment, both in terms of townscape character and visual amenity. The

assessment is based on 16 Viewshed Reference Points within a 3km study area which are illustrated by accompanying Verified Photomontages. The photomontages compare the existing baseline environment, the proposed development, and the cumulative impact of the masterplan (i.e. including the Tack proposal).

- 12.11.2. Considering the medium-low magnitude and short-term duration of construction phase impacts, together with the low sensitivity of the receiving townscape, the EIAR predicts that construction stage impacts will be slight / negative. It acknowledges that, post-construction, the proposed development will add a noticeably increased scale and intensity of built development but that it will generate an infill link in the urban fabric, including other clusters of tall buildings in the area. It concludes that the nature/magnitude of townscape impact would be 'medium-low' and of a 'positive' quality, resulting in slight positive impacts at operational stage.
- 12.11.3. The significance/quality of visual impact of the proposal, both individually and cumulatively, is also evaluated from each of the selected 'viewshed' points. I have addressed this in section 11.7 of this report. I have outlined my opinion that the proposed development would result in significant impacts on views 1, 2, 3, 4, and 5, but I am satisfied that the views are of low sensitivity and would not result in any unacceptable environmental effects. From the remaining viewpoints, I acknowledge that the proposed development, particularly Block E, will be prominently visible in some instances. However, I consider that it would consolidate the existing scale and character of development within the SUFP area and would not have significant effects in the context of this built-up urban area.
- 12.11.4. The EIAR states that mitigation measures relating to landscape / townscape and visual effects are wholly embedded in the proposed design and therefore the 'residual effects' will be as previously discussed.
- 12.11.5. The Planning Authority submission raises serious concerns about the height of the proposed development and its overbearing visual impacts, particularly the 10-storey element along Carmanhall Rd. However, as outlined in Section 11.7 of this report, I consider that the proposed development would satisfactorily integrate with its environment and would not detract from the character or amenities of the area in any unacceptable way.

12.11.6. Having regard to the foregoing, I am satisfied that the impacts predicted to arise regarding landscape/townscape would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of landscape.

12.12. **Material Assets**

12.12.1. Chapter 14 assesses the impact of the proposed development on built services and infrastructure including drainage, telecommunications, electricity, gas, and water supply. I have previously outlined the impacts in relation to water supply and surface/foul water drainage in section 12.8 of this report. Regarding the other assets, the EIAR acknowledges that construction stage activities may have temporary negligible impacts but states that construction management measures will ensure that potential impacts will be imperceptible. There will be an increased demand on infrastructure at operational stage, but impacts are likely to be negligible and imperceptible. As outlined in section 11.7 of this report, microwave links may be affected but it is proposed to install six 300mm microwave link dishes at roof level of Block D to mitigate the potential effects.

12.12.2. The EIAR proposes mitigation measures in the form of construction management practices and consultation with the relevant service providers, and no significant residual effects are predicted.

12.12.3. Having regard to the foregoing, I am satisfied that impacts predicted to arise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of material assets.

12.13. **Interactions, Cumulative and Combined Effects**

12.13.1. Chapter 15 assesses the interactions/inter-relationships between environmental effects and cumulative effects of the proposed development in combination with other relevant committed development in the area. The main interactions identified in the EIAR apply to 'population & human health', which has the potential to interact

with water, air quality & climate, noise and vibration, cultural heritage, traffic & transport, wind, landscape & visual, and material assets. It also states that 'Land, Soils and Geology' has interactions with water, air quality & climate, noise and vibration, traffic & transport, and material assets. The EIAR states that the identified interactions have been considered in the relevant chapters and I am satisfied that this is the case.

12.13.2. With regard to cumulative and combined effects, 9 other permitted/planned schemes were selected based on their size, scale and proximity. The EIAR considers the cumulative effects in respect of each specific discipline and concludes that any effects will be imperceptible to slight.

12.13.3. I am satisfied that the predicted interactions, cumulative and combined impacts have been adequately identified and that potential impacts have been satisfactorily addressed and mitigated in relevant sections throughout the EIAR. Having regard to the foregoing, I am satisfied that impacts relating to interactions, cumulative and combined effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, combined or cumulative interactions.

12.14. Mitigation and Monitoring Measures

12.14.1. Chapter 16 of the EIAR collectively presents all of the mitigation and monitoring measures that are considered necessary to protect the environment prior to, and during, the construction and operation phases of the proposed development. I am satisfied that this adequately reflects the assessments and conclusions as outlined in the EIAR.

12.15. Reasoned Conclusion

12.15.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, the reports from the planning authority and submissions by prescribed bodies and observers in the course of the application, I am satisfied that the potential effects of the proposed development have been adequately identified, described and assessed, and I am satisfied that there will be no other likely significant

environmental effects arising from the proposed development. I consider that the main significant direct and indirect effects of the proposed development on the environment, including mitigation measures, are as follows:

- Construction stage effects on 'population and human health' and 'air quality and climate' as a result of dust, noise, traffic, and waste emissions. These effects would be mitigated through a Construction Environmental Management Plan, a Construction Management Plan, a Construction and Demolition Waste Management Plan, and the application of other best practice construction management measures, which would not result in any unacceptable residual effects.
- Operational stage effects on the 'landscape' and townscape character of the area as a result of the height and scale of the proposed development. These effects would be mitigated through embodied design measures and proposed landscaping, which would not result in any unacceptable residual effects.

13.0 **Appropriate Assessment Screening**

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

13.1. **Background to the application**

13.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Golder Associates Ireland Limited in August 2022. In summary, the report's assessment of the significance of effects on Natura 2000 sites is as follows:

- Impacts on 'water' - Given proposals to connect to existing surface and wastewater services; the absence of watercourses on or near the site; the separation distance from Natura 2000 sites; and measures to contain potential construction and operational emissions; likely significant effects would not arise to Natura 2000 habitats or species as defined by the source pathway model.

- Impacts on ‘air quality’ – Given the low risk of dust mobilisation; embedded design parameters; and the separation distance from Natura 2000 sites; it is unlikely that dust deposition will have an impact on Natura 2000 sites.
- ‘Noise’ impacts – Given the distance of SPAs from the site and relative ambient noise levels, noise from the development will have a negligible impact on SPAs.
- ‘Cumulative impact’ – Based on the upgrade of the Ringsend Wastewater Treatment Plant and the incorporation of similar design parameters and good practice in other developments, cumulative impacts regarding nutrient loading and the potential for eutrophication of freshwater and marine habitat will be imperceptible.

13.1.2. The applicant’s AA Screening Report concludes that it is *‘likely that the residential development of the site will not have a likely significant effect on the Natura 2000 sites pertinent to this assessment’*. The conclusion is mainly based on the absence of aquatic or terrestrial connectivity and the distance between the application site and Natura 2000 sites.

13.1.3. Having reviewed the documents, drawings and submissions included in the application file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

13.1.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

13.2. **Description of the development**

13.2.1. The proposed development comprises the construction of a build-to-rent residential development with 334 no. apartment units. A detailed description of the development is set out in Section 3 of this report. With particular relevance to this AA screening exercise, I note that the following design parameters are included:

- Surface water from the site will be discharged to the existing sewer network. Surface water will be controlled using SuDS measures in accordance with the

Greater Dublin Strategic Drainage Strategy (GDSDS). Measures to potentially benefit biodiversity and ecology include the use of permeable asphalt, green roofs/podium, interceptors, attenuation, rain gardens, and bio-retention tree pits.

- Wastewater will discharge to the existing sewer network and will be processed at the Irish Water wastewater treatment plant at Ringsend.
- Construction will be undertaken in accordance with the CIRA (2015) Environmental Good Practice on Site Guide (4th Edition).
- Landscaping has been designed to promote net gain for biodiversity.

13.2.2. The site is located in an existing built-up residential and commercial zone and is predominantly composed of artificial surfaces. Other habitat types include the following:

- Recolonising / Spoil Bare Ground on the eastern portion of the site.
- Hedgerow growing in mosaic between trees.
- Treeline and ornamental/non-native shrub along the northwest boundary and within the site.

13.2.3. There are no waterbodies present on the site. The applicant's AA Screening Report acknowledges the presence of the Stillorgan reservoir (200m north), as well as the Carrickmines / Racecourse stream (600m south) and Brewery / Carysfort Maretime stream (800m northeast). These streams are extensively culverted within the area of the site/industrial estate.

13.3. **Submissions and observations**

13.3.1. The third-party submission raises several issues in relation to Appropriate Assessment which can be summarised as follows:

- The information is insufficient, contains *lacunae*, and is not based on appropriate scientific expertise. Accordingly, the Board cannot comply with the Habitats Directive and the provisions of the 2000 Act.
- Competent authorities may only authorise development where they have made certain that it will not adversely affect the integrity of a European Site. An AA may not have *lacunae* and must contain complete, precise, and definitive findings and

conclusions capable of dispelling all reasonable scientific doubt as to the effects on European Sites.

- The AA Screening Report has inadequacies and *lacunae* which does not comply with the 2000 Act or the Habitats Directive and does not permit the Board to carry out a complete AA Screening.
- The AA Screening does not provide sufficient reasons, methodology, analysis, or findings for its conclusions, including the reasons that protected sites were 'screened out'.
- AA Screening does not consider all aspects of the development, including the construction phase activities; the potential collision flight risk for protected bird species; and the cumulative effect with other developments.
- The AA Screening report impermissibly has regard to 'mitigation measures'.
- Insufficient site-specific surveys were carried out for AA Screening.
- Reliance on the Ringsend WWTP is flawed given the precarious status of same.

13.3.2. In response to the above, I consider that the AA Screening Report contains adequate information and methodology to facilitate AA Screening, the determination of which is ultimately the responsibility of the Board. It considers all aspects of the construction and operational phases, as well as the potential cumulative / in-combination effects of other plans and projects. I have previously outlined in this report that there are no significant concerns in relation to bird/bat flight lines or collisions. The question of reliance on mitigation measures and the proposed connection to the Ringsend WWTP will be discussed in later sections of this report.

13.3.3. The Irish Water submission confirms that there is sufficient wastewater treatment capacity to facilitate the proposed development. The planning authority has not raised any significant concerns in relation to surface water drainage proposals.

13.3.4. The Inland Fisheries Ireland submission highlights that any discharge to the surrounding streams may pose a risk to water quality and the aquatic environment but does not raise any specific concerns regarding Natura 2000 sites. It recommends compliance with the proposed mitigation measures, national guidance, and legislation.

13.4. European Sites

13.4.1. The applicant's AA Screening Report lists the following Natura 2000 sites within a 15km radius of the application site. It then uses the 'source-pathway-receptor' model to assess the potential for connections to each individual site. The assessment is summarised in the following table.

European Site	Site Code	Distance (km)	Connection
South Dublin Bay and River Tolka Estuary SPA	004024	3.6	Highly unlikely surface water connection via the Brewery stream.
South Dublin Bay SAC	000210	3.6	Highly unlikely surface water connection via the Brewery stream.
Wicklow Mountains SAC	002122	6.4	None
Wicklow Mountains SPA	004040	6.7	None
Knocksink Wood SAC	000725	7.0	None
Dalkey Islands SPA	004172	7.5	None
Rockabill to Dalkey Island SAC	003000	7.9	None
Ballyman Glen SAC	000713	8.0	None
North Bull Island SPA	004006	8.6	None
North Dublin Bay SAC	000206	8.7	None
Glenasmole Valley SAC	001029	10.4	None
Bray Head SAC	000714	11.9	None
Howth Head SAC	000202	12.6	None
Howth Head Coast SPA	004113	14.0	None
Baldoyle Bay SPA	004016	14.3	None
Baldoyle Bay SAC	000199	14.3	None

13.4.2. Accordingly, the applicant's assessment limits the potential for significant effects on Natura 2000 sites to the 'highly unlikely' surface water connections with the South

Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC. I note that the Brewery Stream discharges to these sites at Blackrock and, therefore, they would be the most likely to be affected by any surface water connection and should be assessed further on a precautionary basis. The other Natura 2000 sites within the wider Dublin Bay area would be at a significantly greater separation distance and I am satisfied that there is no potential for significant surface water effects on those sites.

13.4.3. I also note the potential for hydrological connections via wastewater emissions to the Ringsend WWTP which discharges to the inner area of Dublin Bay. In this respect, I consider that there is limited potential for effects on the inner Dublin Bay sites consisting of South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, North Dublin Bay SAC, and North Bull Island SPA. These sites would be the most likely to be affected by any wastewater emissions from Ringsend WWTP and should be assessed further on a precautionary basis. The other Natura 2000 sites within the wider Dublin Bay area would be at a significantly greater separation distance and I am satisfied that there is no potential for significant wastewater effects on those sites.

13.4.4. Otherwise, apart from those sites identified above, and having regard to the significant separation distances, barriers, and lack of connectivity with the application site, I am satisfied that there are no potential connections with any other European Sites in the vicinity. I consider that any potential for significant effects is limited to the question of surface water and wastewater emissions and their potential downstream impacts on the receiving environment in inner Dublin Bay. Again, I acknowledge that there are more distant hydrological connections with other sites in the wider Dublin Bay / Irish Sea area. However, it is reasonable to conclude that the potential for hydrological effects will be adequately considered through the assessment of the more proximate European Sites in inner Dublin Bay. My screening assessment will therefore focus on the impact of the proposal on the conservation objectives of Natura 2000 sites around inner Dublin Bay and their qualifying interests (as set out in the table below). I am satisfied that no other European Sites fall within the possible zone of influence.

European Site	Conservation Objectives and Qualifying Interests (QI's)
South Dublin Bay SAC	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.
South Dublin Bay and River Tolka Estuary SPA	To maintain the favourable conservation condition of the following QI's (excluding 'Grey Plover' which is proposed for removal): Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern, Arctic Tern, Wetlands.
North Bull Island SPA	To maintain the favourable conservation condition of the following QI's: Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull, Wetlands.
North Dublin Bay SAC	<p>To maintain the favourable conservation condition of the following QI's: Mudflats and sandflats not covered by seawater at low tide, Atlantic salt meadows, Mediterranean salt meadows, Petalophyllum ralfsii (Petalwort).</p> <p>To restore the favourable conservation condition of the following QI's: Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Embryonic shifting dunes, Shifting dunes along the shoreline with Ammophila arenaria (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Humid dune slacks.</p>

13.5. Potential Effects on European Sites

13.5.1. Having carried out AA screening for other developments in the Dublin area and having reviewed the recent SHD applications on this site and the surrounding Sandyford area, I am aware that the development is potentially connected to the European Sites within inner Dublin Bay via the surface water and foul water networks. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.

Surface Water

- 13.5.2. As previously outlined, the development incorporates SUDS measures and a surface water management system to regulate discharge flows in terms of quantity and quality at operational stage. The proposed measures are in accordance with standard best practice guidelines as outlined in the GDSDS and I am satisfied that this will appropriately control and treat the quantity and quality of surface water discharge.
- 13.5.3. There is also potential for surface water contamination during construction works as a result of spills, leaks, etc. Dust construction emissions also have the potential to impact on surface water quality. However, I am satisfied that best-practice construction management will satisfactorily address this risk and that any such events would be unlikely to significantly impact on any European Sites given the significant separation distance and hydrological buffer that exists.
- 13.5.4. All of the above measures are standard design measures and are not considered to provide mitigation for any negative effect to a Natura 2000 site. I am satisfied that there is no possibility of significant impacts on European sites within Dublin Bay from surface water pressures from the development for the following reasons:
- Any pollution event is likely to be short in duration (i.e. confined to storm events during the construction phase) and contained at the scale of the site;
 - There would be significant dilution capacity within the existing drainage network and receiving water environment;
 - There is known potential for waters in Dublin Bay to rapidly mix and assimilate pollutants; and
 - The incorporation of attenuation and filtration measures within the design of the development prior to discharge to the surface water network, which will reduce the effects of storm flows on downstream European Sites during operation.

Wastewater

- 13.5.5. I note that the Irish Water submission confirms that there is adequate capacity to facilitate the proposed development. The Irish Water Wastewater Treatment Capacity Register (June 2023) also confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading to the

Ringsend WWTP, but I note that permitted upgrade works will bring the capacity of the plant to 2.1 million PE in the second half of 2023 and to 2.4 million PE by 2025, while meeting the required Water Framework Directive standards. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay.

13.5.6. The proposed development involves a total peak foul flow of 10.54 l/s, which would not be significant when equated as a percentage (i.e. c. 0.1%) of the current licensed discharge at Ringsend WWTP. Overall, I am satisfied that no significant impacts to the Natura 2000 sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development, for the following reasons:

- The coastal waters in Dublin Bay are classed as ‘unpolluted’ by the EPA and there is no evidence that pollution through nutrient input is affecting the conservation objectives of sites within Dublin Bay;
- The Ringsend WWTP extension is likely to be completed in the short term (with a PE of 2.1 million in 2023 and 2.4 million in 2025) to ensure statutory compliance with the WFD. This is likely to maintain the ‘Unpolluted’ water quality status of coastal waters despite potential pressures from future development;
- The proposed development involves an estimated peak foul flow discharge of 10.54 l/s, which will not be significant in the context of existing and proposed wastewater capacity; and
- Enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

13.5.7. No other European sites are connected downstream of the application site, which has a brownfield location within a zoned and serviced urban area. No Qualifying Interest (QI) fauna or habitats were noted within the development site during inspection. There is, therefore, no potential for significant effects on a European Site resulting from loss of habitats or direct loss of ex-situ QI species as a result of the proposed development.

13.5.8. Given the existing urban context for the site and given that all other European Sites are distanced at least 3.6 km from the application site, it is unlikely that any disturbance impacts would occur during the construction or operational stage. In this

regard I have considered all potential disturbance effects, including heightened noise/lighting levels and the obstruction of flight paths / bird strike, as well as the potential for significant in-combination or cumulative effects in this regard.

13.6. In Combination or Cumulative Effects

- 13.6.1. The applicant's AA Screening Report has considered cumulative impacts, including other permitted/planned developments in the vicinity of the site. It considers the potential effects as a result of increased loading on the Ringsend WWTP under construction developments of a similar scale. However, it concludes that, based on the upgrade of the Ringsend Wastewater Treatment Plant and the incorporation of similar design parameters and good practice in other developments, cumulative impacts regarding nutrient loading and the potential for eutrophication of freshwater and marine habitat will be imperceptible.
- 13.6.2. Having reviewed the AA screening for other projects in the area, I am satisfied that there is no possibility of significant effects on any European site arising from surface and foul water discharges during the construction and / or operation of the proposed development in combination with other plans or projects. Similar to that outlined in Section 13.5 above, I have reached this conclusion on the basis of the 'unpolluted' classification and dilution capacity of coastal waters in Dublin Bay; proposals to upgrade the Ringsend WWTP in the short-term; and the incorporation of best-practice SUDS and construction management measures.

13.7. Mitigation Measures

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

13.8. AA Screening Determination

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

13.8.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management and surface water management;
- The dilution capacity within the existing drainage network and the receiving water environment in Dublin Bay;
- Proposals to upgrade the capacity of the Ringsend WWTP in the short-term to facilitate future development in compliance with the provisions of the Water Framework Directive.

14.0 Recommendation

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

15.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 2nd day of September 2022 by Atlas GP Ltd., care of MacCabe Durney Barnes Ltd of 20 Fitzwilliam Place, Dublin 2.

Proposed Development comprises of the following:

The development will consist of:

- 334 Build to Rent residential apartment units within 4 no. apartment blocks and as follows:
 - 79 No. Studio
 - 175 No. 1 bed
 - 80 No. 2 bed.
- All Residential units provided with private balconies/terraces to the north/south/east and west elevations,
- Creche 272 sqm.,
- Residential amenity spaces 893 sqm. (including a unit of 146.5 sqm. open to the public, resident's gym, business centre, multipurpose room, staff facilities, multimedia/cinema room, shared working space, concierge and games room).
- Height ranging from 5 to 16 storeys (over basement).
- Landscaped communal space in the central courtyard.

- Provision of a new vehicular entrance from Carmanhall Road and egress to Blackthorn Road.
- Provision of pedestrian and cycle connections.
- 125 No. Car Parking, 6 No Motor Cycle Parking and 447 cycle spaces at ground floor/undercroft and basement car park levels.
- Plant and telecoms mitigation structures at roof level.
- The development also includes 2 No. ESB substations, lighting, plant, storage, site drainage works and all ancillary site development works above and below ground.

Decision

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

Matters Considered

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

Reasons and Considerations

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

- (a) the location of the site in an established urban area and the zoning of the site for residential uses;
- (b) the policies and objectives of the Dun Laoghaire Rathdown Development Plan 2022-2028, including the Sandyford Urban Framework Plan 2022-2028;
- (c) 'Housing for All – A New Housing Plan for Ireland' issued by the Department of Housing, Local Government and Heritage in September 2021;

- (d) the National Planning Framework which identifies the importance of compact growth;
- (e) the Climate Action Plan 2023 prepared by the Government of Ireland;
- (f) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (g) The Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority
- (h) The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (j) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 (as clarified by the July 2023 update to the Guidelines and the accompanying Circular Letter NRUP 01/2023);
- (k) The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in 2019;
- (l) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- (m) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area;
- (o) The submissions and observations received;
- (p) The Chief Executive Report from the Planning Authority; and
- (q) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the nature of the receiving environment, the distances to the nearest European Sites and pathway considerations, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, location, and extent of the proposed development,
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the planning authority, observers, and prescribed bodies in the course of the application, and
- (d) The report of the Planning Inspector.

Reasoned Conclusion on Significant Environmental Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information

contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation, including environmental conditions, and these are incorporated into the Board's decision.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Construction stage effects on 'population and human health' and 'air quality and climate' as a result of dust, noise, traffic, and waste emissions. These effects would be mitigated through a Construction Environmental Management Plan, a Construction Management Plan, a Construction and Demolition Waste Management Plan, and the application of other best practice construction management measures, which would not result in any unacceptable residual effects.
- Operational stage effects on the 'landscape' and townscape character of the area as a result of the height and scale of the proposed development. These effects would be mitigated through embodied design measures and proposed landscaping, which would not result in any unacceptable residual effects.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the proposed mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would comply with the residential zoning for the site in accordance with the Dún Laoghaire Rathdown County Development Plan 2022-2028, would constitute an acceptable quantum of development on this brownfield site in a central and accessible location which would be served by an appropriate level of public transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would not seriously injure the visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of traffic safety and convenience, would not be at risk of flooding, or increase the risk of flooding to other lands, and would be capable of being adequately served by wastewater, surface water, and water supply infrastructure.

The Board considered that, with the exception of the proposed density of development, the proposed development would be compliant with the Dun Laoghaire-Rathdown County Development Plan 2022-2028 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, it would materially contravene the stated density objective for the site as outlined in Objective 'A2 1' and Map 2 of the Sandyford Urban Framework Plan appended to the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The Board considered that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, a grant of permission, in material contravention of the Development Plan, would be justified for the following reasons and considerations:

- The proposed development is classified as a Strategic Housing Development as per section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and is considered to be strategic in nature. It is located along a strategic development corridor as identified in the Dublin Metropolitan Area Strategic Plan contained in the Eastern & Midland Regional Assembly Regional

and Spatial Economic Strategy (RSES) 2019-2031, and the Sandyford area is identified as a strategic employment location in the RSES and the Dun Laoghaire-Rathdown County Development Plan (CDP) 2022-2028. The site itself is identified in the CDP as a 'strategic regeneration site' which would contribute to compact growth, one of the strategic aims of the CDP. Having regard to this strategic context, together with the current national housing shortage and national policy to substantially increase national housing output as set out in 'Housing For All', the Board considered that the proposed development would be of strategic and national importance and that a material contravention would be justified in accordance with section 37(2)(b)(i) of the Planning and Development Act 2000, as amended.

- The Dun Laoghaire-Rathdown County Development Plan (CDP) 2022-2028 indicates a residential density of 175 units per hectare for the site as per Map 2 of the Sandyford Urban Framework Plan. However, it does not clarify whether this is a maximum, minimum, or specific density standard. Accordingly, the Board considered that the development plan objectives are not clearly stated and that a material contravention would be justified in accordance with section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended.
- The proposed density would be in accordance with objectives supporting compact urban development with appropriate densities and heights at suitably central and/or accessible locations, including National Policy Objectives 13, 33 and 35 of Project Ireland 2040 - National Planning Framework, Regional Policy Objectives 3.3 and 5.4 of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020, the provisions of the Guidelines for Sustainable Residential Developments in Urban Areas (2009), and the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities 2018. Accordingly, the Board considered that a material contravention would be justified in accordance with the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The 'lower ground floor' space (146.5m²) along Blackthorn Road shall be reserved for use as a community facility and not as a shared resident amenity/facility.
 - (b) The shared amenity spaces for residents shall incorporate a range of amenities and facilities to comply with the Design Standards for New Apartments, Guidelines for Planning Authorities (2020). Proposals in this regard shall include laundry facilities and/or other resident services.
 - (c) The floor to ceiling heights of the 'lower ground floor' and 'ground floor' levels shall be at least 2.7 metres.
 - (d) Screening proposals shall be included to mitigate any overlooking from directly opposing windows on the adjoining site to the northwest.
 - (e) A window shall be installed to serve the second bedroom in apartment units G.00.01, G.01.01, G.02.01, and G.03.01.
 - (f) Provision shall be made for pedestrian permeability along the northwest boundary, connecting with the planned development of the adjoining site.
 - (g) Provision shall be made for continuous pedestrian connectivity around the entire site perimeter.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of improved layout and permeability, residential amenity and adaptability, and to ensure an adequate contribution to community facilities in the area.

3. The mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 16 of the EIAR 'Mitigation and Monitoring', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

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

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

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

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

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

Reason: In the interests of orderly development and clarity.

7. The following requirements in terms of traffic, transportation and mobility shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:
 - (a) The roads and traffic arrangements serving the site, including signage, pedestrian and cycle crossings, where required, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) Provision of additional cycle parking in line with the provisions of Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (December 2020), the final quantum of same to be agreed with the Planning Authority and shall include increased visitor cycle parking at surface level.
 - (c) Provision of additional drop off / pick up facilities for residents, visitors, creche users, and servicing/emergency vehicles.
 - (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
 - (e) All works to public roads/footpaths shall be completed to the satisfaction of the planning authority.
 - (f) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment,

Community and Local Government in March 2019, as amended, in particular with regard to carriageway widths and corner radii.

- (g) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (h) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
- (i) Access, circulation, and parking within the underground / undercroft area shall comply with Design Recommendations for Multi-storey and Underground Car Parks (the Institute of Structural Engineers).
- (j) The proposed access from Carmanhall Road shall demonstrate how the planned relocation of the adjoining pedestrian crossing has been addressed.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

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

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

9. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

10. The developer shall provide public realm enhancements along the southeast and northeast perimeter to the site. The works shall include for the protection of existing planting, the carrying out of new landscaping, boundary treatments, and the provision of pedestrian and cycle infrastructure to comply with the Sandyford Business District Cycle Improvement Scheme. Proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of improving the public realm and encouraging the use of sustainable modes of transport.

11. (a) In the event that the proposed development is constructed in parallel with the development of the adjoining site to the northwest, the proposed pedestrian bridge shall be completed in accordance with the masterplan proposals.

(b) In the event that the proposed development is constructed in advance of the development of the adjoining site to the northwest, proposals to demonstrate how the proposed pedestrian bridge will be delivered shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Proposals in this regard shall include revised drawings showing interim arrangements without the bridge, as well as a phasing scheme to demonstrate commitment to and the methodology for the delivery of the bridge pending the development of the adjoining site.

Reason: In the interest of clarity and to facilitate improved permeability and connectivity.

12. Boundary treatments for all proposed communal areas and play areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas

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

Reason: In the interest of visual amenity

15. The areas of communal open space as shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

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

16. Public lighting shall be provided in accordance with a scheme, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

17. Water supply and drainage arrangements, including wayleave and taking in charge arrangements, arrangements for the attenuation and disposal of surface water, and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water and the Planning Authority for such works and services.

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

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

Reason: In the interest of public health.

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

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

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

21. The construction of the development shall be managed in accordance with a Final Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

22. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

23. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at site offices at all times.

Reason: In the interest of sustainable waste management.

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

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

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

Reason: In the interests of visual and residential amenity

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

Reason: To comply with the Council's taking in charge standards.

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

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

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

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

28. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions for Dublin City Council of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

31. The developer shall pay to the planning authority a financial contribution in respect of the extension of Luas Line B1 – Sandyford to Cherrywood in accordance with the terms of the Supplementary Development Contribution Scheme, made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

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

Stephen Ward
Senior Planning Inspector
24th July 2023