



An
Bord
Pleanála

Inspector's Report

ABP-314934-22

Development	Mixed use commercial development consisting of a hotel, office block, and all associated site works.
Location	Heuston South Quarter, bounded by St. John's Road West (to the north), Military Road (to the east) and the Royal Hospital Kilmainham (Protected Structure) (to the west and south), Kilmainham, Dublin 8.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4610/22
Applicant(s)	HPREF HSQ Investments Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party vs. Refusal
Appellant(s)	HPREF HSQ Investments Limited
Observer(s)	1. Frank McDonald 2. Paul D. Leech
Date of Site Inspection	4th October 2023
Inspector	Stephen Ward

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1.0 Site Location and Description

- 1.1. The appeal site is located within the largely developed Heuston South Quarter (HSQ) urban block, to the south of Heuston Station. It has a stated site area of 0.62ha and is distanced c. 2.5km west of O'Connell Bridge and c. 400m west of the Luas Red Line (along Steeven's Lane). It forms the northern part (Site B) of the remaining parcel of land to be developed in the block. The other part (Site A) is located to the south of the appeal site and was the subject of a recent SHD application (ABP Ref. 311591-21 – see section 4 of this report for further details). The levels on the site vary but are generally significantly lower than surrounding land/development.
- 1.2. The area to the east and south of Sites A & B is bounded by recent mixed-use development mainly consisting of residential, office, and retail uses along Military Road, which adjoin the grounds of the Royal Hospital Kilmainham (RHK) further south. To the west of the site is the formal gardens of RHK and the Heuston Square substation buildings.
- 1.3. The site is bound to the north by St John's Road West and Heuston Station. Vehicular access is provided via St John's Road at the northwest corner of the site. This access serves a communal basement level car park and is serviced by a junction and traffic lights. Right-in turning movements are facilitated from the west while a left-in slip lane serves traffic approaching from the east. Egress from the site is left-only (west) at this point. Access/egress to the larger site is also provided on Military Road.

2.0 Proposed Development

- 2.1. Planning permission is sought for a mixed-use commercial development comprising of a hotel (238 no. bedrooms) and an office block delivering a cumulative Gross Floor Area (GFA) of 32,602 sq.m, inclusive of basement area. The individual elements of the development can be summarised as follows:
 - Site clearance and localised demolitions to remove part of the podium and Basement Level-1 reinforced concrete slabs, together with the incorporation of part of the existing basement level structure extending to c. 4,228m² (GFA).

- The proposed basement will be integrated within the existing basement levels and will be accessed from the existing vehicular ramped accesses/egresses onto/off St. John's Road West and Military Road to the north and east, respectively.
- Construction of a 5-storey hotel (over lower ground and basement levels) to provide 238 no. bedrooms. At basement level provision is made for parking, plant, storage, loading, servicing, and set-down areas. Ancillary facilities are proposed to include Conference Room; Gym; Dining Area and Foyer; and a hotel bar (118 sq.m) opening onto a roof terrace.
- The construction of a 12-storey (over lower ground and basement levels) office building to provide 19,474 sq.m of office floorspace (GFA) from lower ground floor level and above. Provision is made at basement level for parking, plant, and storage rooms. Provision is made for a Retail/Cafe unit of 208 sq.m at podium level and roof terraces at 4th and 11th floors.
- Works are proposed to vehicular and pedestrian arrangements at the existing junction on St John's Road West.
- Drainage works include 2 no. below basement surface water attenuation tanks and 2 no. below basement foul pump sumps. New foul drainage and stormwater drainage connections are proposed along St. John's Road West.
- Hard and soft landscaping works at lower ground level along St John's Road West and at podium level to extend and complete the public plaza to the south of the proposed Office Block and to provide new pedestrian laneway connecting St John's Road West with the public plaza at podium level.

2.2. The key figures are summarised in the following table.

Site Area	0.62 ha
Total Basement Area	4,228m ²
Total Hotel Area	8,900m ²
Total Office Area	19,266m ²
Retail / Café Area	208m ²
Total Commercial Area (Exc. Basement)	28,374m ²

Plot Ratio	4.54:1
Site Coverage	50% (Exc. Hotel courtyard)
Height (over lower ground and basement)	5-storey hotel. 12-storey office block.
Car Parking	54 spaces (30 office, 24 hotel)
Bicycle parking	346 spaces (30 for hotel and retail/café, 316 for offices)

2.3. The application is accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). It is also supported by the following reports:

- Planning Report
- Site Specific Flood Risk Assessment
- Engineering Services Report
- Outline Construction and Demolition Waste Management Plan
- Outline Construction Management Plan
- Servicing Management Plan
- Traffic and Transport Assessment
- Workplace Travel Plan
- Energy Analysis Report
- Daylight and Sunlight Report
- Microclimate Wind Analysis
- Site Lighting Report
- Public Realm and Landscape Strategy Report
- Architectural Design Statement and Verified Photomontages
- Operational Waste Management Plan
- Heritage Impact Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. By Order dated 28th September 2022, Dublin City Council (DCC) issued notification of a decision to REFUSE permission for the proposed development. The reasons for refusal were as follows:

1. Having regard to the prominent and sensitive location of the subject site by reason of its location adjacent to the walled formal garden associated with the Royal Hospital Kilmainham, a Protected Structure (RPS No. 5244), and having regard to Policy CHC2 of the Dublin City Development Plan 2016-2022 which seeks to protect the curtilage of Protected Structures and to ensure that all proposals relate and complement the special character of protected structures, it is considered that the proposed development by reason of its scale, bulk, height and proximity, would result in a significant visual intrusion that would seriously detract from the views to, from and within the walled garden which integral to the design of the Royal Hospital Kilmainham and therefore adversely impact on the setting and character of this built heritage asset which is of international importance. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposal would by reason of visual intrusion, adversely affect the identified Cone of Vision view which runs from the northeast corner of the Deputy Master's House to the southeast edge of the main facade of the Dept. of Defence/Royal Infirmary. The proposed development would therefore be contrary to Section 15.1.1.10 (8) of the Dublin City Development Plan 2016-2022 which seeks to ensure that new development within the designated 'Strategic Development and Regeneration Area (SDRA) 7 - Heuston Station and Environs Area', does not adversely affect views within this cone. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its architectural design, scale and massing would present an abrupt transition in scale and appear incongruous in the context of existing and approved adjoining properties and would have an adverse impact on the character and visual amenity of the area. The proposed development

would therefore seriously injure the amenities of property in the vicinity and wider townscape, contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

The DCC planning report assessment can be summarised under the headings below.

Zoning

- Taken in conjunction with existing and approved development within the wider HSQ area, the proposed uses would generally accord with the Z5 zoning objective.

Density and Quantum

- Notwithstanding an exceedance of the indicative Development Plan plot ratio (2.5 – 3) the proposed site coverage and plot ratio is appropriate having regard to the location of the site adjacent to Heuston station, the LUAS, and several bus routes. The proposal will also facilitate and enhance pedestrian and cycle connections within the HSQ and would ‘round off’ the overall development.

Building Height and Visual Impact

- While the principle of heights proposed (50m+) may be generally acceptable within the SDRA, the site sensitivities require careful attention in terms of integration with adjoining development of acknowledged importance.
- The proposed 53.9m office block would represent an abrupt transition in height, scale and massing in comparison to the adjoining ‘eir’ building (38m), and the scale, massing and architectural form would appear entirely dominant. It is not considered that the proposal would make a positive contribution to the streetscape along St John’s Road West.
- There are concerns about the height, bulk and massing of the office building, together with its fenestration, finishes, and roof profile. Even when considered in

the context of the approved SHD scheme, the scale and massing of the office block is entirely dominant resulting in an unharmonious and incongruous building.

- The decision to grant the SHD permission included a condition that blocks D & E be reduced in height to not exceed the height of the adjoining RHK boundary wall, which has not been reflected in the photomontage images. The 6-storey (52m high) hotel building will also be sited adjacent to the RHK boundary wall and would be overbearing and appear to visually enclose the north-eastern side of the garden. It would dominate views from within the garden and impinge on its setting, thereby detracting significantly from it.
- The 'cone of vision', as set out in the Heuston Framework Plan and the City Development Plan, represents a significant view between the RHK and Phoenix Park, and the Development Plan (s. 15.1.1.10 (8) and Guiding Principle 8 of SDRA 7) stipulates that any new developments within this 'cone' shall not adversely affect this view. The cone is not accurately represented in the applicant's Heritage Impact Assessment. The proposed development would adversely affect the cone of vision to and from the RHK and would be contrary to the Development Plan.
- The proposal will deliver several of the core objectives of the HSQ Masterplan with a new public realm and hotel, ancillary retail and commercial development. It is likely to have an overall positive impact on the existing HSQ public realm.

Impacts on Neighbouring Amenity

- The conclusions of the applicant's Daylight/Sunlight Assessment are noted.
- Concerns are raised about the interface with blocks A & E of the permitted SHD scheme. The proximity and scale of the proposed hotel window openings would overlook the apartments along the northern elevation of Block E, resulting in a loss of residential amenity. This matter could be addressed via an innovative and mitigating design response.

Transport

- Concerns are raised that the development would impact on public 'taken in charge' areas and public rights of way.

- The DCC Transportation Planning report has requested confirmation that the visibility to the primary signal (signal on left) meets the requirements of Chapter 9 of the traffic signs manual.
- The applicant should be requested to review the proposals to maintain the two-lane exit on St. John's Road West due to the potential vehicular conflict with Busconnects proposals.
- Satisfactory proposals have been included for pedestrian and cycling access, permeability, and linkages throughout the site and wider HSQ site in general.
- A swept path analysis should be submitted in respect of the ESB substations.
- Car-parking provision is high given the accessible location of the site.
- Queries are raised in relation to office block cycle parking and provisions for cargo bikes, visitors, constraints at LG level, and security at basement level. Regarding hotel cycle parking, queries are raised regarding covering, security, staff parking and associated shower/changing/locker facilities.
- The Workplace Travel Plan is noted, including a low target for the walking split.

Planning Conclusion

- While there is no objection to the principle of a 12-storey building, there are concerns about the proximity, height, and massing of the development and its adverse impact on the important RHK character/setting, the aforementioned 'cone of vision', and any future development on the adjoining Site A.
- A consolidated proposal for Sites A and B would be a preferable approach.
- The scheme would have a dramatic and unacceptably conspicuous effect on existing and approved development which cannot be reconciled at this sensitive location.

Appropriate Assessment (AA)

- Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on four European Sites (North Dublin Bay SAC, South Dublin Bay SAC, North Bull Island SPA, and South Dublin Bay and River Tolka Estuary SPA). The potential impacts are primarily

related to the potential transfer of pollution and/or sediments via existing surface water drainage infrastructure and via potential groundwater pathways.

- Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these European Sites or any other European site, in view of the site's Conservation Objectives. The conclusion is based on an assessment of the proposed mitigation measures and ecological monitoring; in combination effects with other plans and projects; and no reasonable scientific doubt as to the absence of adverse effects on the integrity of these sites.

Environmental Impact Assessment (EIA)

- The Planning Authority has carried out an EIA of the proposed development. It concludes that the provided information is reasonable and sufficient to allow the Planning Authority to reach a reasoned conclusion on the significant effects of the proposed development on the environment, although I note that it does not specify what the 'reasoned conclusion' is.
- However, under most relevant EIA headings, the planner's report outlines satisfaction that the proposed development would not have any unacceptable adverse direct, indirect or cumulative effects.
- In relation to 'Traffic and Transport', the report highlights the need to demonstrate consistency with BusConnects and to assess the potential cumulative construction traffic impacts with the SHD scheme. The Planning Authority is not satisfied that the impacts have been fully identified and mitigated.
- In relation to cultural/architectural heritage and landscaping and visual impact assessment, the aforementioned concerns about impacts on the RHK property and the 'cone of vision' are restated. It concludes that significant adverse direct, indirect and cumulative effects on Cultural / Architectural Heritage are likely to arise.

Recommendation

- The planning report recommends to refuse permission and this forms the basis of the DCC decision.

3.2.2. **Other Technical Reports**

Drainage Division: No objections subject to conditions.

Transport Planning Division: Recommends further information in relation to:

- The site boundary and interface with public realm / right of way.
- The junction design on St John's Road West.
- Swept path analysis for substations.
- Construction stage impacts on existing service arrangements.
- Review of the operational and construction traffic assessment.
- Justification for the high level of car parking.
- Review of cycle parking arrangements.

Archaeology: The report highlights the large scale of the development and its location within an important historic landscape with important views of a Recorded Monument and Place (Phoenix Park) and adjacent to a Recorded Monument (RHK garden). The office has serious concerns that the proposed development may adversely affect the cone of vision to and from the park and recommends that the integrity of the historic landscape and views are maintained through redesign. In the event of a grant of permission it recommends that a condition for Archaeological Assessment be applied.

3.3. **Prescribed Bodies**

An Taisce: The submission highlights the international importance of the RHK site and makes reference to its objection to the previous SHD application. In summary, it contends that permission for the current application should be refused based on the following concerns:

- The development approach fundamentally misunderstands and disregards the overall setting of the Royal Hospital.
- The 2003 Heuston Framework Plan, cited in section 15.1.1.10 (8) of the Dublin City Development Plan 2016-22, recognised this in the 'Cone of Vision' which would leave a buffer zone that can still be achieved.

- The images submitted with the application are misleading and do not instil confidence that an appropriate level of care and sensitivity has been taken.
- The applicant's Heritage Impact Assessment does not accurately show the 'cone of vision'.
- The application concedes that the development would obstruct the cone of vision but seeks to inaccurately and incorrectly understate the effect of same.
- The existing development at HSQ has damaged the historic setting of RHK but there is an opportunity to address this by stepping down the height/scale of further development and maintaining the cone of vision.
- The proposal is premature pending the outcome of the judicial review of the SHD decision.

National Transport Authority (NTA): The submission refers to the Transport Strategy for the Greater Dublin Area 2016-2035 and can be summarised as follows:

- The proposal for consolidated development in the city centre is broadly consistent with the land use planning principles of the Transport Strategy.
- While the proposal would facilitate the BusConnects Lucan Core Bus Corridor, the maintenance of a two-lane exit from the car-park onto St. John's Road is no longer appropriate as there will only be a single westbound general traffic lane on St. John's Road at this point. Maintaining a two-lane exit would be likely to lead to conflict between vehicles immediately merging into one lane.
- In the event of a grant of permission, details of the access junction should be agreed with the NTA prior to commencement of development.

3.4. **Third Party Observations**

Submissions were received from two third parties. The issues raised are largely addressed in the observations on the appeal (see section 6.3 of this report). The submissions also contend that the proposed scheme differs radically from the earlier masterplan approach and includes an office block that is taller than the 18-storey SHD proposal on Site A. It is stated that the original masterplan, pre-planning discussions, and the applicant's report acknowledge the need to protect the relationship with the RHK grounds and views to and from.

4.0 Planning History

The appeal site and surrounding sites have been subject to several planning applications in recent years. This mainly comprises the parent permission and subsequent amending permissions, details of which are set out in section 4 of the applicant's Planning Report and also in the DCC Planner's Report. The most relevant applications are summarised below.

ABP Ref. PL29S.206528 (PA Ref. 2656/03): Permission GRANTED (September 2004) for a mixed-use development on the overall HSQ site that extended to 3.9 hectares, which included for offices (48,531-sq.m.), 267 number residential units, 30 number one bedroom live/work units, museum/art gallery, retail and restaurants, hotel/conference centre. The proposal consisted of ten buildings, ranging in height from two to 12 storeys. The permitted development was subject to numerous amending applications and all elements of the parent permission were modified. Completed elements of the development comprise blocks 3, 4, 7, 8, 9 and 10, providing approx. 80,000-sq.m of commercial floorspace and 345 apartments.

P.A. Reg. Ref. 2724/13: Permission granted (November 2013) for temporary landscaping works to address unfinished development areas (generally comprising Sites A and B).

P.A. Reg. Ref. 3794/13: Permission granted (February 2014) for regularisation and retention of amendments to the overall HSQ development site.

ABP Ref. 311591-21: The Board made a decision (March 2022) to grant an SHD application consisting of 399 no. Build To Rent apartments (Blocks A-E) and associated site works on Site A. Condition 3(a) of that decision would require the reduction of Blocks D and E by two floors.

However, at the time of writing this decision is the subject of an ongoing Judicial Review challenge.

5.0 Policy Context

5.1. National & Regional Policy / Guidance

5.1.1 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 4 promotes attractive, well-designed liveable communities;
- NPO 5 aims to develop towns and cities of scale and quality to compete internationally and drive national and regional growth;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development that can encourage more people and generate more jobs/activity within existing settlements;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.

5.1.2 Following the theme of 'compact urban growth' and NPO 13 of the NPF, the 2018 **Urban Development and Building Heights, Guidelines for Planning Authorities** (hereafter referred to as the 'Building Heights Guidelines') outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 The **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the 'Architectural Heritage Guidelines', sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.1.4 The **Regional Spatial and Economic Strategy (RSES)** for the Eastern and Midlands area (adopted June 2019) provides a framework for development at regional level. The appeal site has been included within the Dublin Metropolitan Area

(MASP) and is therefore part of the area identified for 'consolidation of Dublin City and suburbs'.

5.1.5. 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 45% reduction in emissions from commercial/public buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

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

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

5.2.1. The DCC decision was made under the Dublin City Development Plan 2016-2022. However, the new Dublin City Development Plan 2022-2028 was adopted on the 2nd of November 2022, and it became the operative plan for this area as of the 14th of December 2022.

City Shape & Structure

5.2.2. Chapter 4 sets out the overarching framework and strategy to guide the future sustainable development of the city. The vision for the urban form and structure of the city is to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. It includes Policy SC1, which aims to consolidate and enhance the inner city, promote compact growth and maximise opportunities provided by existing/proposed public transport by linking the critical mass of existing and emerging communities, including Heuston Quarter.

5.2.3. Section 4.5.4 deals with increased building height and refers to Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City). In summary, relevant policies and objectives include the following:
SC14 – Strategic approach to accord with the Building Height Guidelines.

SC15 – Promotes a mix of uses in large scale development with increased height.

SC16 – Recognises the need for increased building height in identified locations (including city centre and SDRAs) subject to the protection of amenities/sensitivities.

SC17 – Sets out guidance for proposals with increased scale/height in order to protect and enhance the skyline of the city.

5.2.4. Sections 4.5.5 and 4.5.6 of the Plan set out policies and guidance in relation to Urban Design, Architecture, and the Public Realm.

City Economy & Enterprise

5.2.5. Chapter 6 outlines the strategic approach to safeguard and enhance Dublin’s role as Ireland’s internationally competitive capital and global gateway to the region and state. Relevant policies can be summarised as follows:

CEE8 - To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre and to facilitate the regeneration and development of key potential growth areas.

CEE19 - To promote and facilitate the transformation of Strategic Development and Regeneration Areas (SDRAs) in the city.

CEE21 – (i) To promote and facilitate the supply of commercial office space.

CEE28 - To consider applications for additional hotel, tourist hostel and aparthotel development having regard to stated criteria.

Transport

5.2.6. Chapter 8 deals with ‘Sustainable Movement and Transport’ and presents an integrated strategy that supports and prioritises the use of sustainable modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development and confirms that policies to discourage commuter car parking are further strengthened in the plan.

Built Heritage and Archaeology

5.2.7. The strategic approach in Chapter 11 aims to protect heritage assets through sensitive development and high-quality architecture; the inclusion of structures on the Record of Protected Structures (RPS); the designation of Architectural Conservation Areas and Areas of Special Planning Control; safeguarding zones of archaeological interest; implementing the City Heritage Plan; and promoting the re-use of heritage buildings. Relevant policies and objectives can be summarised as follows:

BHA2 – To conserve and enhance Protected Structures and their curtilage.

BHA9 - Protect the special interest and character of all Dublin's Conservation Areas.

BHA26 – Aims to protect and preserve archaeological heritage.

5.2.8. The site is located within a designated 'red line' conservation area. It is also within the Historic City (DU018-020) as per the Record of Monuments and Places (RMP). There are no protected structures on the appeal site itself. However, there are several protected structures associated with the RHK site, including:

RPS No. 5244 - Royal Hospital (Kilmainham), former Adjutant General's office, former Deputy Master's offices, steel house, tower at western gate, garden house in formal gardens, garden features, entrance, gates and walls.

5.2.9. The Record of Monuments and Places (RMP) also includes a range of features on the RHK site, including the Royal Hospital, the garden house, and the formal garden features.

Strategic Development Regeneration Areas

5.2.10. Chapter 13 sets out the overarching framework and guiding principles for the designated Strategic Development Regeneration Areas (SDRAs). The site is within SDRA 7 'Heuston and Environs' which has the capacity to deliver a significant quantum of development and can become an exemplar of Transport Oriented Development. It highlights that the 'cone of vision', as set out in the 2003 Heuston Framework Plan, represents a significant panoramic view between the Royal Hospital Kilmainham and the Phoenix Park extending from the west corner of the north range of the Royal Hospital Kilmainham, and the north-east corner of the Deputy Master's House to the western side of the Magazine Fort and east edge of the main elevation of the Office of the Director of Public Prosecutions (former Royal

Military Infirmary) respectively. Where there are opportunities for locally higher buildings within this 'cone', they must not individually or cumulatively adversely affect this view. A visual impact analysis shall be submitted with planning applications to demonstrate this view is not undermined. Guiding principles for the Heuston South Quarter site include the following:

- Development around a central area of communal open space integrating the needs of the residents of the first phases of the development.
- Building heights should respond to the 'Cone of Vision' identified in the Guiding Principles Map. Within two years from the adoption of the Development Plan, a re-assessment of the Cone of Vision shall commence having regard to the national planning context requiring the need to accommodate increased densities on urban brownfield sites, and the landscape character for protection within the cone, such as landmarks, buildings, views, corridors, etc., identified and weighted.

Zoning

5.2.11. The appeal site is zoned Z5 'City Centre', the objective for which is '*To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'. The primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development which create a sense of community, and which sustain the vitality of the inner city both by day and night, subject to noise reduction measures. Retail, office, and hotel uses are permissible uses in the zone.

5.2.12. The adjoining RHK site is zoned Z9 'Amenity/Open Space Lands/Green Network', the objective for which is '*To preserve, provide and improve recreational amenity, open space and ecosystem services*'.

Development Management

5.2.13. Chapter 15 sets out the standards and criteria to be considered in the development management process, as well as the information to be submitted for various applications. Relevant aspects include the following:

15.4 – Key Design Principles aim for high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.

15.5.1 - Refers to the development of brownfield, regeneration and large comprehensive sites which are of sufficient scale to differentiate them from the surrounding townscape.

15.7.3.1 - SDRA 7 (Heuston and Environs) - The Climate Action Energy Statement will be required to investigate possible connections or interconnections to existing heat networks in these areas, to ultimately create a district heating ‘node.

15.14.1 - General presumption against an overconcentration of hotels and aparthotels. In all instances, where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1 and 15.14.1.2.

15.14.1.1 – Hotel developments are encouraged to include a good mix of publicly accessible facilities and uses and should include operational management plans.

15.14.4 - Office accommodation will be supported subject to appropriate location and design. Large scale office schemes, in excess of 5,000 sq. m., will be required to provide for an element of high quality, public open space or contribute to the public realm of the area through landscaped features such as roof terraces, courtyard gardens and enhanced amenity at street level.

15.15 – Outlines guidance in relation to Built Heritage and Archaeology.

Appendices

5.2.14. The Development Plan includes a number of relevant appendices, including the following:

Appendix 3 ‘Achieving Sustainable Compact Growth’ outlines policy and criteria in relation to building height, density, plot ratio, and site coverage.

Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments.

Appendix 6 outlines further detail on Conservation.

5.3. **Natural Heritage Designations**

The nearest Natura 2000 sites are those within inner Dublin Bay, located c. 5+km east of the appeal site (i.e. South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North Dublin Bay SAC, and South Dublin Bay SAC). There are several other Natura 2000 sites within the wider Dublin Bay area.

6.0 **The Appeal**

6.1. **Context**

The applicant has appealed the DCC decision to refuse permission. Sections 1-3 set out the context of the appeal, including reference to the (then) Draft Development Plan 2022-2028. It examines the Draft Plan zoning, policy context and development standards, and concludes that it does not result in a material change for the site. It also examines that Draft Plan guidance in relation to SDRA 7 and the associated Material Alteration (No. 13.32) to the Draft Plan. It concludes that the proposed development is fully compliant with the relevant provisions of the Draft Development Plan 2022-2028.

6.2. **Grounds of Appeal**

The grounds of appeal contend that none of the reasons for refusal are warranted. Without prejudice to this, an amended scheme is included with the appeal to address reasons 1 and 2 of the refusal. The appeal responds directly to each reason for refusal, as is summarised under the following headings.

1. Impact on RHK, specifically in respect of its formal gardens

- The proposed height of the hotel takes into account the SHD permission and a detailed justification is set out in the Heritage Impact Assessment (HIA).

- The hotel presents a different context compared to the SHD permission (Blocks D & E) given its distance from the central axis of the gardens; the shorter length of the hotel (15m); existing vegetation which would soften its visual impact; and the step-down of height and associated planting on the west-facing terrace.
- Photomontage views show that the top 2 floors of the hotel would be visible above the wall for a width of 15m, which would not result in a visually intrusive or overbearing feature that would detract from the setting of RHK and its gardens.
- Without prejudice to the appellant's position, a revised proposal is included for the event that the Board considers it appropriate to apply a similar condition to condition 3(a) of the SHD permission. The amendments improve the relationship with the RHK site and open up the cone of vision to allow wider views of the Gandon Building and its Cupola. The amendments can be summarised as follows:
 - Reduction in hotel height by omitting two floors.
 - Widening the mouth of Wellington Lane onto St John's Road West by c. 4m, which pushes the lower levels of the proposed office block eastwards to reduce the envelope of the office building traversing the cone of vision.

2. Impact on the Cone of Vision (COV)

- Based on an OPR recommendation on the Draft Development Plan regarding SDRA 7, Material Alteration 13.32 commits to a review of the COV within 2 years of adoption of the Plan. This would likely coincide with the implementation of the SHD permission (subject to judicial review outcome) and could well result in relaxation of the COV as suggested in the applicant's HIA.
- The Development Plan clearly allows development within the COV, subject to it not adversely affecting the view.
- The DCC planner's report does not clearly identify what element of the proposed scheme is inconsistent with policy.
- Having regard to the Inspector's report on the SHD application, it is reasonably inferred that it is primarily the hotel building that causes the DCC concerns given that the office block would: be lower than the permitted 18-storey block A in the

SHD scheme; lie (i.e. the taller element) east of Block A and the COV with a greater separation distance from RHK; and be largely screened from the view.

- The HIA takes full account of the extent of the COV and comprehensively assesses the impact from a range of viewpoints. The diagrammatic annotation is not intended to illustrate its precise alignment but to illustrate at which point the Cupola of the Gandon building is no longer visible as an observer moves away from the principal vantage point from the stairs in front of the RHK. It also identifies those elements that could detract from the view. The view was presented as the view from the north-eastern corner of the Master's House is obscured by trees (i.e. Summer View No. 4).
- It is clear from the ABP and DCC reports on the SHD application that impacts on the COV concerned Blocks D & E. The submitted HIA confirms that the hotel block would obscure fleeting views at the eastern end of the COV but that the principal views are maintained to avoid an adverse impact that would justify a refusal of permission.
- Development that encroached on the eastern line of the COV has previously been permitted by the Board and DCC in the parent permission / masterplan.
- Without prejudice to the appellant's position that the impact on the COV would not warrant refusal, the revised proposal submitted with the appeal and the associated Verified Views demonstrate that the amendments will assist in unfolding views of the Gandon building and its Cupola in a manner which is consistent with the COV observed in the parent permission.

3. Design, Scale, Massing, and impacts on Visual Amenity

- The DCC approach regarding the SHD permission is flawed given that: the masterplan approach was premised on the possibility that one of the developments may not proceed; irrespective of the Judicial Review outcome, the assessments by the Board and DCC are relevant considerations; and, as a matter of law, the permission is valid until such time as a Court determines otherwise. The Board is requested to determine the appeal in accordance with these principles.

- Issues relating to design and appearance along St John's Road West are subjective. Accordingly, the applicant used EIA guidance to prepare a Visual Impact Assessment (VIA). In this regard, the DCC report inappropriately distinguishes between the 'environmental concerns' and 'planning and architectural design matters'.
- In View 1 of the VIA, no adverse street impacts are identified. There is a strong correlation between the 'eir' building and the office block. Together with the permitted SHD Block A, this would form a coherent and well-balanced cluster of taller buildings, each with its own distinctive design which cumulatively would contribute positively to character, appearance, and streetscape.
- In View 17 of the VIA, it is clear that the office building alone does not adversely impact on the westerly approach. In the cumulative view, the eye is drawn to taller permitted buildings on either side, in particular the Parkgate residential tower. The office block makes a positive contribution due to the clustering effect of these taller buildings.
- In View 18 of the VIA, the contribution of the proposed office block to the cumulative clustered effect of taller building is less due to the angle of view and obscuring features in the foreground.
- It is noted that the development will be more prominent in short range views, but it is more appropriate to assess mid/long-range views (i.e. Views 1, 17, and 18).
- Having regard to the above, the DCC concerns about detrimental townscape impacts cannot be supported.
- The Draft Development Plan specifically identifies the office block location for a locally higher building, which supports the position that 'bookending' as proposed can be achieved by buildings of substantially different scales and heights.
- The applicant is committed to deliver buildings of a high standard using high quality materials and finishes, which can be agreed by conditions with DCC.

6.3. Observations

Two observations have been received in support of the DCC decision. The observations raise similar issues which can be summarised as follows:

- The adverse impact of a mediocre design quality at this highly sensitive location adjacent to the RHK, a protected structure of international importance, and within the designated Cone of Vision as per the Development Plan.
- The application and the SHD scheme (ABP Ref. 311591, currently under Judicial Review) would represent a piecemeal approach and a co-ordinated application for the entire lands would be a more preferable approach, which can still provide a radical design and a reasonable return on investment for the developer.
- The Board cannot rely on the permitted SHD scheme (reference to which is misleading) and approval of this development would be premature.
- Reference is made to the submission made by An Taisce and the need to protect the eastern line of the Cone of Vision as outlined in the original masterplan.
- The application fails to adequately advert the location of the development within a Conservation Area as per the Development Plan.
- The application does not comply with the correct 'cone of vision' mapping and the proposed development would unacceptably impact on same.
- The 'temporary' landscaping on the HSQ site is a valuable resource which should be retained and protected.

6.4. Planning Authority Response

The response requests the Board to uphold the DCC decision. In the event of a grant of permission, it requests that conditions be applied requiring payment of a section 48 development contribution and a bond.

7.0 Assessment

7.1. Introduction

- 7.1.1. It is noted that the appeal includes an amended design option, which is not an uncommon practice in the appeal process. The amended proposal involves a reduction in height/scale of the proposed hotel and the setback of the office block, with the aim being to improve the relationship with the RHK site and open up the cone of vision. A reduced/setback proposal such as this would not give rise to material considerations for third parties, and parties that were active in the planning application have had the opportunity to comment on the amended proposal. Accordingly, I am satisfied that adequate opportunity has been afforded for comment on the amended design and I have no objection to its consideration as part of the appeal if necessary.
- 7.1.2. The concerns of the Planning Authority mainly relate to the impacts on the RHK site, the cone of vision, and general visual amenity/streetscape. Accordingly, my assessment will focus on these matters, as well as the other relevant matters raised in the case. I note that the DCC decision was made under the previous Development Plan (2016-2022) while the Board is required to consider the current Plan (2022-2028). The DCC response to the appeal was submitted on the 23rd November 2022 (i.e. after the adoption of the new Plan on the 2nd November 2022) and did not raise any additional issues in respect of the current Development Plan 2022-2028. However, I will consider any new material provisions contained in the current Plan.
- 7.1.3. The parties in this case have made significant reference to the Boards decision to grant the SHD application on Site A and the subsequent Judicial Review of that decision. While there are conflicting views regarding the implications of that process, I confirm that the proposed development will be assessed on its merits and without reliance on the Board's previous SHD decision. Accordingly, I do not consider that a decision on this appeal would be premature pending the outcome of the Judicial Review process which, in any case, reviews the legality of the process rather than the proper planning and sustainable development of the area.
- 7.1.4. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the

appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of development
- Impact on Royal Hospital Kilmainham (RHK)
- Impact on the Cone of Vision (COV)
- Character and Visual Amenity
- Impact on the adjoining site to the south (Site A)
- Access & Parking.

7.2. The principle of development

Zoning

- 7.2.1. The subject site continues to be zoned as 'Z5 City Centre', with the objective to '*consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'. Office, hotel, and retail uses are 'permissible uses' within the zone and, accordingly, I am satisfied that the proposed development continues to be consistent in principle with the current Development Plan zoning provisions.

Quantum of Development

- 7.2.2. Appendix 3 (Table 2) of the Development Plan outlines indicative plot ratio and site coverage standards for development. The site is located within both a 'regeneration' and a 'central area', where plot ratio is indicated to be up to 3.0 and site coverage is up to 90%. This is consistent with the indicative standards contained in the previous Development Plan.
- 7.2.3. The proposed site coverage would not exceed 90% but the proposed plot ratio (4.54) would exceed the indicative standard of 3.0. However, consistent with the previous Development Plan, the current Plan outlines that a plot ratio exceeding 3.0 can be permitted (if accompanied by a compelling case) in certain circumstances such as:
- Adjoining major public transport corridors, where an appropriate mix of residential and commercial uses is proposed.
 - To facilitate comprehensive re-development in areas in need of urban renewal.

- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of significant institution/employers such as hospitals.

7.2.4. The appeal site is located in close proximity to Heuston Station, the Luas line, and the proposed Lucan-City Centre BusConnects corridor, and would contribute to the creation of an appropriate mix of residential and commercial uses. The proposal would facilitate the comprehensive re-development of an area identified as being in need of urban renewal (i.e. SDRA 7), and much of the recent redevelopment of the larger HSQ site already benefits from a higher plot ratio. Accordingly, consistent with the DCC decision and the current Development Plan approach, I am satisfied that the principle of a plot ratio higher than 3.0 can be considered at this location.

Concentration of Hotels

7.2.5. The current Development Plan addresses more recent concerns about the overconcentration of hotels in particular areas and highlights the need to maintain a suitable range of uses.

7.2.6. Policy CEE28 outlines criteria for the assessment of hotel proposals, much of which concerns the effect of proposals on the existing and proposed mix of uses/activities in the area. In this regard, I note that the existing HSQ development comprises a good mix of residential, office, and retail uses. Large portions of land to the south and east of HSQ are taken up by various institutional, governmental, and healthcare uses, along with residential uses and associated local neighbourhood facilities. The RHK grounds are the dominant land use to the west, while Heuston Station and associated facilities dominate to the north. There is not a significant concentration of hotel or other short-term accommodation facilities in the immediate surrounding area, and I do not consider that the proposal would result in a significant intensification of such uses or that it would undermine wider objectives to promote a vibrant mix of uses. The proposed development would incorporate new streets and spaces and would include ground level uses which would promote activity at street level and would accommodate evening and night-time activities.

- 7.2.7. Section 15.14.1 of the Plan outlines that where the planning authority deems there to be an overconcentration of such facilities in an area, the applicant will be requested to submit a report indicating all existing and proposed hotel and aparthotel developments within a 1km catchment providing a justification that the development will not undermine the principles of achieving a balanced pattern of development in the area, and demonstrating that the proposed development fully complies with the criteria set out in Policy CEE28 and in Section 15.14.1.1.
- 7.2.8. The planning application was submitted prior to this requirement being incorporated into the new Plan. However, I would highlight that it only applies '*where the planning authority deems there to be an overconcentration of such facilities in an area*', a concern which has not been raised by the planning authority in this case. In any case, section 5.5. of the EIAR outlines that there are only three existing hotels within a 1km radius, one of which is of only limited scale (i.e. Phoenix Park Hotel). And having reviewed the planning history of the area, I do not consider that there is a significant or excessive extent of permitted hotels in the catchment.
- 7.2.9. Having regard to the foregoing, I consider that the proposed hotel would complement the existing and emerging mix of uses in the area. It would not lead to an overconcentration of hotel and/or other short-term accommodation uses, and I am satisfied that the proposed hotel use would be consistent with Development Plan policy.

Conclusion

- 7.2.10. I am satisfied that, notwithstanding the adoption of the new Development Plan, the general principle of this high-density mixed-use development is acceptable at this location in accordance with Development Plan policy. This is consistent with the general approach of the planning authority. I acknowledge that detailed design matters require further consideration, particularly in response to the planning authority's reasons for refusal. These matters will be assessed in the following sections of my report.

7.3 Impact on Royal Hospital Kilmainham (RHK)

- 7.3.1. I acknowledge the RHK building's rating of 'international importance' as per the NIAH, as well as the protected status of the building and its associated structures and grounds/gardens as per the Development Plan RPS and the national Record of Monuments and Places. Development Plan policy BHA2 aims to conserve and enhance Protected Structures and their curtilage, while Policy BHA26 aims to protect and preserve archaeological heritage.
- 7.3.2. The planning authority's decision outlines concerns that the scale, bulk, height and proximity of the development would result in a significant visual intrusion that would seriously detract from the views to, from and within the walled garden which is integral to the design of the RHK and would adversely impact on its setting and character. I have also acknowledged that the DCC decision is supported by the submissions from An Taisce and third parties.
- 7.3.3. The application was supported by a Heritage Impact Assessment (HIA). Regarding the relationship with the Walled Garden, it highlights that the hotel block steps down to 4 storeys (or 3 storeys relative to the garden level) along the wall, and that the western boundary of the appeal site only overlaps with the garden for a length of 15 metres. It also highlights existing trees along the boundary and proposals to soften the impact of the hotel through terrace planting.
- 7.3.4. The HIA also reviews the Visually Verified Views to assess the impact of the development on protected structures including the RHK complex. View Nos. 4-13 are most relevant regarding the impact of the development on the RHK building and its associated structures and gardens. The HIA generally contends that existing vegetation helps to screen the proposed development, particularly during the summer. It acknowledges that the top floors of the hotel would be visible at the extreme northeast corner of the gardens. It also acknowledges that the proposed office block would also be visible at a greater distance and contends that its curved design and warm materials would soften the impact. The HIA does not generally identify anything more than 'slight negative' or 'moderate neutral' impacts in this regard.
- 7.3.5. I have considered the applicant's assessments, as well as the views of the planning authority and other parties. I have also inspected the site and its relationship with the

RHK complex. In the first instance, I propose to assess the design submitted in the original application.

- 7.3.6. Regarding the proposed hotel block, I note the applicant's opinion about the limited impact of the top floors and the limited overlap (c. 15m) of the western elevation with the boundary wall of the gardens. However, while I accept that this overlap is of limited length when viewed from directly west of the hotel (i.e. views 10 - 12), I consider that more substantial and significant impacts need to be considered when viewed from the south and southwest of the proposed hotel (i.e. views 4 – 8).
- 7.3.7. Views 4-8 give a better impression of the full scale of the proposed hotel, particularly the impact of its southern façade. In these views, I consider that the top floors will be prominently visible above the RHK boundary wall. The proposed hotel would be in very close proximity to the wall and the southern façade would be prominently visible over its significant length of c. 50 metres. Having regard to its proximity and its cumulative height and scale, I consider that the proposed hotel would form an incongruous feature adjoining the open and natural setting of the RHK gardens, which would seriously detract from the setting of the gardens and, by extension, the internationally important RHK building itself.
- 7.3.8. I note that the office block is obviously more substantial in scale and height compared to the hotel. However, the taller elements of this block are setback a significant distance of c. 70m from the garden boundary wall. I acknowledge that it would be prominently visible from within the gardens, as well as being visible from the wider surrounding area. However, at this significant remove from the RHK boundary, I am satisfied that it would satisfactorily integrate with the existing development within HSQ and would not seriously detract from the character or setting of any structures within the RHK campus.
- 7.3.9. In addition to the visual impact, I also note that a roof top bar terrace is proposed above the garden boundary wall. Although I acknowledge that this would be at the extreme northeast corner of the gardens, it would nonetheless be at a prominent and elevated position within c. 5 metres of the boundary wall. I acknowledge that this is a busy urban location which often hosts festivals and events on the wider RHK grounds. However, the gardens are more commonly a valuable and peaceful amenity within this urban environment. I consider the permanent installation of a roof

top terrace to be inappropriate at this position. It would have the potential to cause regular noise and disturbance which would seriously detract from the setting and enjoyment of the gardens, although I note that the EIA mitigation measures state that such events would not take place at times when the gardens are open.

- 7.3.10. Having regard to the forgoing, I consider that the proposed hotel block (i.e. the original application design) would unacceptably impact on the character and setting of the RHK gardens and the host RHK building itself.
- 7.3.11. As previously outlined, the appeal includes an amended design option for the consideration of the Board. Under this proposal, the footprint of the hotel block would remain in the same close proximity to the boundary wall. However, two floors would be removed to reduce the height by c. 6 metres, resulting in the closest part of the hotel block (c. 5m) being just c. 2 metres above the garden boundary wall. The hotel building would then rise to a small triangular 4th storey element at a further distance (c. 38m) from the boundary wall. Regarding the office block, the mouth of Wellington Lane onto St John's Road West would be widened by c. 4m, which pushes the lower levels of the proposed office block eastwards.
- 7.3.12. Amended photomontage details have been submitted for the revised proposal. I acknowledge the amended design would still be visible above the boundary wall. However, it would provide a relatively low roof profile adjoining the boundary, which would not form a prominent or incongruous feature. The 4th storey element would obviously be more visible, but it would be significantly setback from the boundary and would provide a suitably graduated height increase towards the proposed office block, which would satisfactorily integrate with existing development within the background at HSQ. Furthermore, I would accept that the revised proposal is likely to be substantially screened by the future development of Site A (to the south) as envisaged in the masterplan for the overall site.
- 7.3.13. The revised proposal would also relocate the roof top terrace to a position at least 35 metres from the garden boundary wall and I am satisfied that, subject to conditions regulating the use of the space, my concerns about noise and disturbance would be satisfactorily addressed.
- 7.3.14. Having regard to the foregoing, I consider that the amended design proposal submitted with the appeal would satisfactorily address concerns about the impact of

the original proposal. Subject to compliance with the revised proposal, I do not consider that the proposed development would unacceptably detract from the character or setting of the RHK building, its gardens, or any associated structures within the curtilage of the complex.

7.4. Impact on Cone of Vision (COV)

- 7.4.1. The case raises concerns about the accurate depiction of the eastern alignment of the COV and the impacts of the proposed development on same. In section 7.3 (above) I have already outlined my opinion that the original design proposal is unacceptable. Nonetheless, I propose to assess the impacts on the COV with reference to original and amended design proposal.
- 7.4.2. Again, I consider that the most relevant views in this regard are Views 4-8. Views 4 and 5 (i.e. from around the Deputy Master's house) are most representative of the eastern alignment of the COV. Although the HIA demonstrates that the cupola on the Royal Infirmary (Gandon building) is obscured by existing trees in View 4, it accepts that it would be obscured by the original design proposal in View 5. Further west, I note that the cupola would be visible in Views 6, 7, and 8, albeit directly adjacent to the proposed hotel as per the original design proposal.
- 7.4.3. As previously outlined, the amended design proposal involves a significant reduction to the height of the hotel building and an eastern setback of the lower levels of the office block. The applicant's appeal documents correctly depict the eastern alignment of the COV, and the photomontages aim to illustrate the cupola viewpoint from the vicinity of the Deputy Master's House.
- 7.4.4. The imagery submitted with the appeal is in a different format to the 'Verified Photomontages' submitted with the original application. Therefore, it is not directly comparable. However, it does include a viewpoint similar to View 5 in the original application and it does include a comparison between the impact of the original proposal and the revised design.
- 7.4.5. For the reasons as outlined in section 7.3 (above), I am satisfied that the revised proposal provides a significant reduction in building height coupled with a greater setback distance from the RHK site. In addition to providing an improved relationship with the RHK site, I consider that these amendments significantly increase the COV

along the eastern side of the site. For example, in the view submitted with the appeal, it is demonstrated that the previously obscured cupola would now be visible in the revised design.

- 7.4.6. I note that some parties have highlighted the need to strictly maintain the COV from the northeast corner of the Deputy Master's House to the east edge of the main elevation of the Royal Infirmary building, an alignment which I acknowledge is referenced in the Development Plan. However, as witnessed on my site inspection and demonstrated in the applicant's existing View No. 4, this specific view alignment is currently not available due to obscuring trees (both in summer and (to a lesser extent) winter). This view cannot be protected as it is not currently available.
- 7.4.7. Ultimately, I consider that a wider assessment must apply in relation to the COV. In this regard, I note that the Development Plan (s. 13.9) does allow for development within the COV and aims to prevent adverse impacts on the view, rather than a strict prohibition of development within the COV. In my opinion, the integrity of the COV must be considered in the whole rather than from any specific viewpoint. The COV covers a large panorama extending from the Magazine Fort to the Royal Infirmary, a distance of c. 1.4km. The revised design proposal would only marginally interface with the eastern extremity of the COV and I do not consider that the impacts would be significant. Accordingly, I am satisfied that the proposal would not individually or cumulatively have adverse impacts on the view, which would be acceptable in accordance with Development Plan provisions.

7.5. Character & Visual Amenity

- 7.5.1. The third reason for refusal relates more generally to the architectural design, scale, and massing of the proposed development having an adverse impact on the character and visual amenity of the area. I also note that the DCC Planner's report highlighted concerns about an abrupt transition in height; the dominant, incongruous, and inharmonious appearance of the development; and the lack of positive contribution to the streetscape.

Local and National Policy

- 7.5.2. The Development Plan (Policy SC1) supports NPF aims regarding compact sustainable development through the consolidation and enhancement of the inner

city. It aims to promote compact growth and maximise opportunities provided by existing and proposed public transport by linking the critical mass of existing and emerging communities, including Heuston Quarter. As previously outlined, I consider that increased height and density can be considered at this location in accordance with Development Plan policy.

- 7.5.3. Section 4.5.4 of the Plan deals with increased building height and refers to Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City), which sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted. It also outlines performance criteria for the assessment of such development and details the different classifications of building height in the city. The spatial approach is generally to protect the vast majority of the city as a predominantly low-rise city, including established residential areas and conservation areas within the historic core, while also recognising the potential and the need for taller landmark buildings to deliver more sustainable compact growth, including areas identified for large scale regeneration and redevelopment. Policy SC16 recognises the need for increased building height in identified locations (including city centre and SDRAs such as the appeal site) subject to the protection of existing amenities and sensitivities.
- 7.5.4. The Development Plan includes a range of other policies and guidance principles which highlight the need for high standards of urban design and compliance with architectural principles. I have considered these provisions, including the contents of Policy SC17 and sections 4.5.5, 4.5.6, 15.4, and 15.5.1 of the Plan.
- 7.5.5. In relation to national policy, the Building Height Guidelines expand on NPF policy and outline criteria to be considered (i.e. SPPR3 and section 3.2 of the Guidelines) in the support of proposals for buildings taller than prevailing building heights, even where specific objectives of the relevant development plan or local area plan may indicate otherwise. However, the provisions of the Guidelines have now been suitably incorporated into the Development Plan, including Appendix 3 and Policy SC14 which outlines that the strategic approach shall accord with the Building Height Guidelines. I would also highlight that this proposal does not rely on SPPR3 to support a material contravention of Development Plan building height policy. Accordingly, I am satisfied that the provisions of the national Building Height

Guidelines will be suitably addressed in this case through the application of the Development Plan policy, particularly Appendix 3.

Compliance with Appendix 3

- 7.5.6. In the first instance, I note that section 3 of Appendix 3 outlines three general categories of height. It is important to establish which category of height applies to the proposed development. The three categories can be summarised as follows:
- Prevailing height - This is the most commonly occurring height in any given area. There may be amplified height, albeit not to a significant extent.
 - Locally Higher Buildings - These are buildings that are significantly higher than their surroundings and are typically up to 50 metres in height. Higher buildings can act as Local or District landmarks.
 - Landmark/Tall Buildings - A significant intervention in the cityscape and skyline, typically located in an area that denotes a specific function such as a public transport interchange or a key urban quarter/ regeneration site. Typically, in excess of 50 metres in height, of exceptional architectural quality, and can help people navigate through the City and form memorable reference points.
- 7.5.7. I acknowledge that the area includes a wide variety building heights. While the recently developed HSQ area includes heights which generally range from 6/7 storeys up to 12 storeys, the wider surrounding area retains a more traditional low-rise height. Therefore, I do not consider that the proposed development can be considered to be in line with 'prevailing height'.
- 7.5.8. The distinction between 'locally higher buildings' and 'landmark/tall buildings' typically (but not definitively) revolves around a 50m height threshold. In this case, the proposed office block would have a maximum height of c. 54 metres along St John's Road West to the north, reducing to c. 52 metres along the plaza to the south. Given that the proposal only marginally exceeds the 'typical' 50m threshold, I consider that the proposed height must be viewed in its context. In this regard, I note that the 'Brunel Building' to the immediate southeast of the site rises to 12 storeys and a similar height to the proposed development. I consider that the proposed development would visually integrate with this building and the remainder of HSQ and would not constitute a significant intervention in the cityscape and skyline. It would consolidate the emerging height and character of development at this location

and would not, therefore, provide a new point of reference or navigation. Accordingly, I do not consider that it should be treated as a 'landmark/tall building'. And notwithstanding a marginal exceedance of the typical 50m height threshold, I consider that the provisions of a 'locally higher building' should apply given the emerging height and scale of development within HSQ.

7.5.9. Section 4 outlines a general rule that innovative, mixed-use development that includes buildings of between 5 and 8 storeys is promoted in the key areas identified. Greater heights may be considered in certain circumstances depending on the site's location and context and subject to assessment against the performance-based criteria set out in Table 3. The appeal site comes within several 'key area' categories, the provisions of which can be summarised as follows:

- City Centre – A default position of 6 storeys will be promoted, subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided. Proposals for increased height within key sensitive areas of the city must demonstrate that they do not have an adverse impact on these sensitive environments and that they make a positive contribution to the historic context. Heights greater than 6 storeys will be considered on a case-by-case basis subject to the performance criteria set out in Table 3.
- SDRAs - Heuston and Environs (SDRA 7) is identified as being particularly appropriate for higher buildings and density. Proposals that align with the guiding principles for each SDRA will be supported. All proposals for greater height than the prevailing context and intensification in SDRAs must demonstrate compliance with the performance-based criteria set out in Table 3.
- Public Transport Corridors - In line with national guidance, higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes. The capacity of public transport will also be taken into consideration.

- 7.5.10. Having regard to the provisions for the relevant 'key area' categories identified above, it is clear that the proposal would exceed the 6-storey default position for the city centre, which could be permitted subject to assessment of the criteria outlined in Table 3. Regarding the guiding principles for SDRA 7, section 13.9 of the Plan supports locally higher buildings of 8-10 storeys as a benchmark height for new developments where conservation and design considerations permit, including assessment requirements under the Cone of Vision. Opportunities for locally higher buildings above this height are identified in the accompanying Guiding Principles Map, which includes an identified 'locally higher building' at the position of the proposed office block.
- 7.5.11. Having regard to the above, I accept that the proposed hotel block is clearly well below the applicable 'benchmark' height of 8-10 storeys. This is considered appropriate having regard to the points outlined in sections 7.3 and 7.4 of this report. The proposed 12-storey office block would exceed the 'benchmark' height, but this is specifically allowable as a designated 'locally higher building' within SDRA 7, subject to compliance with the criteria outlined in Appendix 3.
- 7.5.12. Under 'criteria for assessment' the Development Plan outlines that proposals on sites greater than 0.5ha require the preparation of a masterplan. I am satisfied that the proposed development and the wider HSQ area has been progressed on the basis of a co-ordinated masterplan.
- 7.5.13. The performance criteria to be used in assessing urban schemes of enhanced height, density and scale is set out in Table 3 of Appendix 3. The various criteria are now considered under the following objectives.

A sense of place and character

- The proposed development would respect and complement the emerging urban structure within the larger HSQ site. And as outlined in sections 7.3 and 7.4, it satisfactorily addresses the built heritage value of the RHK complex and development constraints such as the Cone of Vision.
- The proposal would have a positive impact on the local community/environment and would contribute to 'healthy placemaking' by progressing the completion of the HSQ area with a suitable mix of uses and in accordance with the masterplan approach.

- The curved façade of the office block would provide a distinctive design which would enhance the urban design quality at this prominent edge.
- The proposal would be within a highly accessible location where greater activity and land use intensity should be promoted.
- There is significant variety between the scale and form of the hotel block, the lower portion of the office block, and the higher levels of the office block, which avoids a monolithic appearance.
- As previously outlined, there is an appropriate transition in height/scale to the RHK site. The height transition from the 'eir' building (now vacant) is more abrupt but I consider this to be acceptable given the modern nature of the development and the curved nature of the office façade, which softens the transition.

Legibility

- The proposed development would provide a distinctive building which would positively contribute to the legibility of the area, while also consolidating the character of the wider HSQ area in a cohesive manner.
- The proposal would provide an improved frontage to St Johns Road West, while also linking it via a new street (Wellington Lane) to the proposed plaza and other development in the wider HSQ area. It would also provide greater definition and purpose for the existing access routes to the west and south of the 'eir' building.

Streets and spaces

- As per above, the proposal would facilitate the completion of the masterplan and would enhance the urban design context for the plaza and surrounding thoroughfares, including an appropriate level of enclosure and scale.
- The street width to building height ratio along Wellington Lane and the south façade of the hotel block would not exceed 1:3. The ratio between the public plaza and the office block would be much lower at c. 1:1.
- The proposal generally includes active uses at street level to support passive surveillance, animation, and visual interest.

Public and communal spaces

- As outlined by the planning authority, it is considered that there would be an overall positive impact on the existing HSQ public realm. Apart from the existing

vehicular entrance, pedestrian, cyclist, and public transport is promoted in the public realm.

- As previously outlined, public/communal spaces will be appropriately enclosed.
- The public plaza is located to the south of the proposed development and the RHK gardens are located to the southwest. The BRE guide 'Site layout planning for daylight and sunlight' (2022) outlines that such spaces will appear adequately sunlit throughout the year if at least half of the space receives at least two hours of sunlight on 21 March. If as a result of new development an existing space does not meet the above, and the area that can receive two hours of sun on 21 March is less than 0.80 times its former value, then the loss of sunlight is likely to be noticeable. The applicant's 'Daylight & Sunlight Report' includes site shading diagrams for the 21st March. As would be expected for spaces to the south and southwest of the appeal site, it demonstrates that there would be no significant adverse overshadowing impacts.
- The hotel development is based on a perimeter block with a central courtyard. Otherwise, the proposed development would contribute to the creation of a larger perimeter around the central plaza space.
- The application includes a 'Microclimate Wind Analysis' which uses the best practice Lawson criteria for assessment. The analysis has been undertaken with and without the SHD scheme and considers ground level and roof terrace conditions. I am satisfied that it demonstrates that the development will not unduly impact on the local wind micro-climate.
- As previously outlined, the development will provide people-friendly streets and spaces and I am satisfied that the development would be appropriately accessible in accordance with the requirements of the Building Regulations.

Private spaces

- The proposed hotel would provide a high-quality central courtyard and roof top terrace with panoramic views. The office building would also provide roof top terrace spaces, including a particularly attractive Level 4 space with panoramic views to the north and west.
- The proposed spaces are usable, safe, accessible and inviting. They would not be adversely affected by microclimatic effects and would retain satisfactory levels of overlooking.

Mix of use/activity

- As previously outlined, I consider that the proposed development will provide a suitable mix of uses and building typologies which will complement the overall development within HSQ and contribute positively to the formation of a 'sustainable urban neighbourhood'.

Environmentally Sustainable Buildings

- No residential units are proposed and there are no existing residential properties in the immediate vicinity of the site. I do not consider that impacts relating to daylight/sunlight, privacy, noise, and views are as sensitive in relation to commercial development.
- The application includes a 'Daylight & Sunlight Report'. Section 3 of the report acknowledges that there will be overshadowing impacts on the 'eir' building to the east but concludes that there is no requirement for sunlight availability in commercial office buildings as per BRE 209 best practice methodology. Section 4 demonstrates that, as would be expected, there would be no significant overshadowing impacts on planned residential development to the south (e.g. ABP Ref. 311591). There would be some overshadowing of the proposed commercial development from existing/planned development to the south and east. The report concludes that there is no requirement for an assessment of daylight impacts on the adjoining commercial buildings, which are both dual aspect and will benefit from good daylight levels. It highlights that daylight levels for the planned residential development (ABP Ref. 311591) factored in a development of greater massing and was considered acceptable. In conclusion, regarding non-domestic buildings, I note that the BRE Guide (2022) outlines the need to safeguard / provide appropriate sunlight/daylight levels where is a particular requirement for sunlight or a reasonable expectation of daylight. I do not consider that the existing/proposed commercial buildings have a particular requirement or expectation for daylight or sunlight at this higher density urban location and I do not consider that the proposed development would result in any unacceptable impacts. Furthermore, I am satisfied that there would be no unacceptable daylight/sunlight impacts on planned residential development of the

adjoining site to the south, as has been demonstrated under a worse-case scenario as part of the previous SHD application (ABP Ref. 311591).

- The application includes an Energy Analysis Report which outlines that the development is fully compliant with the Dublin Climate Action Plan 2019-2024 and TGD Part L 2021. As per above, it would not significantly impact on solar gain for other buildings.
- The proposed commercial uses are typical of existing development within HSQ and would not generate any significant noise or privacy issues.
- The proposed development, particularly the office block, would be suitably adaptable and flexible in terms of design and layout.
- Roof level plant will be suitably designed and screened.
- The blocks achieve good dual aspect levels.
- High quality materials will include curtain wall glazing, stone, aluminium panels, and brick.
- Stormwater proposals will reduce and attenuate any run-off to pre-development discharge rates. SuDS measures will include water buffs for local rainwater reuse, green roof technology, low water usage appliances, and attenuation tank with flow control device.
- The applicant's Flood Risk Assessment outlines that there are no significant flood risks associated with the development. I would concur that the site is located within Flood Zone 'C' and that a 'Justification Test' is not required in accordance with the Flood Risk Guidelines.

Accessibility

- As previously outlined, the site is located in close proximity (c. 500 metre walk) to Heuston rail station and the adjoining Luas Line stop. As part of Phase 2 of the BusConnects Network Redesign, the site is now served by the C-Spine and a range of other routes which provides a bus frequency of less than 10 minutes. The site is therefore served by public transport with high-capacity frequent service with good links to other modes of public transport.
- The development seeks to optimise its footprint through increased height and density and the accommodation of vehicular and other servicing/plant requirements under ground.

Historic Environments

- I acknowledge the location of the site within a 'red line' conservation area and the presence of protected structures/recorded monuments within the RHK site to the west. I also acknowledge the protected structures in the wider surrounding area, including those at Clancy Barracks, the Royal Infirmary, Wellington Monument, the Magazine Fort, Heuston Station, Dr Steeven's Hospital, St Patrick's Hospital, Kilmainham Gaol, and Kilmainham Courthouse.
- In section 7.3 of this report, I have outlined that there would be no unacceptable impacts on the RHK sites and its associated gardens and structures. Similarly, I have considered those other structures in the wider historic environment and their relationship with the proposed development, and I do not consider that there would be any unacceptable impacts on their setting or character.
- In section 7.4 of this report, I have considered the impacts on key views and vistas (i.e. the Cone of Vision). I am satisfied that the proposed development would not unacceptably detract from the integrity of the Cone of Vision.
- The application has been suitably accompanied by a Heritage Impact Assessment, an EIAR, Verified Photomontages, and a Visual Impact Assessment.

Management and Maintenance

- The application is accompanied by a Servicing Management Plan, an Operational Waste Management Plan, and 'Taking in Charge' plans/drawings. I am satisfied that this, and suitable agreement of details by condition, will ensure that the development would be suitably managed and maintained.

7.5.14. Having regard to the foregoing, I consider that the application has satisfactorily demonstrated that the proposed building height and density can be accommodated in compliance with the performance-based criteria outlined in Table 3 (Appendix 3) of the Development Plan, and that the detailed design and layout of the development will integrate with the surrounding environment and make a positive contribution to the character of the area. Accordingly, I consider that the proposed development would not detract from the character or visual amenity of the area and would be acceptable in accordance with Development Plan policies and guidance.

7.6. Impact on adjoining site to the south (Site A)

- 7.6.1. In the first instance, the planning authority and other parties have contended that the proposed development should not be considered in isolation. They contend that this would constitute piecemeal development and that a consolidated application should be submitted for the remaining elements of the HSQ area (i.e. Sites A and B).
- 7.6.2. I would acknowledge the benefits of such a co-ordinated approach. However, I do not consider that it is essential. The HSQ area has been the subject of a long-established masterplan approach. The majority of the larger site has already been developed and Sites A & B are simply the outstanding elements of a well-established framework. The appeal site itself is significant at an area of 0.62 ha., and it respects the masterplan approach in terms of arrangements for access, open space, linkages, buildings lines, and the Cone of Vision. Accordingly, I do not consider the proposal to be 'piecemeal' and I am satisfied that the appeal case can be determined on its merits.
- 7.6.3. I have already outlined my satisfaction that the proposed development would not have any unacceptable daylight/sunlight or noise/disturbance impacts on Site A. In addition to this, the planning authority raised some overlooking/privacy concerns about the interface between the proposed hotel and Blocks A and E of the previous SHD application (ABP Ref. 311591) on Site A.
- 7.6.4. As previously outlined, the Board's decision under ABP Ref. 311591 is subject to Judicial Review and the SHD in question may not come forward for development in the future. Nonetheless, I consider that it is indicative of planned development for Site A and that the relationship should be considered as part of this appeal.
- 7.6.5. Under the 3-storey revised design proposal submitted with the appeal, the proposed hotel block would directly oppose 8 no. apartments with windows on the northern elevations of Blocks A and E in the SHD proposal. All of these apartments are dual aspect, with the primary aspects being east-west rather than north towards the hotel. Furthermore, 2 no. apartments at ground/podium level in Block E would already experience a public interface via the adjoining lane. The separation distance between opposing windows would be c. 8 metres, while the 4th storey rooftop terrace would be setback slightly further (c. 10 metres) from Block A.

7.6.6. I would accept that intensive use of the hotel rooms is not likely to occur outside of night-time hours when windows are likely to be screened in any case, and that any intensive use of the rooftop terrace is likely to be confined to the triangular space at its northern end. I consider that only a small number of apartments have the potential for any kind of overlooking or privacy impacts (the previous SHD application was for 399 units), and I note that the existing pattern of development in HSQ includes similar separation distances, as is appropriate for a strategic high-density location. Accordingly, I do not consider that the proposed development would have any unacceptable privacy or overlooking impacts on the development potential of the adjoining site to the south. In the event that the Board has concerns in this regard, I suggest that a suitable condition could be applied to require mitigation measures.

7.7. Access & Parking

Access

7.7.1. The planning authority has highlighted the concerns outlined in the NTA submission about the junction design with St John's Road West. The NTA outlines that the maintenance of a two-lane exit from the car-park onto St. John's Road is no longer appropriate as there will only be a single westbound general traffic lane on St. John's Road at this point. It has been submitted that the proposal would be inappropriate on the basis that it would likely lead to conflict between vehicles immediately merging into one lane.

7.7.2. I note that the Lucan to City Centre Core Bus Corridor Scheme application is currently under consideration (ABP Ref. 314942-22 refers). It was submitted to the Board (21st October 2022) after the NTA submission on the current application (6th September 2022). Having reviewed the bus corridor scheme design, I note that it shows a 2-lane westbound exit from the site with a gradual merge to the one-lane general carriageway. This would appear to be consistent with the applicant's proposals, albeit that the bus scheme application has not yet been approved. In any case, consistent with the NTA submission in this case, I am satisfied that final details of the access junction (including visibility in accordance with the traffic signs manual) should be satisfactorily clarified and agreed by condition prior to commencement of development.

7.7.3. Regarding other matters of access, the planning authority has raised concerns that the development would impact on public ‘taken in charge’ areas and public rights of way. I note that Dublin City Council has provided consent for the application on lands which are in the control of the council, and I would highlight that, under the provisions of s.34(13) of the Planning and Development Act 2000 (as amended), a person shall not be entitled solely by reason of a grant of permission to carry out any development. On this basis, I am satisfied that any public lands or rights of way will be adequately protected and that the proposed development would be acceptable subject to conditions, including the agreement of area to be taken in charge.

Car Parking

7.7.4. The site is located within Zone 1 for car-parking standards as per the Development Plan. An outline of the car-parking proposals and Development Plan requirements (as per Appendix 5) is shown in the following table.

Use	Proposed Spaces	Development Plan standards (Maximum)
Hotel	24 (including 2 no. accessible spaces)	None
Office	30 (including 2 no. accessible spaces)	None (Parking for Car Share and Accessible Parking only. Quantum to be determined in consultation with DCC).
Total	54	None (except for car share / accessible as per above).

7.7.5. As per above, the car-parking proposals significantly exceed the minimal allowances as per the Development Plan. The planning authority has already highlighted concerns about a high level of car parking in the context of the previous Development Plan, which placed the site within Zone 2 with a maximum allowance of 175 spaces. However, the new Development Plan includes the site within Zone 1 and significantly reduces the maximum allowance for car-parking. Only car-share and accessible parking is now allowed, details of which are to be determined in consultation with DCC.

7.7.6. Having regard to the accessible location of the site in close proximity to a wide range of public transport options, I am satisfied that the Development Plan approach is appropriate and reasonable. I do not consider that there are exceptional circumstances to warrant an exceedance of maximum standards in accordance with the Development Plan. I am satisfied that this matter can be suitably addressed through a condition limiting car-parking to car-share / accessible spaces only, the

quantum of which should be agreed with the planning authority. With the significant reduction in car-parking, the use of the remaining 'level -1' space can put to a more efficient and sustainable use.

Cycle Parking

7.7.7. The Development Plan standards for hotels and offices are common to all zones. An outline of the cycle-parking proposals and Development Plan requirements (as per Appendix 5) is shown in the following table.

Use	Proposed Spaces	Development Plan Standards	
		Long term	Short Stay / Visitor
Office	316	1 per 75m ² (GFA) - 19,266/75 = 256	To be determined by DCC
Hotel	30	1 per 5 staff (Estimated at 96 staff as per EIAR) – 96/5 = 19	To be determined by DCC
Total	346	275	To be determined by DCC

7.7.8. As per above, the proposed development requires at least 275 long-term spaces for the proposed hotel and offices. The additional short stay/visitor requirements are not clearly stated as they are to be determined by the planning authority on a case-by-case basis. I would submit that such demands are unlikely to be significant in this case, particularly for the hotel development, and it is likely that the proposed quantum of 346 spaces would be sufficient.

7.7.9. However, the planning authority has raised concerns about the quality and standards of the proposed cycle facilities as follows:

- parking layout appears constrained at Lower Ground level, with insufficient operational dimensions noted.
- parking at basement level does not appear to be sufficiently secure i.e. no compound provided.
- The 15 no. Sheffield Stands for the hotel do not appear sheltered/secured.
- It is not clear if any shower, changing, and locker facilities are proposed for hotel staff.

7.7.10. I would support the above concerns regarding the quality of cycle parking and associated facilities. However, there is ample opportunity/space within the site to accommodate improvements in this regard, particularly given the additional available

space as a result of the removal of car-parking. Accordingly, I am satisfied that the precise details of the quantum and layout of cycle parking spaces and associated facilities (i.e. shower, changing, and locker facilities) can be satisfactorily agreed with the planning authority by condition.

Other access/traffic issues

7.7.11. The planning authority has highlighted other concerns as follows:

- The need for a swept path analysis of access to the proposed ESB substations at podium level.
- Potential construction stage impacts on existing servicing arrangements.
- The need to review operational and construction traffic assessments to include service vehicles; the impact on J3 with regards to operational traffic and, in particular, westbound traffic where the left-slip is being removed; and the need to consider cumulative construction traffic with the adjacent SHD site.

7.7.12. I consider that the swept path analysis for access to the substations can be satisfactorily addressed by condition. Similarly, I consider that any construction stage impacts on servicing arrangements can be addressed through the agreement of a construction traffic management plan. I note the concerns in relation to the operational and construction traffic assessments and this will be addressed in further detail in the EIA section of this report.

Conclusion

7.7.13. Having regard to the foregoing, I consider that any grant of permission should include conditions requiring agreement in relation to the junction design; taking in charge proposals; reduction of car parking spaces; improvement of cycle parking facilities; swept path analysis for the sub-stations; and arrangements for construction/servicing traffic. Subject to the agreement of these details, I am satisfied that the access and parking proposals would be acceptable, would not endanger public safety, and would not interfere with the free flow of traffic by reason of congestion or otherwise.

7.8. Other Issues

Public Open Space / Public Realm

- 7.8.1. Section 15.14.4 of the Development Plan outlines that office proposals should demonstrate a high standard of amenity for future employees, in relation to noise impact, daylight and sunlight, ventilation, etc. Having regard to the location of the site with any significant noise sources limited to the road and rail services to the north, and having reviewed the proposed office design and layout, including extensive use of multi-aspect glazing with attractive views, I am satisfied that the proposal would provide a high standard of amenity.
- 7.8.2. It also states that office schemes in excess of 5,000m² will be required to provide for an element of high quality, public open space or contribute to the public realm of the area through landscaped features such as roof terraces, courtyard gardens and enhanced amenity at street level. I consider that adequate public open space has already been accommodated through the public plaza in the overall masterplan. Furthermore, the proposed development includes roof terraces and courtyards and would positively contribute to street-level activity. Accordingly, I consider that proposals are satisfactory in this regard.
- 7.8.3. One of the observers refers to the need to protect the 'temporary landscaping' area as an important open space and biodiversity resource. However, it should be noted that the space referred to is actually within the adjoining 'Site A' to the south and would not be affected by the development. The appeal site consists mainly of artificial surfaces and is little biodiversity value. It is not currently accessible as an open space. Accordingly, I do not consider that there would be any significant resource loss in this case.

Climate Action and Energy

- 7.8.4. Section 15.7.3 of the Development Plan requires commercial developments of 1000+m² to include a Climate Action Energy Statement, and that significant developments in SDRAs will be required to investigate local heat sources and networks, and, where feasible, to demonstrate that the proposed development will be 'District Heating Enabled'. In SDRA 7, proposals are required to investigate possible connections or interconnections to existing heat networks in these areas, to ultimately create a district heating 'node'.

- 7.8.5. These requirements were introduced after the application was made and, therefore, the application has not specifically addressed them. However, the application does include an Energy Analysis Report which outlines that the development is fully compliant with the Dublin Climate Action Plan 2019-2024 (DCAP) and TGD Part L 2021, as well as an EIAR which addresses the Greenhouse Gases (GHG) and climate impacts associated with the development.
- 7.8.6. The Energy Analysis Report outlines that the hotel will utilise Air Source Heat Pumps (ASHPs) which, in conjunction with Variable Refrigerant Flow (VRF) air conditioning, will ensure a high degree of renewable energy equating to 44%, well in excess of the 20% required by the DCAP and the 10% required by TGD Part L 2021. The office building will also use ASHPs throughout, supplemented by an extensive Photovoltaic solar panel array at roof level, resulting in a renewable energy contribution of 28%. As discussed later in this report, the EIAR outlines that the GHG emissions will be imperceptible and will have no adverse impact on climate or Ireland's GHG budget.
- 7.8.7. Having regard to the foregoing, I consider that the application contains adequate information in relation to energy efficiency and climate impacts and I am satisfied that the proposed development has been suitably designed to comply with the applicable Building Regulations.

Conservation Area

- 7.8.8. One of the observers contends that the application has not adequately adverted to the location of the site within a conservation area. I have acknowledged the location of the site within the 'red line' conservation area and Development Plan policy BHA9 which seeks to protect the special interest and character of all Dublin's conservation areas.
- 7.8.9. In the first instance, I would highlight that there is no statutory requirement to publicly advertise the fact that the development is located within this conservation area. Furthermore, I am satisfied that the application has included adequate information on the conservation value of the surrounding area to enable a complete assessment by the Board. As previously outlined in this report, I do not consider that the proposed development would result in any unacceptable impacts on the character or built heritage of the surrounding area. Accordingly, I am satisfied that the special interest and character of this conservation area will be satisfactorily protected.

8.0. Environmental Impact Assessment (EIA)

8.1. Introduction

- 8.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project and should be read in conjunction with the planning assessment (i.e. section 7 of this report). A number of the topics and issues addressed in the planning assessment concern environmental matters. Where relevant, I have cross-referenced between sections to avoid unnecessary repetition.
- 8.1.2. The proposed development involves the construction of a mixed-use commercial development comprising of a hotel (238 no. bedrooms / 8,900m²), an office block (19,266m²), and a retail/café unit (208m²), delivering a cumulative Gross Floor Area (GFA) of 32,602m² (inclusive of basement area). The site has a stated area of 0.62ha and is located within the designated 'city centre' zone.
- 8.1.3. Class 10(b) and 12 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 projects that involve:
- 10(b)(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(c) - *Holiday villages which would consist of more than 100 holiday homes outside built-up areas; hotel complexes outside built-up areas which would have an area of 20 hectares or more or an accommodation capacity exceeding 300 bedrooms.*
- 8.1.4. Given the location of the site within the city centre zone, I am satisfied that it is within a 'business district', which is defined for the purposes of Class 10(b)(iv) as 'a district within a city or town in which the predominant land use is retail or commercial use'. Therefore, the site area (0.62ha) would not exceed the applicable Class 10(b)(iv) threshold of 2ha, and Class 12 would not apply given that it only applies outside built-up areas.
- 8.1.5. Class 13 (a) outlines that EIA is required for any change or extension of development already authorised, executed or in the process of being executed, that would (i) result in the development being of a class listed in paragraphs 1 to 12 of the

Schedule, and would (ii) result in an increase in size greater than 25%, or an amount equal to 50% of the appropriate threshold, whichever is the greater.

- 8.1.6. The applicant has submitted an EIAR on the basis that the proposed development would extend the existing/permitted HSQ development within an overall site of c. 3.9ha, thereby exceeding the 2ha threshold as per Class 10(b)(iv). I note that the site area (0.62ha) would not result in an increase in site size greater than 25%, or an amount equal to 50% of the appropriate threshold (i.e. 1 hectare). Notwithstanding this, an EIAR has been submitted and, under Article 102 of the Planning and Development Regulations 2001, as amended, where a planning application for a sub-threshold development is accompanied by an EIAR, the application shall be dealt with as if the EIAR had been submitted in accordance with section 172(1) of the Act.
- 8.1.7. The EIAR is accompanied by a Non-Technical Summary and consists of the EIAR itself (Vol. 1) and supporting appendices (Vol. 2). Chapters 1-3 inclusive set out an introduction and outline of the site and the proposed development. Chapter 4 considers the issue of 'Alternatives'. Chapters 5 to 16 describe and assess the likely significant direct, indirect and cumulative effects of the proposed development generally in accordance with the relevant headings listed in Article 3(1) of the 2014 EIA Directive, including the interactions between relevant effects. The proposed mitigation measures are outlined in Chapter 17.
- 8.1.8. 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 planning authority reports and written submissions/observations as set out in Sections 3 & 6 of this report.
- 8.1.9. 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.

8.1.10. I am satisfied that opportunity for participation of the public has been appropriately afforded, and that the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

8.2. **Consideration of Alternatives**

8.2.1. 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.”

8.2.2. Annex (IV) (Information for the EIAR) provides more detail on ‘reasonable alternatives’:

2. 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.

8.2.3. Chapter 4 of the EIAR deals with ‘Alternatives’. The reasonable alternatives examined can be summarised as follows:

Alternative Locations

The Development Plan SEA considered four growth alternatives and concluded that ‘targeted growth around existing identified growth centres’ is the preferred scenario. Given the location of the site within the city centre/SDRA and its partially developed nature, the proposal would be consistent with this growth scenario and appraisal of alternative locations was not considered necessary.

Alternative Construction

Phasing and construction methods have been considered. These will ultimately be determined by the contractor in agreement with the planning authority.

Alternative Layouts & Designs

The applicant's consideration of alternatives for Sites A & B can be summarised as follows:

Parent Permission / Masterplan – The design and scale of previously permitted hotel/office developments are not suitable to the current market.

Iteration 1 (Mono-residential scheme, 3-16 floors) – There would be potential residential amenity impacts relating to road/rail infrastructure and inadequate light.

Iteration 2 (Mono-commercial scheme, 3-11 floors) – There would be an inadequate variety of uses and inadequate permeability/connectivity.

Iteration 3 (Mixed Use Scheme, 3-16 floors) – Residential options in this scenario were discounted due to inadequate public realm, light availability, residential amenity, connectivity, and enclosure. A sub-option for a hotel/office tower was deemed inappropriate due to excessive scale.

Iteration 4 (Hotel & Office, 6-19 floors) – Not pursued due to excessive massing and visual impact, including impact on RHK setting, abrupt transition in scale, and encroachment on Cone of Vision.

Iteration 5 (Hotel & Office, up to 22 storeys) – The VIA identified significant adverse visual impacts on the RHK setting, the Cone of Vision, and the wider streetscape.

Iteration 6 (Proposed Development) – The design more closely considers the COV and the relationship with RHK and reduces the impact of the development. It is the preferred alternative having regard to architectural heritage, landscape, and visual impacts.

In addition to the above, I would highlight that a further design 'iteration' has been submitted with the appeal and will be considered in this assessment.

Alternative Materials

Several alternative materials were discounted. The proposed mix of brick, reconstituted stone, and glass was the preferred alternative having regard to architectural heritage, landscape, and visual impacts.

Alternative Mitigation

The proposed design and mitigation measures have been developed by competent experts and no alternative measures are proposed.

'Do Nothing'

This would be an under-utilisation of a partially developed site which is zoned 'city centre' and is serviced by sustainable transport options and other services. This would be an inappropriate and unsustainable approach.

8.2.4. Having regard to the above, I am satisfied that the EIA Directive requirements in relation to the consideration of alternatives have been suitably addressed.

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

8.3.1. 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.

8.3.2. Section 1.4.4 of the EIAR outlines that the site is not located within the consultation distance of any Tier 1 or Tier 2 SEVESO III site. It also outlines that information from the Road Safety Authority is that there has been only one serious traffic accident between 2005 and 2016; that the area is not prone to natural disasters; and that the site does not contain any coastal or fluvial flood risk areas. The identification of risks of accidents and/or disasters is provided in the respective chapters of the EIAR. I consider this to be a reasonable approach to risks associated with major accidents and/or disasters.

8.4. Assessment of the likely significant direct and indirect effects

8.4.1. 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.

8.5. Population & Human Health

8.5.1. Chapter 5 of the EIAR assesses these matters based on a study area of c. 1km radius of the site. It includes a comprehensive social and economic profile of the receiving environment, including information on population, housing, education/childcare, health, economic activity and employment, social infrastructure, existing hotels, and planning history.

- 8.5.2. During the construction phase, the EIAR acknowledges the potential for moderate temporary negative impacts (i.e. traffic, noise, emissions etc) on population and human health and a range of related remedial measures are proposed throughout the EIAR to appropriately mitigate these potential effects. Positive impacts will arise due to an increase in employment and economic activity, resulting in an overall prediction of short-term and neutral impact.
- 8.5.3. For the operational phase, the EIAR outlines that the development and associated mitigation measures has been designed to avoid negative impacts on population and human health. It will contribute to the growth of the neighbourhood through increased footfall and employment (c. 1,666 persons) to benefit local retail and services, resulting in an overall prediction of long-term and positive impact.
- 8.5.4. The EIAR also considers the potential for cumulative impacts with existing development, the adjoining SHD proposal, and other notable developments in the area. It concludes that there will be positive cumulative impacts as a result of increased footfall, spending, services, and amenities. The proposed mix of uses will complement existing development and further consolidate the overall HSQ area.
- 8.5.5. 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.

8.6. **Biodiversity**

- 8.6.1. Chapter 6 of the EIAR outlines that a desk study of ecological reference material was completed as well as a site walk-over survey. It outlines that this involves a brownfield site comprising a partly built structure and a patch of rank grassland. The site does not support any natural or semi-natural habitat and any fauna species associated with the site are commonly found in urban environments. The site is not part of, and does not adjoin, any designated conservation sites. I would concur with the EIAR conclusion that the site has an ecological rating of, at most, 'Local Importance (lower value)'.

- 8.6.2. For the construction phase, the EIAR proposes to avoid the disturbance of nesting birds through the removal of any vegetation outside the restricted nesting season. A Construction Management Plan will also protect water quality through the management/control of suspended solids, concrete run-off, and spills/leaks.
- 8.6.3. For the operational phase, a bird-friendly glazing strategy will be implemented, and lighting will be directed to prevent spillage onto the RHK site and prevent disturbance to foraging bats. A SuDS based surface water drainage design will also be implemented to protect water quality.
- 8.6.4. The potential for impacts on European Sites will be addressed in Section 9 of this report. As will be outlined, I am satisfied that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives.
- 8.6.5. Apart from the Dublin Bay complex sites, I also note the location of the site in relation to the nearest national conservation sites, i.e. Grand Canal pNHA (c. 1km to the south), the Royal Canal pNHA (c. 3km to the north), and the Liffey Valley pNHA (c. 4km to the west). Having regard to the significant distance and lack of connectivity to these sites, I am satisfied that the proposed development would not result in any significant effects.
- 8.6.6. The EIAR also considers the potential for cumulative impacts with existing HSQ development and the adjoining SHD proposal. It highlights that the current and all other developments are subject to rigorous assessment by competent authorities for potential environmental impacts, particularly in relation to European Sites (see section 9 of this report). It concludes that the proposed development will not result in any significant cumulative and/or in-combination effects on biodiversity (including European Sites).
- 8.6.7. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to 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 biodiversity (with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC).

8.7. Land, Soil, and Geology

- 8.7.1. The assessment outlined in Chapter 7 of the EIAR is based on a desktop study of publicly available information, along with recent specific intrusive site investigation and environmental site assessment works undertaken in 2006 and 2017. It outlines that the office block foundation will consist of bored concrete piles into black boulder clay, while the hotel block will be constructed from traditional reinforced concrete pad foundations bearing on the black boulder clay. A reinforced concrete basement slab and retaining wall will be constructed to complete the watertight 'basement box'. It will be built off existing levels within a secant pile wall constructed c. 2003 and will not result in any change to local groundwater flows or neighbouring structures.
- 8.7.2. The EIAR outlines the baseline ground and soil conditions encountered in 2006 have been substantially altered by the completed site works. The site is within the Dublin Urban Groundwater Body, which has a 'good' chemical and quantitative status. The bedrock aquifer is classified as 'Locally Important' and the GSI vulnerability rating is 'Low'. Any contaminated material from historic uses has been excavated off site. GSI data does not indicate any features of Geological Heritage or any geo-hazards at the site.
- 8.7.3. The EIAR outlines that the main potential impacts are associated with the construction stage. It proposes a range of mitigation measures to include contaminated soil and demolition material being monitored and assessed to determine the most suitable disposal outlet in accordance with guidelines and best practice. Other measures will include dust suppression and monitoring, noise and vibration monitoring, gas and water level monitoring, disposal of ground water in accordance with the licensed requirements of DCC, and the provision of a temporary site compound. It concludes that the impacts will be temporary and not significant.
- 8.7.4. The EIAR predicts that there will be no long-term impact on the soil, geology and hydrogeology environments associated with the operational phase of the development. Therefore, no mitigation measures are proposed.
- 8.7.5. The EIAR considers the potential cumulative impacts within a study area enclosed by the secant pile wall covering most of the larger HSQ site area. It outlines that this perimeter wall isolates the development in geotechnical terms from posing a risk of contamination to the external environment, causing ground movements, or damage

to nearby structures. Therefore, it concludes that the cumulative effects with future planned development would be imperceptible.

8.7.6. Regarding the risk of major accidents and/or disasters, the EIAR considers GSI Landslide Susceptibility Mapping. It outlines that the area has been classified as 'low' susceptibility.

8.7.7. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to land, soil, and geology (including hydrogeology) 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, soil, and geology (including hydrogeology).

8.8. **Water**

8.8.1. Chapter 8 of the EIAR assesses the likely impact of the development on surface water drainage and flooding (water supply and wastewater are dealt with under 'Material Assets'). It outlines that the proposed development includes measures to retain storm water volumes predicted to be experienced during extreme rainfall events, as well as SuDS measures to reduce run-off volumes, pollution concentrations, and enhance groundwater recharge and biodiversity. Stormwater collected within the development will flow to two attenuation tanks which shall be pumped to discharge to the public storm water sewer on St John's Road West.

8.8.2. An analysis of the receiving environment acknowledges surface water features such as the River Liffey and the mainly culverted Camac River. It outlines EPA information which gives the River Liffey a 'moderate' water quality status which is 'at risk of not achieving good status' in terms of the Water Framework Directive (WFD). EPA surface water quality data for the Liffey and Dublin Bay (2018-2020) indicates that they are 'potentially eutrophic'. The Camac River is classified as having a 'poor' ecological status (2013-2018) under the WFD. The site is within the Dublin Urban Groundwater Body, which has a 'good' chemical and quantitative status. The bedrock aquifer is classified as 'Locally Important' and the GSI vulnerability rating is 'Low'.

- 8.8.3. A Site-Specific Flood Risk Assessment has been included as part of the application. The subject site is adjudged to be in Flood Zone C, which indicates that it is outside the predicted 1-in-200-year tidal flood event and outside the 1-in-1000-year fluvial storm water event. The risk of flooding is therefore predicted to be low, and the proposed development is deemed to be suitable for the location.
- 8.8.4. The EIAR identifies the potential for construction phase impacts on water, which mainly relate to construction surface water run-off, spillages/leaks and pollution, and surface water discharges. A range of mitigation measures are proposed to include environmental management, surface water run-off management, site management, and dewatering/surface water discharge management. Following the implementation of these measures, the EIAR concludes that the residual negative risks would be short-term and not significant.
- 8.8.5. At the operational phase, the risk of surface water run off (site flooding and unattenuated flow) will be addressed through the provision of flow control with stormwater attenuation to keep the discharge rate at greenfield rates in line with the Greater Dublin Regional Code of Practice for Drainage Works and the Greater Dublin Strategic Drainage Study. And to protect against potential contamination of the River Liffey & River Camac, incidental surface run-off from the underground basement car parks, compactor units, and waste/service areas will be discharged to the foul drainage system. Following the implementation of these measures, the EIAR concludes that the residual negative impacts would be long-term and not significant.
- 8.8.6. The EIAR considers the potential cumulative effects of the SHD proposal on the adjoining site. Similar to the proposed development, it acknowledges the potential for short-term (non-significant) negative cumulative impacts on surface water, ground water, and flood risk. At operational phase, it acknowledges the potential for cumulative impacts on stormwater drainage capacity but outlines that this will be mitigated by attenuated discharge rates and compliance with the requirements of DCC. It concludes that cumulative impacts on surface water, ground water, and flood risk would be long-term, negative, but not significant.
- 8.8.7. Having regard to the forgoing, 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.

8.9. **Air, Dust, and Climatic Factors**

- 8.9.1. Chapter 9 considers the potential air quality and climate impacts based on a study area of up to 350m from the site boundaries. The EIAR analysis of existing air quality shows compliance with most standards. There was an exceedance in 2019 of the NO₂ standard, which the EPA determined was due to road traffic.
- 8.9.2. The EIAR outlines that the most significant potential construction dust/air quality impacts are associated with the demolition/excavation works, although the impacts are not predicted to be significant. Construction traffic is predicted to contribute less than 5% change to the existing air quality emission levels, which is not considered significant. Regarding the potential for Aspergillus infection from construction works, it highlights that there are no patient care areas within 250m of a potential release source (i.e. the distance at which fungal spores would be completely dispersed) and therefore the impact would be imperceptible.
- 8.9.3. The construction stage mitigation measures will include a Dust Management Plan to ensure that emissions do not cause significant nuisance at nearby receptors. The construction programme and compound layout will also be designed to minimise air quality impacts. Following the implementation of mitigation measures, the EIAR predicts that the air quality impacts at construction stage would be short-term and not significant.
- 8.9.4. At operational stage, the predicted additional traffic movements will generally be less than a 5% increase which is not considered significant and would be even less significant with reduced parking provision as recommended in section 7.7 of this report. The design and construction of the buildings will be in accordance with the Building Regulations (Part L) and the Dublin Climate Action Plan 2019-2024, as confirmed by the accompanying Energy Statement, and it is predicted that they will have an imperceptible impact on local air quality. The design also minimises Green House Gas (GHG) emissions and complies with Near Zero Energy Building performance requirements, thereby ensuring that GHG emissions will be imperceptible and will have no adverse impacts on climate. A 'Microclimate Wind Analysis' is also included which uses the best practice Lawson criteria for

assessment. The analysis has been undertaken with and without the SHD scheme and considers ground level and roof terrace conditions. It demonstrates that the development will not unduly impact on the local wind micro-climate.

- 8.9.5. The EIAR considers the potential for cumulative impacts with other existing/permitted developments in the vicinity, particularly the planned SHD development on the adjoining site. It predicts that the air emissions associated with development of the adjoining site would be similar to the proposed development (i.e. not significant) and that there would therefore be no risk of significant adverse cumulative impacts if both proceed simultaneously. For other developments, it outlines that maximum cumulative impacts would occur within 50m of the site and that the applicable dust mitigation measures would suitably prevent any significant cumulative impacts. Once operational, no residual adverse air/climate impacts are predicted in combination with other developments.
- 8.9.6. Related to air and microclimate factors, Chapter 10 of the EIAR considers noise and vibration impacts. It acknowledges the potential for construction stage noise associated with traffic, plant, and general site activity, but concludes that construction vibration will not cause significant nuisance. It proposes that construction activity will comply with the applicable noise limits and best practice guidance and includes a comprehensive range of general and activity-specific mitigation measures. Following mitigation, the predicted construction impacts are deemed to be negative, moderate, and temporary. At the operational stage, the EIAR predicts that traffic noise levels would not be significant (which would be even less significant with reduced parking provision as recommended in section 7.7 of this report) and that there would be no observable source of vibration.
- 8.9.7. The EIAR considers the potential for cumulative noise and vibration impacts with other existing/permitted developments in the vicinity, particularly the planned SHD development on the adjoining site. It predicts that the noise and vibration emissions associated with development of the adjoining site would be similar to the proposed development (i.e. not significant) and that there would therefore be no risk of significant adverse cumulative impacts if both proceed simultaneously. For other developments, it outlines that maximum cumulative impacts would occur within 20m of the site and that the applicable noise and vibration mitigation measures would suitably prevent any significant cumulative impacts. Once operational, no residual

adverse noise/vibration impacts are predicted in combination with other developments.

8.9.8. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to air 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 and climate.

8.10. **Material Assets**

8.10.1. Chapters 11 & 12 of the EIAR consider impacts on 'Traffic and Transport' and 'Water supply, drainage, & utilities' respectively.

Traffic & Transport

8.10.2. The EIAR includes a Traffic Impact Assessment based on traffic flow data at 3 junctions; a trip generation assessment using TRICS data; trip distribution based on existing traffic/network characteristics; an assessment of existing junction performance using TRANSYT software; and an assessment of future junction performance for the years 2026, 2031, and 2041 (including the SHD proposal and a planned Garda Security and Crime Operations Centre (Garda SCOC) to the east of Military Road). The existing public transport and pedestrian/cyclist facilities were also assessed, including walking times, predicted population, and modal split targets.

8.10.3. During the construction phase, all 3 junctions are shown to operate within effective capacity in both AM and PM peaks, resulting in only short-term slight adverse impacts on the road network. Mitigation measures will include a Construction Management Plan and measures to prevent obstruction/fouling of adjacent roadways, ensuring that residual impacts will not be more than short-term and slight.

8.10.4. At the operational stage (design year 2041), Junction 1 (Military Road/St John's Road West) is predicted in the AM peak to reach ultimate capacity and to exceed effective capacity. Junction 2 (the existing eastern site access off Military Road) is predicted to operate well within capacity in both peak hour periods. Junction 3 (the existing northern access off St John's Road West) is predicted to slightly exceed effective capacity in the AM peak but shall remain within ultimate capacity.

8.10.5. The EIAR also compares the operational impacts of the development (i.e. 'do something') to the 'do nothing' scenario for 2041. It shows that the proposed development will result in maximum increased queue lengths of 9 PCU and increased mean vehicle delay of 14 seconds at any junction. However, it will also result in some decreases due to the redistribution of traffic signal green time between approaches. It concludes that there will be an overall long-term slight adverse impact which should be considered reversible as a result of future traffic/transport improvements. And given the high capacity of public transport and pedestrian/cyclist services within easy reach of the site, the EIAR concludes that the proposed development would have a long-term imperceptible effect.

8.10.6. I note that the planning authority has raised several issues in relation to traffic and transport, which can be summarised and addressed as follows:

- As outlined in section 7.7 of this report, the access proposals are consistent with the BusConnects Lucan-City Centre Core Bus Corridor Scheme and I am satisfied that this matter can be suitably clarified by condition.
- I note that the applicant has not assessed the potential cumulative construction traffic impacts with the planned SHD scheme on the basis that construction activities across the two sites would be co-ordinated to avoid significant additional impacts, which I consider to be reasonable. However, the construction phase assessment does include the operational trips generated by the SHD and Garda SCOC projects and I am satisfied that this represents a robust 'worst-case' scenario.
- I consider that the volume of service vehicle trips would be limited and would not significantly impact on the traffic assessments.
- As outlined in section 11.5.10 of the EIAR, I am satisfied that the 'without development' modelling of Junction 3 has been carried out using the existing junction configuration, while the 'with development' modelling has been carried out using the proposed new configuration (including the removal of the left-turn slip from the east).

8.10.7. Having regard to the foregoing, I do not consider that the proposed development would result in any unacceptable impacts on traffic and transport infrastructure. Furthermore, if the car-parking is reduced in accordance with my recommendations

as outlined in section 7.7 of this report, the traffic-related impacts would be significantly less than those predicted in the EIAR.

Foul Water

8.10.8. Temporary construction loading impacts on the foul water system are predicted to have a slight negative impact on system capacity and mitigation measures will ensure that best-practice is agreed and followed. The operational stage has been designed to cater for the development and Irish Water's 'Confirmation of Feasibility' has been received. There will be a consequent reduction in the overall capacity of Ringsend Wastewater Treatment Plant. However, the Irish Water Wastewater Treatment Capacity Register (June 2023) confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading (2,046 persons) to the plant, but I note that permitted upgrade works are expected to 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. The peak population equivalent (PE) associated with the proposed development (2,046 persons) would not be significant when equated as a percentage (i.e. <0.1%) of the planned 2023 PE at Ringsend WWTP (2.1 million). I would therefore concur with the EIAR conclusion that impacts of the proposed development and other cumulative developments would be long-term and imperceptible.

Potable Water

8.10.9. Temporary construction impacts on the water supply system are predicted to have a slight negative impact and mitigation measures will ensure that best-practice is agreed and followed. The operational stage has been designed to cater for the development and Irish Water's 'Confirmation of Feasibility' outlines that the development can be accommodated. I would therefore concur with the EIAR conclusion that impacts of the proposed development and other cumulative developments would be long-term and imperceptible.

Other Utilities

8.10.10. The installation of infrastructure will follow best-practice construction management measures and is predicted to have a slight impact and mitigation measures will ensure that best-practice is agreed and followed. The operational stage has been

designed to cater for the development and the provision of upgraded infrastructure will provide additional resilience in the utilities network. I would therefore concur with the EIAR conclusion that impacts of the proposed development and other cumulative developments would be long-term and slight.

Conclusion on Material Assets

8.10.11. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to Material Assets 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.

8.11. Cultural Heritage

8.11.1. Chapters 13 & 14 of the EIAR consider impacts on 'Archaeology' and 'Architectural Heritage' respectively.

Archaeology

8.11.2. The EIAR includes a comprehensive record of archaeological heritage and testing in and around the site location. It highlights that the site has already been excavated under archaeological licence and concludes that redevelopment of the site over the existing basement will have no individual or cumulative impact on archaeological features. The site lies within the zone of notification for DU018-112 (Pit-Burial preserved by record) and DU018-020528 (the RHK garden) and notice will be given to the Minister for Housing, Local Government and Heritage two months prior to commencing work at the site. I am satisfied that this will provide satisfactory mitigation for any potential archaeological impacts associated with the development.

Architectural Heritage

8.11.3. The EIAR includes a comprehensive record of the architectural heritage in and around the site location, as well as the wider setting of the site and its relationship with Pheonix Park and associated structures (including the Cone of Vision). At construction stage, it acknowledges the potential for destabilising effects on the RHK garden wall and proposes mitigation measures to ensure that the wall will be protected from vibration/construction effects etc. The assessment of visual impacts

outlines the 24 no. 'Verified Views' prepared and assesses the construction stage, operational stage, and cumulative impacts. It does not identify any significant negative impacts and proposes mitigation in the form of noise and lighting reduction measures.

8.11.4. I have previously addressed the impact of the proposed development on architectural heritage in sections 7.3, 7.4, and 7.5 of this report, including the significant concerns raised by the planning authority, An Taisce, and other observers. I have outlined my opinion that the original application design would have significant and unacceptable impacts on the character and setting of the RHK gardens and the host RHK building itself. However, having considered the amended design option submitted with the appeal, I am satisfied that the proposal would not have any unacceptable impacts on the RHK complex or the wider architectural heritage of the area, including the Cone of Vision from the RHK site.

Conclusion on Cultural Heritage

8.11.5. Having regard to the forgoing, 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.

8.12. Landscape

8.12.1. Chapter 15 of the EIAR outlines a Landscape and Visual Impact Assessment of the proposed development. It again considers 24 no. 'Photomontage Views' and assesses the construction stage, operational stage, and cumulative impacts from identified receptors in the surrounding area. The mitigation measures are mainly embedded into the design, but additional measures are also proposed, mainly in the form of existing and proposed landscaping. The EIAR concludes that the residual impacts will not be significantly negative.

8.12.2. I have previously addressed the landscape and visual impact of the proposed development in sections 7.3, 7.4, and 7.5 of this report, including the significant concerns raised by the planning authority, An Taisce, and other observers. I have outlined my opinion that the original application design would have significant and

unacceptable impacts on the character and setting of the RHK gardens and the host RHK building itself. However, having considered the amended design option submitted with the appeal, I am satisfied that the proposal would not have any unacceptable impacts on the RHK complex or the wider landscape character, including the Cone of Vision from the RHK site.

8.12.3. Having regard to the forgoing, I am satisfied that impacts predicted to arise in relation to Landscape 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.

8.13. Interactions of the foregoing

8.13.1. Chapter 16 of the EIAR considers the interaction between the factors previously discussed in this section. The potential for interactions has already been considered in the individual chapters of the EIAR and can be summarised as outlined in the following paragraphs (excluding those identified as 'weak' interactions).

8.13.2. 'Population & Human Health' has the potential for some interaction with 'land, soil, and geology', 'air and climate', and 'Material Assets', while there is potential for strong interaction with 'landscape'.

8.13.3. 'Biodiversity' has the potential for some interaction with 'land, soil, and geology', 'water', 'Air and climate', and 'landscape'.

8.13.4. 'Land, soil, and geology' has the potential for interaction with 'water' and 'air & climate', including strong potential for interaction with 'noise and vibration'.

8.13.5. 'Material Assets' (Traffic & Transport) has the potential for interactions with 'air and climate' including dust, noise, and vibration.

8.13.6. Finally, there is potential for some interaction between 'landscape' and 'Cultural Heritage' (architectural heritage).

8.13.7. As previously outlined, the detailed characterisation of these impacts and any mitigation measures that have been prescribed in relation to them have been addressed under the corresponding EIAR chapters. I am satisfied that the relevant

interactions have been suitably identified and that the mitigation measures for same are acceptable.

8.13.8. Having regard to the foregoing, I am satisfied that impacts relating to interactions 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.

8.14. **Mitigation and Monitoring Measures**

8.14.1. Chapter 17 of the EIAR outlines a collective list of all the mitigation and monitoring measures that apply to each individual chapter. I am satisfied that this accurately and adequately represents the mitigation and monitoring measures associated with the proposed development.

8.15. **Reasoned Conclusion**

8.15.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, as well as the reports of the planning authority and submissions received in the course of the application and appeal, 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 and monitoring measures, are as follows:

- Positive socioeconomic effects on population and human health associated with increased employment and demand for services during the construction and operational phases.
- The potential for negative effects on human health, air, and climate associated with nuisance/disturbance emissions during the construction phase, which would be addressed through construction management mitigation measures and would not result in any unacceptable residual effects.
- The potential for significant negative impacts on cultural (architectural) heritage, including the Royal Hospital Kilmainham and its associated gardens and

structures (all protected structures), which would be satisfactorily addressed through embedded design mitigation measures including the amended design submitted with the appeal, and would not result in any unacceptable residual effects.

- The potential for significant negative impacts on landscape, including the protected Cone of Vision to and from the Royal Hospital Kilmainham site, which would be satisfactorily addressed through embedded design mitigation measures including the amended design submitted with the appeal, and would not result in any unacceptable residual effects.

9.0 Appropriate Assessment Screening

9.1. 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.

9.2. Background to the application

9.2.1. As part of the application, a Natura Impact Statement (including an AA Screening exercise) was compiled by BioSphere Environmental Services.

9.2.2. The applicant's AA Screening exercise concludes that, in the absence of mitigation, there is potential for contaminated water to enter the River Liffey system during the construction and (to a lesser extent) operational stages of the development, and ultimately to enter the aquatic and intertidal environment of Dublin Bay. It concludes that this has the potential to adversely affect the conservation objectives of the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA, and that measures are required to avoid or reduce harmful effects of the proposed development (i.e. mitigation measures). Therefore, it concludes that a Stage 2 Appropriate Assessment is required.

9.2.3. The Natura Impact Statement includes mitigation measures for surface water management and control during the construction and operational phases of the development. The construction stage measures comprise best practice construction management and monitoring. The operational measures mainly include best practice surface water attenuation and treatment, as well as standard connections to the foul

sewer system. The NIS also considers that there is no potential for the development to contribute to an in-combination effect on any European Site. It concludes that, subject to mitigation measures, no elements of the project will result in any effect on the integrity or qualifying Interests/Special Conservation Interests of any relevant European Site, either on their own or in combination with other plans or projects, in light of their conservation objectives.

9.2.4. Having reviewed the documents, drawings, and submissions included in the appeal 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.

9.2.5. 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).

9.3. Description of the development

9.3.1. A detailed description of the development is outlined in section 2 of this report. In summary, it includes site clearance and localised demolitions to facilitate the construction of a 5-storey hotel, a 12-storey office building, and all associated site works and services. Stormwater drainage arrangements will reduce and attenuate any run-off to pre-development discharge rates prior to discharge to the public sewer, while SuDS measures will include water buffs for local rainwater reuse, green roof technology, low water usage appliances, and attenuation tank with flow control device. Foul effluent will be disposed to the Irish Water system and water supply will be via the Irish Water system.

9.3.2. The site has a stated gross area of 0.62 hectares and is located within the city centre. It mainly consists of existing buildings and artificial surfaces, while there is also some grassland and semi-mature trees at the eastern end and northern margin of the site. There are no surface watercourses within or immediately adjoining the site.

9.4. **Submissions and Observations**

9.4.1. The submissions and observations from Prescribed Bodies and third parties, as well as the reports of the planning authority, are summarised in sections 3 and 6 of this Report. The submissions do not raise any issues in relation to Appropriate Assessment.

9.5. **European Sites**

9.5.1. The applicant's AA Screening exercise takes into account the nature of the proposed works on a relatively small, developed site, its context within the wider developed area, and its location within the catchment of the River Liffey (c. 250m away). Taking into account these attributes and the theoretical hydrological linkage between the site and Dublin Bay via the River Liffey, it considers that the possibility for impacts is limited to the following sites associated with the Dublin Bay complex to which the River Liffey flows, i.e. South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA.

9.5.2. Consistent with the applicant's report, I agree that there are potential hydrological links with European Sites within the inner Dublin Bay area (i.e. South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA) as a result of the potential surface water pathway. I also note that there is a potential foul water pathways to these inner bay sites via the foul water discharge to Ringsend WWTP and ultimately Dublin Bay.

9.5.3. I note that there are several other Natura 2000 sites within the wider/outer Dublin Bay area, including the North-West Irish Sea SPA, the Rockabill to Dalkey Island SAC, Dalkey Islands SPA, and Howth Head SAC. However, these sites are more significantly distanced and would be protected by a significantly greater hydrological buffer. Therefore, I do not consider that there would be hydrological pathways that would have any potential for significant effects on these and other European Sites within the outer Dublin Bay area.

9.5.4. The appeal site is located c. 5km from the nearest Natura 2000 site and is separated by a significant extent of similar urban development. Therefore, it is clear that there is no potential for habitat loss or physical disturbance of habitats or species associated with any relevant Natura 2000 sites. Furthermore, based on the limited size of the appeal site and its characteristics of limited habitat value, I consider that

the site does not have potential as an ex-situ foraging or roosting site for the qualifying species of any Natura 2000 sites.

9.5.5. Having regard to the foregoing, my screening assessment will focus on the impact of the proposal on the conservation objectives of the European Sites and their qualifying interests as summarised in the table below. I am satisfied that no other European Sites fall within the possible zone of influence.

European Site (Distance)	Conservation Objectives – To maintain/restore the favourable conservation condition of the following Qualifying Interests (QI's)	Attributes
South Dublin Bay SAC (c. 6km)	Mudflats and sandflats not covered by seawater at low tide.	Habitat area, community extent, community structure, community distribution.
South Dublin Bay and River Tolka Estuary SPA (c. 5km)	Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Grey Plover (proposed for removal), Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull.	Population trend, distribution.
	Roseate Tern, Arctic Tern.	Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance at roosting site.
	Common Tern	Breeding population abundance, Productivity rate, Passage population, Distribution, Prey biomass available, Barriers to connectivity, Disturbance.
	Wetlands	Habitat Area
North Bull Island SPA (c. 8km)	Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Black-headed Gull.	Population trend, distribution.

	Wetlands.	Habitat Area
North Dublin Bay SAC (c. 8km)	Mudflats and sandflats not covered by seawater at low tide.	Habitat Area, Community extent, community structure, community distribution.
	Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes), Humid dune slacks.	Habitat Area, Habitat distribution, physical structure, vegetation structure, vegetation composition.
	Petalwort	Distribution of populations, population size, Area of suitable habitat, hydrological conditions, vegetation structure.

9.6. Potential effects on European Sites

9.6.1. The application site is not located within or adjoining any of the relevant European Sites. The nearest relevant site is c. 5km away and is significantly separated by existing development. The appeal site is not of significant biodiversity value and does not contain any suitable ex-situ habitat for any qualifying interests. Accordingly, I am satisfied that there is no potential for habitat loss/alteration or for habitat/species fragmentation.

9.6.2. Given the existing urban context for the site and given that all relevant European Sites are distanced at least 5 km from the appeal site, I am satisfied that no 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.

9.6.3. In accordance with section 9.5 (above), I am satisfied that the potential effects on the relevant European Sites are limited to the hydrological connections associated with surface water and wastewater emissions.

Surface water

- 9.6.4. I acknowledge that emissions to surface water arising during the site clearance and construction stage could contain pollutants from suspended solids, run-off from wet cement surfaces, and leakages/spillages from hydrocarbons. Such contaminated water could potentially discharge to local drains and watercourses and ultimately to Dublin Bay via the River Liffey, although there is no direct flow path linking the appeal site to the Liffey. During the operational stage, there will be run-off to the local drainage system with potential for leakage of petrol/diesel from vehicles. Such pollutants have the potential to affect water-related qualifying interests in all four Natura 2000 sites.
- 9.6.5. In order to address the construction stage effects, the application incorporates a comprehensive range of construction management measures which aim to protect the surrounding watercourses and drainage system from any such emissions. This includes compliance with statutory water pollution legislation and the preparation of a Construction Management Plan and a Construction and Demolition Waste Management Plan. These measures will address the potential for suspended solids, concrete run-off, and accidental spills and leaks. Daily monitoring will also be carried out to ensure that environmental planning conditions are being adhered to.
- 9.6.6. I consider that there is only limited potential for hydrological links at construction stage given the significant distance to Natura 2000 sites and the absence of a direct flow path. However, I am satisfied that the range of measures proposed will satisfactorily address any potential for contamination of the local water quality. And notwithstanding the applicant's reports, I am satisfied that these are best practice construction management measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site.
- 9.6.7. For the operational stage, the application proposes to connect to the public sewer (and ultimately the River Liffey) via a separate, attenuated storm water drainage system designed in accordance with the Greater Dublin Strategic Drainage Study and the Regional Code of Practice for Drainage Works. The proposed strategy incorporates SuDS principles and includes various stages of treatment such as interception (green roofs/landscaping), filtration into the subsoil, an overflow system, and attenuation, to discharge in accordance with DCC requirements.

- 9.6.8. I am satisfied that the operational stage measures have been designed in accordance with standard requirements, and that there would be no significant surface water impacts on surrounding watercourses / drainage, either in terms of the quantity or quality of discharge. And notwithstanding the applicant's reports, I am satisfied that these are best practice surface water management measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site.
- 9.6.9. Even in the unlikely event of a construction/operational stage surface water pollution event occurring, it would likely be short-term in duration and contained at the scale of the site. Given the significant distance between the appeal site and the downstream European Sites in Dublin Bay (at least 5km) there would be significant dilution capacity in the existing drainage system. Upon reaching the Bay, any pollutants would be even further diluted and dissipated by the receiving waters where there is known potential to rapidly mix and assimilate pollutants.
- 9.6.10. Having regard to the foregoing, I am satisfied that there is no possibility of significant effects on European sites within Dublin Bay from surface water effects and hydrological links associated with the development.

Wastewater

- 9.6.11. I note the Irish Water correspondence on file (Pre-connection Enquiry, Appendix B of the Engineering Services Report) which confirms that wastewater connection is feasible without need for infrastructure upgrade. The Irish Water Wastewater Treatment Capacity Register (June 2023) also confirms that there is available capacity in the Ringsend WWTP. The development will result in an increased P.E. loading (2,046 persons) to the Ringsend WWTP, but I note that permitted upgrade works are expected to 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. The peak population equivalent (PE) associated with the proposed development (2,046 persons) would not be significant when equated as a percentage (i.e. <0.1%) of the planned 2023 PE at Ringsend WWTP (2.1 million).
- 9.6.12. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay.

The coastal waters in Dublin Bay are classed as 'unpolluted' by the EPA and enriched water entering Dublin Bay has been shown to rapidly mix and become diluted such that the plume is often indistinguishable from the rest of bay water.

9.6.13. Having regard to the foregoing, I am satisfied that no significant impacts to the European Sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development.

9.7. **In Combination or Cumulative Effects**

9.7.1. The NIS (Appendix 1B) includes a comprehensive record of existing and permitted development within a suggested zone of influence consisting of the entire HSQ development site. It highlights that the SHD application (Site A) was subject to an EIAR and a NIS and that all existing developments have been subject to rigorous assessment by competent authorities for potential impacts on European Sites. Given that all of these developments could only proceed on the basis that there would be no significant effects on any European Site, it concludes that the current case would not contribute to an in-combination effect on any European Site. In a wider context, it also highlights that other developments in the Dublin City area will also be subject to planning approval and concludes that there would not be any in-combination effects on European Sites.

9.7.2. I consider that there would be potential for an accumulation or combination with other developments as a result of increased wastewater loading on the Ringsend WWTP. However, based on the upgrade of the Ringsend Wastewater Treatment Plant and the incorporation of similar design parameters and good practice in other developments, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay.

9.7.3. There would also be potential for an accumulation or combination with other developments in relation to surface water discharge. However, all developments will be required to incorporate appropriate construction management measures and to incorporate GDSDS requirements to suitably manage the quantity and quality of surface water discharge. Accordingly, I am satisfied that there would be no potential for significant cumulative / in-combination effects on the relevant European Sites within Dublin Bay.

9.7.4. The Dublin City Development Plan 2022–2028 includes a range of objectives intended to protect and enhance the natural environment, including those relating to European Sites, wastewater management, and surface water management. These objectives have themselves been subject to Appropriate Assessments, which have concluded that their implementation would not adversely affect the integrity of European Sites.

9.8. **Mitigation Measures**

9.8.1. I note that the applicant's AA Screening exercise concluded that there was a need for surface water mitigation measures and Appropriate Assessment. These mitigation measures were subsequently incorporated into the Natura Impact Statement.

9.8.2. However, I consider that the measures proposed in respect of surface water (construction and operational stage) are standard measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site. I would highlight that the mitigation measures proposed in the Natura Impact Statement are also satisfactorily incorporated elsewhere in the application documents and drawings, including the EIAR, the Engineering Services Report, the Construction Management Plan, and the Construction and Demolition Waste Management Plan. Therefore, I consider that the NIS can be discounted, and that the proposed development would still not be likely to give rise to significant effects on European Sites.

9.9. **AA Screening Determination**

9.9.1. 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), and North Bull Island SPA (004006), or any European Sites, in view of the sites' conservation objectives, and that Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required.

9.9.2. This determination is based on the following:

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

10.0 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.

11.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: 4610/22

Appeal by HPREF HSQ Investments Ltd., care of Declan Brassil & Company of Lincoln House, Phoenix Street, Smithfield, Dublin 7, against the decision made on the 28th day of September 2022 by Dublin City Council to refuse permission for the proposed development.

Proposed Development: A mixed use commercial development comprising of a hotel (238 no. bedrooms) and an office block delivering a cumulative Gross Floor Area (GFA) of 32,602 sq.m, inclusive of basement area.

The proposed development consists of:

- Site clearance and localised demolitions to remove part of the podium and Basement Level-1 reinforced concrete slabs at the interface of the proposed hotel and office blocks, together with the incorporation of part of the existing basement level structure extending to approximately 4,228 sq.m (GFA).
- The proposed basement will be integrated within the existing basement levels serving the wider HSQ development and will be accessed from the existing vehicular ramped accesses/egresses onto/off St. John's Road West and Military Road to the north and east, respectively. The proposed basement area is split into two areas to provide a dedicated Hotel Basement area of approximately 2,132 sq.m (GFA) and an Office basement area of 2,096 sq.m (GFA)
- The construction of a 5-storey hotel (over lower ground and basement levels) to provide 238 no. bedrooms. At basement level provision is made for 24 no. car parking spaces; 2 no. motorcycle spaces together with plant and storage rooms.

A waste storage area with dedicated loading bay/ staging area is provided along with dedicated set-down area for deliveries. A dual-purpose service bay is also provided at basement level with modifications to existing line markings to the basement parking area to accommodate the development. At Lower Ground floor level provision is made for 14 no. Bedrooms; Conference Room; Kitchen and Staff facilities and Changing Rooms/ WCs plus ancillary Gym. This floor is arranged around an internal courtyard space. Provision is made at Podium level for 19 no. Bedrooms; Dining Area and Foyer with entrance at the South-Eastern corner of the building onto a new laneway separating the proposed hotel and office building. Provision is made at the south-western corner at podium level for an ESB sub-station/switch room and 15 no Sheffield type bicycle stands are provided for the hotel and the retail/cafe unit, providing storage space for 30 no. bicycles. A total of 205 no. bedrooms are provided at the upper levels (above podium level). The top floor of the hotel (4th floor) has a splayed setback to provide a west facing roof terrace. An ancillary hotel bar (118 sq.m) opens onto this roof terrace.

- The construction of a 12-storey (over lower ground and basement levels) office building to the east of the proposed hotel building to provide 19,474 sq.m of office floorspace (GFA) from lower ground floor level and above. Provision is made at basement level for 30 no. car parking spaces; 2 motorcycle spaces and 120 no. bicycle storage spaces together with plant and storage rooms. Provision is made for a further 196 no. bicycle storage spaces at Lower Ground floor level plus changing rooms (including showers). At podium level 2 no. ESB sub-stations and switch rooms are proposed. The foyer and entrance is provided at the southern end of the building at Podium level along with a Retail/Cafe unit of 208 sq.m at the South-Western corner of the building. The building is setback at 4th floor level to provide a west facing roof terrace. Splayed setbacks to the southern and eastern elevations at the 11th floor level forms a roof terrace that wraps around the South-Eastern corner of the building. Plant is provided at rooftop level that is enclosed by curved louvred screens and PV panels.
- Works proposed along the St John's Road West frontage include the omission of the existing left-turn filter lane to the vehicular ramped access to the HSQ development and re-configuration of the pedestrian crossing at the existing

junction together with the re-configuration of the existing pedestrian crossing over the westbound lanes of St. John's Road West leading to an existing pedestrian refuge island and re-alignment of the existing footpath along the site frontage onto St. John's Road West to tie into the reconfigured junction arrangement.

- Drainage works proposed include the provision of 2 no. below basement surface water attenuation tanks with duty/stand-by arrangement pump sumps and associated valve chambers, and 2 no. below basement foul pump sumps with duty/stand-by arrangement and 24hr emergency storage and associated valve chambers. New foul drainage and stormwater drainage connections are proposed to existing foul and storm sewers in St. John's Road West with associated site works.
- Hard and soft landscaping works are proposed at lower ground level along St John's Road West and at podium level to provide for the extension and completion of the public plaza to the south of the proposed Office Block and the provision of a new pedestrian laneway connecting St John's Road West with the public plaza at podium level.

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

Reasons and Considerations

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

- a) The location of the site within the Heuston and Environs Strategic Development Regeneration Area and the Z5 'City Centre' zone as per the Dublin City Development Plan 2022-2028, which aims to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity;
- b) The nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Dublin City Development Plan 2022-2028;

- c) The pattern of existing and permitted development and the availability of adequate infrastructure in the area;
- d) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- e) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- f) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth;
- g) The provisions of the Greater Dublin Area Transport Strategy 2022-2042 prepared by the National Transport Authority;
- h) The Climate Action Plan 2023 prepared by the Government of Ireland;
- i) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- j) The Architectural Heritage Protection Guidelines for Planning Authorities, published by the Department of Arts, Heritage and the Gaeltacht, 2011,
- k) The submissions and observations received;
- l) The reports from the Planning Authority;
- m) The report of the Planning Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information and reports submitted as part of the subject application, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development,

plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

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 and appeal,
- (c) the reports and decision the Planning Authority, and the submissions received from third party observers and the prescribed bodies in the course of the application and the appeal, and
- (d) the report of the Planning Inspector.

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 and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the 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 and the appeal. 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:

- Positive socioeconomic effects on population and human health associated with increased employment and demand for services during the construction and operational phases.
- The potential for negative effects on human health, air, and climate associated with nuisance/disturbance emissions during the construction phase, which would be addressed through construction management mitigation measures and would not result in any unacceptable residual effects.
- The potential for significant negative impacts on cultural (architectural) heritage, including the Royal Hospital Kilmainham and its associated gardens and structures (all protected structures), which would be satisfactorily addressed through embedded design mitigation measures including the amended design submitted with the appeal, and would not result in any unacceptable residual effects.
- The potential for significant negative impacts on landscape, including the protected Cone of Vision to and from the Royal Hospital Kilmainham site, which would be satisfactorily addressed through embedded design mitigation measures including the amended design submitted with the appeal, and 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 and monitoring measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, 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 policies and objectives of the Dublin City Development Plan 2022-2028, including the 'Z5 – City Centre' zoning for the site, would constitute an acceptable quantum of development on this accessible brownfield site within the 'Heuston and Environs' Strategic Development Regeneration Area, and would be served by an appropriate level of public transport and wastewater, surface water, and water supply infrastructure, which would be acceptable in terms of traffic safety and convenience, and would not be at risk of flooding or increase the risk of flooding to other lands. The Board considered that the proposed development would be acceptable in terms of urban design, height and scale, would not seriously injure the visual amenity or landscape character of the area including the identified Cone of Vision from the Royal Hospital Kilmainham site, and would not seriously detract from the character or setting of the area's architectural heritage including the protected structures within the overall Royal Hospital Kilmainham complex.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 25th day of October 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) The development shall be carried out in accordance with the amended design received by An Bord Pleanála on the 25th day of October 2022.
- (b) On-site car-parking provision shall be limited to car-share and accessible spaces only, the quantum of which (including a proportion of electric vehicles) shall be agreed with the planning authority.
- (c) The treatment of any residual space as a result of the removal of car-parking spaces shall be agreed with the planning authority.
- (d) The developer shall provide cycle parking spaces and associated facilities, including facilities for showers, changing, and locker storage, the quantum and layout of which shall be agreed with the planning authority.

Revised drawings 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 interest of clarity and to encourage the use of sustainable modes of transport.

3. The mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report (EIAR) submitted with this application as set out in Chapter 17 of the EIAR 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. Details of the materials, colours and textures of all the external finishes to the proposed development 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.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. The lighting scheme shall incorporate the EIAR mitigations measures for bats.

Reason: In the interests of amenity, public safety, and nature conservation.

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

Reason: In the interests of visual amenity.

7. The following shall be submitted to and agreed in writing with the planning authority prior to the commencement of development:

- (a) Design details of the junction onto St John's Road West to comply with the Lucan to City Centre Core Bus Corridor Scheme and visibility standards in accordance with the Traffic Signs Manual as published by the Department of Transport.

- (b) A swept path analysis showing proposals for access to the proposed substations.

Reason: In the interest of orderly development and traffic safety.

8. Prior to the occupation of the development, a finalised Workplace Travel Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets which reflect the reduced on-site car parking provision (as per condition no. 2 above) and shall provide for

incentives to encourage the use of public transport, cycling, walking and car-sharing, and to manage and regulate the extent of parking.

Reason: To encourage the use of sustainable modes of transport.

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

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

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

Reason: In the interest of public health

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

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

12. 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.

13. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development with measures to reflect mitigation described in the submitted EIAR for the application, in addition to the following:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;
- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- g) Proposals to facilitate servicing requirements for the overall site during construction;
- h) Measures to obviate queuing of construction traffic on the adjoining road network;
- i) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;

- j) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

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

15. (a) No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

(b) The windows to the proposed units shall not be obscured by adhesive material or otherwise, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

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

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

Reason: To provide for the satisfactory future maintenance of the development.

17. The hotel roof terrace shall not be used for any noise generating events, including amplified music or other specific entertainment noise emissions, during the opening hours of the Royal Hospital Kilmainham gardens. Measures for control and monitoring shall be agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the setting and amenity value of the Royal Hospital Kilmainham site.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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 excavations works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

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

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

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

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

Stephen Ward
Senior Planning Inspector

1st November 2023