



An
Bord
Pleanála

Inspector's Report ABP-315080-22

Development	Demolish two-storey buildings and construct a five-storey mixed-use development, including 48 apartments, a hospitality unit and a retail unit
Location	Bottom of the Hill Bar, 34 Main Street, Finglas, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4704/22
Applicant(s)	Frank Gleeson
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Frank Gleeson
Observer(s)	None
Date of Site Inspection	21 st December 2023
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site comprises a stated area of 0.2ha and is located at the junction of Main Street and Ballygall Road West within Finglas district centre on the northside of Dublin city. It is currently occupied by a two-storey public house known as Bottom of the Hill, along with a bookmaker's premises and a barber shop, all fronting onto Main Street. It features two vehicular accesses from Main Street to a surface level car park and rear service yard area, with one of these accesses currently featuring bollards restricting access. A coffee truck operates from the car park. Ground levels on site drop marginally from the northern to the southern corner along Main Street. Walls of varying heights, supplemented by planting, form the boundary with the adjoining property to the east known as Rosehill House, which is a Protected Structure and is included in the National Inventory of Architectural Heritage (NIAH) as a building of regional rating. A 2.5m-high wall topped by barbed-security wire is situated along part of the site frontage onto Ballygall Road West. A raised bed with planting, topped with a steel railing separates the car park from Main Street.
- 1.2.** The surrounding area is characterised by a mix of uses, including the various retail and commercial uses along Main Street in Finglas district centre, and Rosehill House, which is used as an employment and community-development centre. The R135 regional road bypassing the district centre, located 50m to the west of the appeal site, functions as a busy transport artery through the northwest of the city.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
- the demolition and removal of two-storey buildings, including a public house, a bookmakers and a barber shop with a stated gross floor area of 1,688sq.m;
 - construction of a five-storey L-shaped block measuring 5,177sq.m with hospitality unit (240 sq.m) featuring a basement (142sq.m) and a retail unit (140sq.m) to the ground floor, and 49 apartments at upper-floor levels comprising 14 one-bedroom, 31 two-bedroom and three three-bedroom units;
 - provision of an upgraded vehicular entrance off Main Street and a new vehicular exit onto Ballygall Road West from a covered surface-level car park

situated below a first-floor communal space featuring stepped pedestrian accesses off Main Street;

- landscaping, boundary treatments, environmental services and lighting.

2.2. In addition to the standard drawings and documents, the planning application was accompanied by various reports including a Heritage Impact Statement, a Daylight, Sunlight and Shadowing Assessment, a Social Infrastructure Audit, a Housing Quality Assessment and a Traffic and Transport Assessment.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to refuse to grant permission for the proposed development for two reasons relating to the following:

- Reason 1 – impact on the character and visual amenities of Finglas Village and the setting of Rosehill House;
- Reason 2 – failure to achieve minimum private amenity space for several apartments and the provision of poor levels of safety and security for the proposed residential entrance points.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Authority (October 2022) noted the following:

Principles

- the site is highly prominent on the approach to Finglas village centre and from the grounds of Rosehill House;
- the site features a land-use zoning Z4 'District Centres', with a stated objective in the Dublin City Development Plan 2016-2022 'to provide for and improve mixed-services facilities', and the proposed uses are all permitted for this zoning;
- the proposed use of the basement measuring 142sq.m has not been stated;

- a condition would be needed to clarify that a take-away element is not permitted, as this was not applied for and given the proposed location relative to overhead residential uses;
- the principle of demolishing the buildings on site is acceptable;
- the plot ratio and site coverage are considered acceptable, however, the density of development amounting to 243 units per hectare is of concern;
- appropriate assessment (AA) issues do not arise and the need for an environmental impact assessment (EIA) of the project can be excluded;

Height & Design

- the applicant has not successfully overcome a previous reason for refusal of planning permission for development on this site under Dublin City Council (DCC) reference (ref.) 3983/20, with the design of the proposed building, including scale, massing and density, more suited to a city centre site, as opposed to a village centre;
- the permission for a six-storey development on the site under DCC ref. 1400/07 does not provide precedent for the development, as it was approved under a previous Development Plan and an alternative national planning policy;
- precedent for the proposed development is not provided for via DCC ref. 4520/18 (St. Canice's Hall) and An Bord Pleanála (ABP) ref. 310722-21 (Merville Place Strategic Housing Development), due to the differences in the proposals and their site contexts;
- the proposed L-shaped block would be monolithic and would dominate the streetscape, while the recessed top floor would not serve to reduce the scale of the building;
- proposals present serious concerns with regard to undue negative visual impacts on the streetscape, given the dominance of the proposed building and its overall massing, scale and bulk;
- further details of the shopfronts serving the ground-floor commercial units would be necessary;

Impacts on Cultural Heritage

- concerns arise regarding the design, height, scale, massing, proportions, architectural articulation and physical proximity of the development to Rosehill House, which is included in the record of protected structures (RPS) under reference (ref.) 4850;
- the proposal would not adequately respond to its context and would seriously injure the amenity, legibility, special architectural character and setting of the Protected Structure and Finglas village;
- archaeological testing should take place prior to the commencement of any site preparation works to inform a detailed strategy for further archaeological mitigation;

Residential Amenities

- the residential mix, unit floor areas, floor to ceiling heights, lift / stair core access and aspect for the apartments would be acceptable;
- several apartments would feature balconies split into two smaller spaces, rather than one continuous usable space;
- the proximity of several proposed windows to the balconies of neighbouring apartments is a concern, for example, the rear windows of apartment 7 and the balconies serving apartments 3 and 4;
- there would be a lack of privacy buffers for apartments 8 and 9, and the functionality of terraces serving apartments 42 and 43 would be undermined by the adjoining roof terrace communal space;
- notwithstanding the results of the Daylight, Sunlight and Shadowing Assessment, there are concerns regarding the potential poor levels of daylight and sunlight provision internally in the block, particularly with regard to those apartments at lower levels and those in close proximity to the site boundary wall where windows serving habitable rooms are set deeper into the apartments as a result of inset balconies, and where the apartment depth is greater, for example, proposed apartments 3, 4, 5 and 6;

- with the exception of the main entrance, the remaining entrances into the blocks are not designed to be spacious and welcoming, nor would they appear to be covered or feature good access to natural light and ventilation;
- the entrance points would be narrow and secluded, and they would not be overlooked or benefiting from passive surveillance;
- noise abatement measures would be necessary to address the site context and the potential impacts of the proposed ground-floor hospitality unit on the upper-floor residential units;
- the extent of overshadowing is concerning, in particular the undue negative impact on the Protected Structure and its garden area to the east;
- the usability and amenity of the communal space is of concern given the extent of overshadowing likely to arise;
- a contribution in lieu of the absence of public open space in the proposals would be preferential;
- the social infrastructure audit findings are noted;

Traffic and Servicing

- gates / barriers set into the covered car park, pedestrian crossing details, segregated commercial and residential cycle parking, clarification regarding car-sharing and use of the visitor car parking spaces, and the provision of motorcycle and cargo-cycle parking spaces would be necessary;
- concerns would arise regarding the proposed footpath depth along Ballygall Road West, given the potential interaction and increased footfall that would arise along this stretch of the street;
- a service and operational plan would be necessary, including details for waste and recycling collection;
- a construction traffic management plan would be necessary and details of any areas to be taken-in-charge;
- sustainable urban drainage systems (SUDS), attenuation and flood risk details would be necessary.

3.2.2. Other Technical Reports

- Air Quality Monitoring & Noise Control Unit – further information requested in relation to an acoustics report addressing traffic noise, commercial unit operation and plant, an asbestos survey and a construction management plan, including dust management measures. Conditions are recommended with respect to air quality, odour control, noise minimisation measures and noise limitation levels;
- Drainage Division, Engineering Department – further information requested regarding sustainable drainage systems integrated with landscaping and flood risk assessment, with requirements for private drainage elements, fuel interceptor, discharge rates and basement drainage;
- Conservation Officer – refusal recommended as the development does not successfully respond to its surrounding built environment and it should take into account the setting of the Protected Structure, and seek to enhance and complement the setting and improve the architectural character of the historic village of Finglas;
- Transportation Planning Division – further information requested in relation to the proposed footpath width along Ballygall Road West, gating / barrier system to the undercroft parking, clarification regarding visitor parking allocation, provision of motorcycle spaces, car-share space, hard measures for mobility management, entrance pedestrian crossing details, the type and allocation of cycle-parking spaces, a servicing and operational plan and a construction traffic management plan;
- City Archaeologist – condition recommended.

3.3. Prescribed Bodies

- Uisce Éireann – no response;
- An Taisce – no response;
- Minister for Housing, Local Government and Heritage – no response;
- The Heritage Council - no response.

3.4. Third-Party Observations

3.4.1. None received.

4.0 Planning History

4.1. Appeal Site

4.1.1. Pre-planning application discussions between representatives of the Planning Authority and the applicant took place in March 2022 (under DCC ref. PAC0045/22), in order to discuss proposals comprising the construction of a mixed-use development, featuring commercial units at ground floor and 48 upper-level residential units. The key issues raised at this pre-planning meeting related to building heights and scale, the development impact on Rosehill house, the need for a human-scale building given the village setting, brick finishes, the usability of the communal open space, daylight / sunlight analysis, safety at the proposed entrances and contributions in lieu of the public open space shortfall.

4.1.2. The following planning application relates to the appeal site:

- DCC ref. 3983/20 – permission was refused by the Planning Authority in February 2021 for the construction of a five to six-storey mixed-use development over basement, with a bar/restaurant and a retail unit at ground floor and 51 upper-floor residential units, due to the impact on Rosehill House and Finglas village, as well as the poor provision of internal storage space, private amenity space, and safe, secure entrances and lobbies.

4.1.3. The Planning Officer's report and the Planning Report submitted by the applicant refer to four other planning applications granted permission for extensions and partial changes of use on the appeal site dating from 2001 to 2009.

4.2. Surrounding Sites

4.2.1. Planning applications in the immediate area comprising developments of a similar scale and nature to the subject proposals include:

- DCC ref. 3253/22 – permission was granted by the Planning Authority in December 2022 for change of Raven House, located approximately 170m to

the north of the appeal site, from offices to 37 build-to-rent apartments, with extensions, including an additional fifth-floor level;

- DCC ref. 3281/22 – permission was refused by the Planning Authority in April 2022 for the construction of a seven-storey building containing 30 apartments over an undercroft car park and a ground-floor retail unit approximately 10m to the north of the appeal site on Ballygall Road West, due to the Z9 open space zoning assigned to the front of the site and the impacts on neighbouring residential amenities;
- ABP ref. 310722-21 – a strategic housing development known as Merville Place was permitted in October 2021 for 191 apartments in three blocks of five to six storeys along the R135 regional road approximately 400m to the south of the appeal site;
- DCC ref. 4520/18 – permission was granted by the Planning Authority in May 2019 for 32 apartments in two blocks of two and four storeys on the Former Parochial House Site along Ballygall Road West, located approximately 20m to the north of the appeal site. This development has been completed and is known as St. Canice’s Hall.

4.2.2. The following transport project is proposed in the vicinity of the appeal site:

- ABP ref. HA29.314610-22 – in September 2022 the BusConnects Ballymun/Finglas to City Centre Core Bus Corridor Scheme was submitted to the Board with a section of the scheme fronting the appeal along the R135 regional road. This application is currently subject of a further information request.

5.0 Policy and Context

5.1. National Planning Policy

Project Ireland 2040 - National Planning Framework

5.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The NPF encapsulates the Government’s high-level strategic plan for shaping the future

growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations.

- 5.1.2. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Other NPOs of relevance to this appeal include NPOs 3(a) (40% of homes in existing settlement footprints), 3(b) (50% of new homes in the five largest cities, including Dublin), 4 (attractive, liveable and well-designed urban places), 13 (development standards), 27 (transport alternatives) and 35 (increased densities), all relating to densification and compact urban growth.

Ministerial and Other Guidelines

- 5.1.3. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, including revisions to same, comprise:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024);
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (hereinafter the 'New Apartment Guidelines');
- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the 'Building Heights Guidelines');
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government on the 17th day of January, 2018;
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009) (hereinafter the 'Flood Risk Guidelines');
- Childcare Facilities – Guidelines for Planning Authorities (2001).

5.1.4. The following planning guidance and strategy documents are also considered relevant:

- Cycle Design Manual (2023);
- Climate Action Plan (2023);
- Transport Strategy for the Greater Dublin Area 2022-2042;
- Places for People – National Policy on Architecture (2022);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (3rd Edition, 2022);
- Housing for All – A New Housing Plan for Ireland (2021);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (TII, 2014);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- EIA Guidance for Consent Authorities regarding Sub-threshold Development (2003);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0);
- Framework and Principles for the Protection of the Archaeological Heritage (1999).

5.2. Regional Planning Policy

5.2.1. The 'Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031' supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term

strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant to this appeal:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

5.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

5.3. Local Planning Policy

Dublin City Development Plan 2022-2028

5.3.1. The appeal site and the adjoining lands directly to the rear in the grounds of Rosehill House, feature zoning referred to within the maps accompanying the Dublin City Development Plan 2022-2028, as 'Z4 – Key Urban Villages / Urban Villages'. According to the Development Plan, this 'Z4' zoning has a stated objective 'to provide for and improve mixed-services facilities'. The other adjoining grounds to Rosehill House feature a land-use zoning objective 'Z1 – Sustainable Residential Neighbourhoods' with a stated objective in the Development Plan 'to protect, provide and improve residential amenities'.

5.3.2. As stated above, the RPS appended to the Development Plan includes Rosehill House (under ref. 4850), which is described in the record as a 'detached house'. The adjoining Z1-zoned lands in the grounds of Rosehill House are also identified as being within a conservation area. Chapter 11 of the Development Plan provides guidance relating to the built heritage of the city, including policy BHA2, which requires the scale, mass, height, density, layout and materials of new development to be sensitive to the setting and character of neighbouring Protected Structures and policy BHA9, which aims to ensure developments contribute positively to the character and distinctiveness of all Dublin's conservation areas.

5.3.3. Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, several of which are listed in Section 5.1 above. Policy QHSN10 of the Development Plan promotes sustainable densities with due consideration for design standards and the surrounding character. Further guidance regarding urban density is set out in Development Plan appendix 3 titled 'Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City'. Indicative plot ratios and site coverage percentages are listed in table 2 of this appendix. The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN36, QHSN37, QHSN38 and QHSN39.

5.3.4. Policies SC15, SC16 and SC17 listed in section 4.5.4 of the Development Plan, set out the Planning Authority's strategy and criteria when considering appropriate building heights, including reference to the performance-based criteria contained in the aforementioned appendix 3 to the Development Plan. Other relevant sections of the Development Plan include:

- Section 4.5.3 – Urban Density (policies SC10, SC11, SC12 and SC13);
- Section 4.5.9 – Urban Design and Architecture (policies SC19, SC20, SC21, SC22 and SC23);
- Section 8.5.1 - Addressing Climate Change through Sustainable Mobility;
- Section 9.5.1 – Water Supply and Wastewater;
- Section 9.5.3 – Flood Management;
- Section 9.5.4 –SUDS;
- Section 15.4 – Key Design Principles;
- Section 15.5 – Site Characteristics and Design Parameters;
- Section 15.8 - Residential Development;
- Section 15.9 – Apartment Standards.

5.4. Natural Heritage Designations

5.4.1. The nearest European sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 1. European sites

Site Code	Site Name	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA	5.5km	southeast
000210	South Dublin Bay SAC	8.1km	southeast
000206	North Dublin Bay SAC	8.3km	east
004006	North Bull Island SPA	8.3km	east
000199	Baldoyle Bay SAC	10.5km	northeast
000205	Malahide Estuary SAC	10.8km	northeast
004025	Malahide Estuary SPA	10.8km	northeast
004016	Baldoyle Bay SPA	11.0km	northeast
002191	Rye Water Valley / Carton SAC	13.1km	west
004113	Howth Head Coast SAC	13.5km	east
003000	Rockabill to Dalkey Islands SAC	14.1km	east
004117	Ireland's Eye SPA	15.1km	east
002193	Ireland's Eye SAC	15.1km	east
001209	Glenasmole Valley SAC	15.2km	south
004113	Howth Head Coast SPA	16.2km	northeast
004040	Wicklow Mountains SPA	16.7km	south
002122	Wicklow Mountains SAC	17.5km	south
004172	Dalkey Islands SPA	18.1km	southeast

5.5. Environmental Impact Assessment Screening

- 5.5.1. An EIA Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001, as amended, provides that mandatory EIA is required for the following classes of development:

- construction of more than 500 dwelling units;
- urban development that would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.5.2. Class 14 of Part 2 to Schedule 5 of the Planning Regulations provides that mandatory EIA is required for:

- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule, where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.5.3. The number of dwellings proposed is well below the threshold of 500 units noted above. The site has an overall stated area of 0.2ha and is located within an existing built-up area, but not in a business district given the mix of uses surrounding the site, including offices, retail and residential properties. The site area is well below the applicable threshold of 10ha. The site accommodates an operational public house, barbers shop and a bookmaker's premises, as well as a coffee truck in the car park area. The provision of residential development alongside ground-floor retail and hospitality units would not have an adverse impact in environmental terms on the surrounding land uses. It is noted that the site is not directly designated for the protection of the landscape or of natural heritage. Rosehill House is included in the RPS and listed in the NIAH, with part of its grounds within a conservation area. The proposals would not directly impact on Rosehill House or the associated conservation area. As concluded below under section 7.5 of my report, the project would not have a significant effect on the built or archaeological heritage of the area.

5.5.4. The site is not directly connected with any European sites and there is no hydrological connection present that would give rise to a significant impact on nearby watercourses. The proposed development would not give rise to waste, pollution or nuisances that differ from those arising from other mixed-use developments in the immediate area. The buildings on site are not of conservation status and their removal could be undertaken in a reasonable and safe manner complying with a final construction and environmental management plan (CEMP) for the project. In order to safeguard risks to human health, an asbestos survey should be undertaken as

part of this final CEMP, as required by the Planning Authority. The project, including the final CEMP, would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Uisce Éireann and Dublin City Council, upon which its effects would be marginal.

5.5.5. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based on class 14 of Part 2 to Schedule 5 of the Planning Regulations.

5.5.6. Having regard to: -

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of classes 10 and 14 of the Planning and Development Regulations 2001, as revised;
- the location of the proposed development on lands that are zoned 'Z4 – Key Urban Villages / Urban Villages' in the Dublin City Development Plan 2022-2028 with a stated objective 'to provide for and improve mixed-services facilities', and the results of the strategic environmental assessment of the Dublin City Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC);
- the location of this urban-infill site within an existing built-up area that is served by public infrastructure, and the existing pattern of development in the vicinity;
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001, as revised;
- the guidance set out in the 'EIA Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and;
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised.

5.5.7. I have concluded that, by reason of the nature, scale and location of the appeal site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an EIA report for the proposed development would not be necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first-party grounds of appeal can be summarised as follows:

Principle and Scale

- the appeal should be read in conjunction with the application Planning Report;
- the previous reasons for refusal of a six-storey apartment scheme on this site under DCC ref. 3893/20 are generally similar to the reasons for refusal put forward by the Planning Authority, despite these reasons for refusal being overcome by the subject proposals;
- despite the density being appropriate and no objections being submitted with respect to same, the Planning Authority refer to concerns regarding the density of the scheme without elaborating on their concerns;
- the proposed development would provide a range of units in Finglas district centre during a period when housing is in high demand;
- the Planning Authority's report fails to reference the neighbouring application for build-to-rent apartments at Raven House in Finglas, which was granted permission (DCC ref. 3253/22), and the revised neighbouring application for a six-storey apartment development at the Drake Inn site in Finglas district centre (DCC ref. 3596/22);
- the Planning Authority fail to refer to the fact that the application for a proposed apartment development on the opposite side of Ballygall Road West (DCC ref. 3281/22) was refused permission due to the site featuring a Z9 open space zoning;
- the proposed basement level would be used as part of the proposed hospitality unit for ancillary purposes such as storage;

- if necessary, the internal layout of the basement can be agreed with the Planning Authority via condition;
- a take-away use does not form part of the subject proposals;

Urban Design & Building Heights

- the Planning Authority's first reason for refusal primarily relates to subjective design reasons;
- despite the proposals having a positive visual impact where visible from the public realm within Finglas, the Planning Officer has placed too much emphasis on the site being a key site within the district centre;
- the site context allows for the proposed development, including topographical change relative to neighbouring lands, and the recently-constructed development on higher ground along Ballygall Road West;
- the development needs to address two roads, as well as the district centre context, and the scale of the development has been broken up by the set-back, top-floor level, the increased scale for the main pedestrian entrance opening onto Main Street and the proposed materials and finishes;
- the materials for the Drake Inn development (DCC ref. 3596/22) would be similar to the proposed development materials;
- there are numerous precedent cases for permitted developments of a similar scale and in similar suburban contexts within Dublin;
- the Planning Authority fail to acknowledge the previously granted permission under DCC ref. 1400/07 for a six-storey development on the application site;
- a five-storey apartment development (DCC ref. 4520/18 – St. Canice's Hall) has been permitted along Ballygall Road West adjacent to the site;
- signage and detailed shopfront elevations for the proposed ground-floor units can be provided via condition, as would be typical given the specific requirements of potential end-users;

Architectural Heritage

- policy CHC2 of the Development Plan 2016-2022 is not applicable to sites adjacent to Protected Structures;
- the site is not within the curtilage of Rosehill House and the applicant's Heritage Impact Assessment highlights that the proposed development would not have a material impact on this Protected Structure;
- Rosehill House faces southeast towards Dublin city centre and presents a blank gable onto the application site and Finglas village, therefore, the subject site is not within the attendant grounds of this Protected Structure;
- despite permitting the recently occupied (St. Canice's Hall) apartment scheme, for archaeological conservation reasons the Planning Authority place unwarranted emphasis on limiting development on land such as the appeal site in the vicinity of Rosehill House and St. Canice's Church;
- a single-storey office adjunct is situated directly between the proposed development and the primary element of Rosehill House;
- there are no protected views relating to Rosehill House and according to the NIAH record, the character and special interest of this house is associated with the fact that it is one of few surviving historical residences around Finglas;
- there are only limited views of the front elevation to Rosehill House from Finglas village and the R135 regional road;
- the proposed development is separated from Rosehill House and would provide for a greater appreciation of this Protected Structure;

Development Standards

- all balconies exceed a depth of 1.5m and the apartments have been provided with sufficient private open space;
- based on guidelines and standards splitting the balcony spaces would be necessary in providing sufficient private open space for several of the apartments;

- if necessary, winter gardens can be provided in place of balconies for apartments 8 and 9;
- precise access details and lighting can be agreed with the Planning Authority;
- the passageway accessing proposed apartments 8 and 9 would not be heavily used and would not be the primary access route for these apartments;
- mitigation measures such as screens or planting can be provided where potential overlooking might arise;
- the security and safety arrangements, including layout and access to the car park, would be similar to other developments in the city;
- the Board can consider the adequacy or otherwise of the sunlight levels to the proposed communal open space;
- the applicant is amenable to payment of a contribution in lieu of a shortfall in public open space;
- standard noise mitigation measures can be employed to address the site context and an acoustics report would not be necessary;
- when referring to concerns in relation to overshadowing in the grounds of the Protected Structure, it is unclear what part of these grounds the Planning Authority are referring to;

Transport & Drainage

- all matters raised by the Transportation Planning Division can be addressed as conditions in the event of a permission, such as revised ground-floor plan, provision of set-back vehicular gates, car-parking management plan, additional and alternative cycle-parking spaces, and the allocation of cycle-parking spaces;
- the site is not within flood zones A or B based on the strategic flood risk assessment appended to the Draft Dublin City Development Plan 2022-2028, therefore, based on the provisions of the Flood Risk Guidelines the site has low probability of flooding, the proposed uses would be appropriate for the site and a site specific flood risk assessment would not be justified for the project;

- surface water management proposals featuring a suitably-sized on-site attenuation tank, compliant with the provisions of the BRE Digest 365, would be provided.

6.2. Observations

6.2.1. None received.

6.3. Planning Authority Response

6.3.1. In response to the first-party appeal the Planning Authority requested that the Board uphold the Planning Authority decision and if permission is to be granted, conditions should be attached with respect to section 48 general development contributions, a bond, social housing and a contribution in lieu of a shortfall in open space.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Development Principles;
- Density;
- Building Heights, Layout & Design;
- Impacts on Cultural Heritage;
- Residential Standards & Amenities;
- Vehicular Access & Parking;
- Drainage.

7.2. Development Principles

Relevant Plans / Guidelines

- 7.2.1. When assessing the application the Planning Authority referred to the provisions of Dublin City Development Plan 2016-2022, as well as the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the accompanying Urban Design Manual. They also referred to the 'Finglas Strategy', which was published by the Planning Authority in 2021 and I understand to have been intended to inform the preparation of the Dublin City Development Plan 2022-2028. The Dublin City Development Plan 2016-2022 has since been replaced by the Dublin City Development Plan 2022-2028 and the recently issued Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (hereinafter the 'Sustainable Settlements Guidelines') have replaced the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities.
- 7.2.2. Based on the status of these documents, I am satisfied that this assessment should have regard to the provisions of the Dublin City Development Plan 2022-2028 and the Sustainable Settlements Guidelines, as well as the 'section 28' guidelines referenced in the relevant sections below. The Finglas Strategy is a non-statutory document and I do not consider it necessary to have regard to this document in assessing the subject proposals.

Permissible Uses

- 7.2.3. The appeal site features a 'Z4 – Key Urban Villages / Urban Villages' land-use zoning with a stated objective in the Development Plan 'to provide for and improve mixed-services facilities'. The guiding principles for the Finglas village environs that the subject site is situated within, supports mixed-use development in the village, including new residential development, in order to maintain and grow the critical mass necessary to support the continued economic viability of the village, while supporting proposed investments in public transportation. Within the Development Plan it is stated that residential uses, shops of district, local or neighbourhood scale, as well as public houses and restaurants are permissible on Z4 zoned lands. The proposed apartments and retail unit would comfortably fall into the category of residential and shop uses set out to be permissible in the Development Plan, while

the proposed hospitality unit could be considered akin to a public house or restaurant, with flexibility for this unit to be operated as a public house, a restaurant or a mix of same. Accordingly, the proposed uses are all permissible in principle on these lands, would support the land-use development principles for the subject Strategic Development and Regeneration Areas (SDRA) and would be appropriate for the site.

- 7.2.4. The Planning Authority refer to the need for the proposed use of the basement measuring 142sq.m to be stated. As clarified by the appellant in their grounds of appeal, the basement would form storage space solely for the proposed hospitality unit and with internal access only available to this basement level from the ground floor of the proposed hospitality unit, I am satisfied that the proposed use is quite clear given the documentation on the file. The Planning Authority also refer to the need for the appellant to clarify if a take-away element is being proposed as part of the development. In response to this, the grounds of appeal state that a takeaway element was not applied for and does not form part of the proposals. I am satisfied that the proposals do not feature a takeaway element, which would need to be subject to a separate permission, therefore a condition addressing this use or use of the basement would not be necessary. As the hospitality unit could reasonably entail a range of business operations in the food, drink and entertainment sector, for clarity the specific type of hospitality unit that would occupy the premises should be agreed with the Planning Authority prior to the operation of this unit. The proposed development would not exceed 10,000sq.m in floor area, therefore, based on Development Plan objective CUO25 the requirement for a minimum of 5% community, arts and cultural space to be provided in the development would not be applicable.

Demolition Works

- 7.2.5. The Planning Authority do not object to the principle of demolishing and removing the existing buildings on site, which were in use during my visit to the site. Reuse of the existing buildings for an increased intensity of mixed-use development would not be readily achievable given the scale of the building and the range of development standards. The first-party appellant's Heritage Impact Assessment notes the buildings on site had replaced terraced cottages lining Main Street and Ballygall Road West. The appellant's assessment concludes that the buildings on site are not

of conservation status. I am satisfied that there are no planning provisions strictly requiring the buildings on site to be maintained as part of the proposed redevelopment of the site, which would allow for more intensive use of this district centre site consistent with national and local objectives supporting compact urban development.

Housing Tenure

- 7.2.6. The correspondence from the Housing & Community Services section of the Planning Authority and the Part V Proposal / Indicative Cost Model report included as part of the application, indicate the Planning Authority's preference to acquire units on site and the intention of the applicant to allow the Planning Authority to acquire five social housing units within the proposed development. The distribution, proportion and method in which the social housing provision for the development is to be complied with can be addressed as a standard planning condition in the event of a grant of planning permission for the proposed development. Based on the section 28 Guidelines addressing the regulation of commercial institutional investment in housing, there is not a requirement to regulate investment in the proposed units, as apartments are exempt from a restrictive-ownership condition.

Conclusion

- 7.2.7. In conclusion, I am satisfied that an acceptable range of uses has been presented and the proposed development would comply with the Z4 land-use zoning objectives for the site, as contained in the Development Plan.

7.3. Density

- 7.3.1. Comprising 48 units on a net site area of 0.1975ha, the proposed development would feature a net residential density of 243 units per hectare. The Planning Authority initially considered the appeal site context relative to the district centre and public transport services to be capable of accommodating development at the density proposed, but subsequently considered the density to be excessive, as this density requires exceptional standards of architecture, urban design and amenity standards, to ensure that the amenities for the future residents of the scheme are high and the visual amenities of the area are improved. The Planning Authority considered the proposed density to be more typical of an inner-city or docklands site.

Notwithstanding their initial concerns, the Planning Authority's reasons for refusal of planning permission did not directly refer to the density of the proposed development.

- 7.3.2. The first-party appellant considers the density of the development to be justifiable based on national planning policy contained in the NPF and the provisions of the Building Heights Guidelines and New Apartment Guidelines, with particular reference to the short distance from the site to high frequency public bus services, which I note to be listed in their Traffic and Transportation Assessment.

Neighbouring Densities

- 7.3.3. The immediate areas to the appeal site are defined by a broad range of residential densities, including low-density terraced housing dominating the lands to the east of Rosehill House, and apartment complexes, such as St. Canice's Hall along Ballygall Road West, featuring a net density of 160 units per hectare. The permitted neighbouring build-to-rent apartment development at Raven House in Finglas district centre (DCC ref. 3253/22) would feature a density of 205 units per hectare.

National Policy and Section 28 Guidelines

- 7.3.4. In terms of density and the national policy context, the NPF promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights. The NPF recognises that a significant and sustained increase in housing output and apartment-type development is necessary.
- 7.3.5. In relation to Section 28 guidance addressing housing density, the Building Heights Guidelines and the New Apartment Guidelines all provide further guidance in relation to appropriate densities and support increased densities in appropriate locations, in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 7.3.6. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in

urban areas and this should not only be facilitated but should be actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

- 7.3.7. The New Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support ongoing population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city / town / local centres or employment locations. Suitable locations stated in the Guidelines include ‘central and / or accessible urban locations’, ‘intermediate urban locations’ and ‘peripheral and / or less accessible urban locations’. The Guidelines also state that ‘the range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors’.
- 7.3.8. The Sustainable Settlements Guidelines promote increased residential densities and the utilisation of a tiered approach in identifying appropriate densities for settlements, with density ranges for the city centre, urban neighbourhoods and suburbs of Dublin city set out in table 3.1 of the Guidelines. There is a general presumption against densities exceeding 300 units per hectare, while sensitivities such as context and biodiversity need to be considered for very small infill sites. The density range suitable for a site should be considered and refined according to these Guidelines, with densities at the higher end of the ranges suitable for the most central and accessible locations relative to public transport provision, including locations within 1km walking distance of an existing or planned high-capacity, urban public transport node or interchange, including DART, high-frequency commuter rail, light rail and MetroLink services, or locations within 500m walking distance of an existing or planned BusConnects ‘Core Bus Corridor’ stop.

Regional Policy

- 7.3.9. In addressing the settlement strategy for Dublin city and its suburbs, the RSES supports the consolidation and re-intensification of infill/brownfield sites to provide high-density and people-intensive uses within the existing built-up area and ensure that development is co-ordinated with the delivery of key water and public transport infrastructure. This approach is reaffirmed within RPO 4.3 of the RSES. The RSES also refers to key national strategic outcomes in the NPF, followed through into the RSES, as targeting compact growth in urban areas.

Development Plan Policy

- 7.3.10. Policy SC10 of the Development Plan addresses densities and the creation of sustainable communities. Appendix 3 to the Development Plan sets out net density ranges for residential developments based on their location within the city, including the city centre and canal ring (inner suburbs), SDRAs, Strategic Development Zones (SDZs) and Local Area Plan lands, key urban villages, former Z6-zoned industrial lands and the outer suburbs. In considering the appropriateness of densities for a site the Development Plan refers to the need to respect the character and amenities of an area, the need to consider access and capacity of public transport, the need for varied housing typologies and the need to create liveable places. These matters are addressed separately below when considering the various potential impacts of the development and the design quality of the proposals. In setting out principles for development on Z4-zoned lands, the Development Plan refers to the need to ensure the establishment of higher-density development capable of sustaining quality public transport systems and supporting local services and activities.
- 7.3.11. When referring to areas for increased height and density, appendix 3 refers to all of the aforementioned areas, as well as an additional area titled 'public transport corridors', stating that these are all locations for a more intensive form of development. The Development Plan supports higher densities within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the city, although the capacity of public transport needs to be considered.

Access to Public Transport and Services

- 7.3.12. The appeal site is located over 1km from the nearest existing or planned rail or Metrolink stops. It is less than 500m from the Finglas village stop along the

preferred route for the LUAS Finglas extension. The nearest public bus stops to the appeal site are stop nos.4542 and 100891 along the R135 regional road within a 200m easy walk of the appeal site. These stops are served by city bus routes 40, 40b, 40d and 140, all connecting the appeal site with the city centre. Bus stops 1513 and 1530 along Main Street serve the 220 and 220a bus route providing hourly daytime connections with Mulhuddart. An application for BusConnects Ballymun/Finglas to City Centre Core Bus Corridor Scheme is currently with the Board (ABP ref. HA29.314610) and this would operate along the R135 regional road with two bus stops presently intended to be within 100m of the appeal site.

7.3.13. The New Apartment Guidelines and the Development Plan refer to the capacity of public transport services requiring consideration with respect to appropriate densities, a matter that I specifically address further below. In considering the general provision of public transport available in this area, I would note that the capacity of services is intrinsically linked to frequency. Based on the publicly-available timetable for the above Dublin Bus routes, during morning peak hours over ten services would operate from bus stop no.4542 with connections to the city centre.

7.3.14. Notwithstanding the fact that the first-party appellant does not appear to have identified if there is any spare capacity in the existing bus services operating along these corridors, given the present provision of bus services and the likely modal split of the additional potential future population residing in the proposed development, local public transport services would be unlikely to be overwhelmed by the proposed development and would be sufficiently capable of serving the proposed development. Measure BUS5 of the Greater Dublin Transport Strategy 2022 to 2042 states that it is the intention of the National Transport Authority to continually monitor the demand for bus services in the Dublin area as part of the roll-out of the new service network, and to enhance or amend the service network as appropriate.

Location Category

7.3.15. A footnote to the Sustainable Settlements Guidelines refers to urban neighbourhoods as comprising SDRA, such as those indicated in the Dublin City Development Plan. I note that Finglas village environs and Jamestown lands forms SDRA 3 of the Development Plan, and the appeal site is situated inside the

boundary of this SDRA. Urban neighbourhoods are also stated in the Sustainable Settlements Guidelines to comprise town centres designated in a Development Plan, and I note that the appeal site could be considered to comply with same given its location and zoning as part of the key urban village of Finglas.

- 7.3.16. Based on the provisions of the Sustainable Settlements Guidelines and the proximity and accessibility criteria analysed above, I am satisfied that the appeal site can be considered to fall into the category of a site located within an urban neighbourhood where densities in the range of 50 to 250 units per hectare are supported. Furthermore, given the proximity and access to high-frequency, public transport bus services within 200m of the site, and cognisant of proposals for a core bus corridor along the adjacent regional road, I am satisfied that densities at the higher end for an urban neighbourhood, including at 242 units per hectare, would be appropriate. Following the requirement for local assessment of location categories in the New Apartment Guidelines and the details above, I am satisfied that the site can also be categorised as being within an ‘accessible urban location’ where a development may wholly comprise apartments. As the site is within a SDRA and a key urban village it would comfortably fall into the locations stated in the Development Plan to be suitable for a net density of 100 to 250 units per hectare.

Density Conclusion

- 7.3.17. In conclusion, I would not share the Planning Authority’s reservations regarding the proposed density for the development, as it complies with Government policy seeking to increase densities in appropriate locations and thereby deliver compact urban growth. The proposed development in this location would not contradict density standards contained in the Development Plan or section 28 Guidelines, and the proposed density would be appropriate for the site based on the density ranges and refining criteria set out within the Sustainable Settlements Guidelines and the Development Plan. Certain criteria and safeguards must be met to ensure a high standard of design and I address these issues in my assessment below.

7.4. Building Heights, Layout and Design

Context

- 7.4.1. The existing buildings on site feature maximum heights of 6.6m to 9.6m. The surrounding area, including the district centre and the terraced housing estates, are primarily dominated by two-storey housing, although there are five-storey buildings along the R135 regional road, including the Fuel Yard apartment complex, at Raven House in the district centre and at St. Canice's Hall along Ballygall Road West.
- 7.4.2. When measuring to roof parapet level, the highest element of the proposed development would measure a stated 15.9m and would be set directly onto the back edge of the footpath along Main Street and Ballygall Road West. Variations in building height profiles relative to ground levels and neighbouring buildings are illustrated on the various elevation drawings submitted with the application (see drawing nos. PL010, PL011 and PL012). The tallest element of the proposed development would be approximately 0.4m higher than the roof ridge height to Rosehill House, which is situated on higher ground, and approximately 7m higher than the roof-ridge height of the two-storey building on the opposite corner of Ballygall Road West and Main Street.
- 7.4.3. The Planning Authority consider the massing and scale of the proposed development to be more appropriate to a city centre site and in refusing permission they referred to concerns regarding the scale, massing and height of the buildings relative to the surrounding context, including Rosehill House, which I address further below in section 7.5. Further to this, the Planning Authority consider that the proposed development does not overcome height concerns that previously arose in the refusal of planning permission for a six-storey building on this site featuring a stated maximum height of 17.3m (DCC ref. 3983/20). On reviewing the Planning Report submitted with the application, the Planning Authority did not consider a previous permission for a six-storey development on the site (DCC ref. 1400/07), the existing St. Canice's Hall development (DCC ref. 4520/18) or the permitted Merville Place strategic housing development (ABP ref. 310722-21) to provide precedent for the proposed development. In response to the Planning Authority's decision, the appellant asserts that the building heights would be appropriate given the site context, including the site levels relative to neighbouring lands on higher ground, and

the proximity to St. Canice's Hall apartment complex, while reaffirming the various precedent cases they consider support the scale and height of the proposed development.

National Building Height Policy

- 7.4.4. National policy, including specific planning policy requirement (SPPR) 1 of the Building Heights Guidelines, describe the need to move away from blanket height restrictions and that increased building heights at accessible and serviced locations within the metropolitan area should be supported. Following the conclusions in section 7.3 above, I am satisfied that the site is reasonably-well located and serviced with options to access existing high-frequency, high-capacity public transport services, with links between modes, as well as increased access and connections available through more active modes of walking/cycling, and with an array of services and amenities within walking and cycling distance of the site.

Local Building Height Policy

- 7.4.5. Policy SC16 of the Development Plan recognises that Dublin city is fundamentally a low-rise city, but that there is scope for increased heights in locations, subject to compliance with performance criteria, principles and development standards, including those listed in appendix 3 to the Development Plan. Key criteria that all proposals for increased urban scale and height must demonstrate include those relating to the general contribution of the development to the compact urban growth principles of the NPF, access, infrastructural capacity, open space, unit mix, emergency access, ecology and site context, each of which are considered as part of this assessment. Further to this, table 3 in appendix 3 to the Development Plan sets out 46 items to be considered under ten objectives for proposals for buildings that would be higher than those in the vicinity. The stated objectives refer to urban design principles such as promoting a sense of place and addressing the site context, as well as providing appropriate legibility, continuity, enclosure of spaces, connectivity, attractive spaces, mixed uses and activities, and sustainable buildings. These objectives generally overlap with criteria for the assessment of increased building heights contained in the Building Heights Guidelines and address the need to consider the layout and design of a development.

7.4.6. The guiding principles stated in the Development Plan for building heights in this SDRA require a response to the prevailing scale and grain of the building stock, street widths and any unique characteristics, with building heights in the range of three to six storeys generally encouraged in order to provide a coherent street structure with an appropriate sense of enclosure, while responding to the existing character of Finglas village. Particular focus on roofscapes should be given and monolithic heights should be avoided according to the Development Plan. In the proceeding paragraphs I consider the subject proposals against the building height criteria in the Development Plan.

Design and Layout

7.4.7. With regard to the contribution of the development to the promotion of a sense of place and character, I note that the development would demolish and remove a building of relatively unique appearance and most likely a local landmark, however, no parties to the application or appeal have highlighted any substantive merit in this building remaining. The proposed redevelopment of this site would deliver a widened footpath along Ballygall Road West, thereby providing an increased public realm along this route and improvements for pedestrian movement along this frontage. Furthermore, by redeveloping the site for a mix of uses, including additional housing and uses that would be open to the public and the local community, the proposals would make a positive contribution to place-making in the area.

7.4.8. The proposed building would extend across the site forming a five-storey urban edge of approximately 59m length directly onto Main Street and 45m length directly onto Ballygall Road West. The fourth floor to the development would be recessed by 1.5m from the primary edge to the proposed building. At ground level, in addition to the vehicular and pedestrian access points, two commercial units would be provided activating the street.

7.4.9. The Planning Authority consider the proposed L-shaped block to be monolithic in appearance, dominating the streetscape, while also asserting that the recessed top-floor element would not sufficiently reduce the visual impact of the development. The comments from the Conservation Officer in the Planning Authority also assert that more consideration should be given to an elevation design definition that relates

to a more appropriately scaled block as a better response to the extant urban grain and plot scale of the wider village. In refusing permission for the proposed development the Planning Authority considered the proposed development on a prominent corner site would not successfully respond to the surrounding built environment, would have a seriously injurious and adverse impact on the character and visual amenities of Finglas Village, and would seriously injure the amenity, legibility, special architectural character and historical setting of Finglas village.

7.4.10. The appellant asserts that the design and layout of the proposed development has been guided by the site context and other developments of a similar scale and nature previously permitted on the site (DCC ref. 1400/07), in the immediate area (St. Canice's Hall) and the wider city. They also assert that there is a need for the development to address Ballygall Road West and Main Street, as well as the district centre context, with the scale of the development broken up by the materials and finishes, the recessed top floor and the higher than standard pedestrian entrance opening through the building onto Main Street.

7.4.11. The Development Plan outlines specific guiding principles for development in the Finglas village environs, including the need for developments to create enclosure and form active frontages with the streetscape. The Development Plan also stipulates that the built form of new developments should limit the use of setbacks, in order to create a strong street edge and a sense of enclosure, with the key village gateways forming a fundamental part of the overall urban design strategy and act as a tool in redefining the village core. Figure 13-3 of the Development Plan details guiding principles for the SDRA, including an indicative key building frontage matching the footprint of the existing building on site along Ballygall Road West and Main Street.

7.4.12. The appearance of the development is best illustrated in the perspective drawings (nos.PL014 and PL015) provided as part of the application. The SDRA guiding principles clearly facilitate the proposed five-storey building heights on the application site, and in my opinion given the extensive open roadways fronting the site and the need for a strong urban edge defining the roadside at this entrance to the village, I am satisfied that there is substantive justification for the heights and scale of the proposed development. Whereas the Planning Authority support the introduction of an increased setback for the proposed building and a reduced depth,

the Development Plan is quite clear in terms of the need to limit such setbacks in order to create definition to the streetscape. I am satisfied that the approach undertaken, including the building height and scale, would enclose the streetscape fronting the site and would appropriately announce the location of the development at a gateway to the village from Ballygall Road West and Main Street / the R135 regional road.

- 7.4.13. In relation to the appearance and the village plot size pattern, I note that the plot size is not consistently adhered to in the existing buildings in the village and that notwithstanding this, the proposed building would appear to provide some visual references to this plot size by virtue of the building proportions and, in particular, the vertical visual breaks in the building frontage along Main Street formed by the stepped pedestrian access and the windows alignment, as well as the stacked recessed balconies fronted by glazed screens. A high-quality palette of durable materials for the buildings and landscaping is proposed, including red brick throughout and aluminium panels for the recessed top floor, which would match the appearance of the materials for the proposed windows and roof.
- 7.4.14. The lands adjoining to the northeast are also included as part of the Z4 'key urban village / urban village' zoning, with the proposals providing a 14m-deep elevation onto this plot, with varying brick finish and no windows. Given the zoning provisions this would appear an appropriate elevational response to the boundary façade in this planning context.
- 7.4.15. I am satisfied that the design and layout of the development, including active uses at street level, upper-level apartments, limited use of setbacks, the strong urban edge and the enclosing of the street, including the expansive public realm to the Main Street /R135 frontage, would adhere to the guiding principles set out in the Development Plan for the SDRA. Accordingly, I do not consider the proposals to present undue negative visual impacts for the streetscape, on the contrary, I consider the proposals to improve the appearance and better announce the entrance to Finglas district centre.
- 7.4.16. The Planning Authority assert that further details of the shopfronts serving the ground-floor commercial units would be necessary, and the appellant notes that the signage and detailed shopfront elevations for these units can be provided via

condition, as would be typical given the specific individual requirements of potential end-users. I am satisfied that there is sufficient information with the application to allow for the final details of all external shopfronts and signage to the commercial units to be provided as conditions in the event of a grant of planning permission.

Open Spaces

- 7.4.17. Section 15.8.6 of the Development Plan states that there is a requirement for 10% of Z4-zoned lands to be provided as meaningful public open space in development proposals, and this would amount to 197sq.m for the subject development. The first-party appellant states that public open space would not be provided within the development and that they would be willing to pay a contribution in lieu of the absence of public open space as part of the proposed development. The Planning Authority also support payment of this contribution and section 15.8.7 of the Development Plan allows for this approach to be undertaken with respect to developments of this nature and scale, and where site constraints do not normally allow for on-site provision. In this regard the vast majority of developments within the district centre do not feature on-site public open space and I note the various public spaces in the village and the wider neighbourhood. The site is of relatively small area and the potential provision of 197sq.m of the site as public open space would be of limited function and limited benefit to the public.
- 7.4.18. The Dublin City Council Section 48 Development Contribution Scheme 2023-2026 details how a contribution in lieu of public open space is to be calculated, therefore, under the terms of section 48 of the Act of 2000, I am satisfied that calculation of this contribution can be agreed as a standard section 48 development contribution condition attached to a decision.
- 7.4.19. Communal amenity space is proposed at first-floor podium level forming an overlooked courtyard within the development and at fourth-floor roof-terrace level. The New Apartment Guidelines provide some flexibility in the achievement of communal amenity space standards on infill urban sites of less than 0.25ha. A landscape design plan illustrates the details and layout of the podium-level courtyard, which would comprise a play space for children aged between two and 12, as well as a shaded seating area set among planting and varying soft and hard surfaces. I would not consider the stepped pedestrian access included in the

community amenity space to form quality, functional communal amenity space. Notwithstanding this, based on the size and number of the proposed apartments the communal amenity space amounting to almost 600sq.m would comfortably meet the minimum area (314sq.m) required arising from the provisions of the Development Plan and the New Apartment Guidelines.

- 7.4.20. The Planning Authority consider the level of overshadowing to the proposed communal amenity space to compromise the quality and attractiveness of this space, despite acknowledging that the application Sunlight, Daylight and Shadowing Assessment report calculates and illustrates that 85% of this space would receive the minimum standard of two hours of sunlight on the Spring equinox, which would be within the recommendations of the BRE 209 Guide; 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (2022). The Planning Authority base their opinion on the shadow images forming appendix E to the Sunlight, Daylight and Shadowing Assessment report illustrating the overshadowing differences between the existing and proposed scenarios at varying times of the day during the spring equinox, as well as the summer and winter solstices. I am satisfied that the extent of sunlight to the communal amenity space would accord with the provisions outlined in the BRE 209 Guide 2022 and, as such, would not be prejudicial to the amenities of future residents of the scheme, particularly having regard to the site zoning, context and limited size, as well as the provision of alternative additional roof terrace communal amenity space.
- 7.4.21. The existing site features very limited natural vegetation or suitable habitat for flora and fauna, and the subject proposals would feature minor biodiversity enhancement measures via the increased area to be assigned to planting of shrubs, grasses and trees on site and the intention to manage same.

Standards and Amenities

- 7.4.22. The quality of the proposed residential accommodation, including private amenity space and lighting is assessed in section 7.6 below, where it is concluded that the proposed development would provide a suitable mix and standard of apartments and amenities, meeting the relevant design standards and providing a suitable level of amenity for future residents. As stated, the mix of uses conforms to Development Plan provisions and would not conflict with neighbouring uses. Given the existing

nature of housing in the wider area, predominated by family-size housing to the east and with a very limited mix of district centre apartments, as well as the increased demand for apartments in accessible areas of Dublin city, further provision of apartments would clearly add to the mix of housing in this area. In relation to ensuring the proposals feature high-quality and environmentally-sustainable buildings, I note the various information submitted with the application with respect to energy efficiency and sustainability, as well as services and other supporting infrastructures, which indicate that the proposals would be satisfactory subject to standard conditions.

Access and Management

- 7.4.23. Matters pertaining to the accessibility of the site have been addressed above, highlighting that the location is suitable for increased building heights and densities. The impact of the proposals on historic structures is undertaken as part of the proceeding section. An operational waste and recycling management plan and finalised management plans for the scheme, as required by the Planning Authority, can be requested via conditions, as would be standard in the event of a grant of planning permission. The proposed development is not of a scale that would be anticipated to have significant effects with regard to microclimate, either on the amenity spaces in the vicinity of the development or within the development.

Conclusion

- 7.4.24. In conclusion, I am satisfied that the proposed development would not fail to comply with building height provisions of the Development Plan, including performance criteria relating to the design and layout of the development. Notwithstanding this, the Development Plan advocates that when considering building height, regard must be had to the prevailing context within which the site is located and broader consideration must also be given to potential impacts such as impacts on architectural heritage, as undertaken below.

7.5. Impacts on Cultural Heritage

Architectural Heritage

- 7.5.1. In refusing permission for the proposed development, the Planning Authority asserted that the proposed development, including its physical proximity to Rosehill

House, would have seriously injurious and adverse impacts on the amenity, legibility, special architectural character and setting of this Protected Structure, and consequently would be contrary to Development Plan policy. The reason for refusal of planning permission also referred to impacts on the character and setting of Finglas village, which I have primarily addressed above in section 7.4, and which I note not to feature a particular architectural conservation status, such as being situated within an architectural conservation area (ACA) or a conservation area. There are archaeological heritage features relating to Finglas and in the vicinity of the appeal site, which I address in section 7.5.10 below.

- 7.5.2. The grounds of appeal assert that the appeal site does not form part of either the curtilage or attendant grounds to Rosehill House and as a consequence it would not have a material impact on the character of the Protected Structure. The appellant refers to the conclusions of the Heritage Impact Assessment accompanying the application and also notes that there are only limited views of Rosehill House from the centre of Finglas and the immediate streets, with the subject proposals not substantively impacting on the setting of the Protected Structure. The Heritage Impact Assessment refers to the evolving characteristics of Finglas and Rosehill House, concluding that the proposed development would have minimal impact on the character or setting of Rosehill House, as well as other Protected Structures in the area.

Policy & Guidance

- 7.5.3. The adjacent Rosehill House is included in the record of Protected Structures appended to the Development Plan (RPS ref. 4850). The precise extents of this Protected Structure, including its curtilage or attendant grounds, are not detailed in the Development Plan, with the RPS record only referring to a 'detached house'. It reads as a two-storey house from its primary elevation facing southeast, although it features a lower-ground floor extending to the boundary with the appeal site and rooms in the roofspace, resulting in it comprising four storeys in total. It is in use as offices for an employment and community development company. The adjoining Z1-zoned lands in the grounds of Rosehill House are also identified as being within a Conservation Area. Rosehill House is included within the NIAH (ref. 50130031) where it is referred to as a grand and elegantly-proportioned, classical-style, eighteenth-century house with later accretions. The NIAH refers to the house as

being prominently situated above Main Street and having various notable features, such as a canted front with an octagonal entrance hall, pedimented gables and corner stair tower. As referenced by the Planning Authority in their report, Rosehill House is referenced in the NIAH as an important early survivor of the country residences around Finglas and currently in use as offices. Other neighbouring Protected Structures include St. Canice's Church in Finglas district centre (RPS ref.4851) and Towson's cottage (RPS ref. 4849) fronting the main gates to Rosehill House between Main Street and the R135 regional road.

- 7.5.4. Development Plan policy BHA2 requires the scale, mass, height, density, layout and materials of new development to be sensitive to the setting and character of neighbouring Protected Structures and policy BHA9 aims to ensure developments contribute positively to the character and distinctiveness of all Dublin's conservation areas. In relation to the guiding principles for the subject SDRA, the Development Plan stipulates that the bulk, scale and massing of buildings should respect and respond to the site-specific context, including the historic building stock and archaeological features. The Architectural Heritage Protection Guidelines for Planning Authorities (2011) also provide guidance in relation to development and built heritage, in particular works affecting historical buildings or structures.

Impact on Rosehill House - Protected Structure

- 7.5.5. The appeal site directly adjoins the grounds of Rosehill House and the application landscape plan states that the existing boundary wall elements along this adjoining property would remain in situ as part of the proposed development. It is also intended to plant a line of yew trees along two 15m-long sections of the boundary closest to the Protected Structure. The proposals do not entail any works to Rosehill House, therefore the development could not be considered to directly impact on the special architectural character of Rosehill House.
- 7.5.6. A separation distance of at least 22m would be provided between the closest upper-floor level to the proposed development and the upper levels to Rosehill House. The context for the relationship between the new building and Rosehill House is best visualised via the 'Protected Structure Perspectives 1 and 2', included as part of drawing no.PL 015. At present the Protected Structure is most visible from within its own grounds, where neighbouring buildings, boundary treatments and trees don't

interfere with its setting. Elements of the Protected Structure are also visible to varying extents in locations along the approaches to Finglas village, including Ballygall Road West, Ballygall Parade and Finglas Place, and along intermittent sections of Main Street and the R135 regional road to the front of the site. Views of the lower-ground floor rear element to Rosehill House are very limited due to its proximity and screening by boundary walls, as well as its position relative to the main house.

- 7.5.7. In my opinion, the separation distances between the upper-levels of the Protected Structure and the proposed building would be sufficient to ensure the form of the Protected Structure would not be impacted when viewed from within the grounds of the Protected Structure, from the immediate area to the front along Main Street and from the approaches along Ballygall Road West and Finglas Place. The introduction of the new building into the streetscape would restrict views towards the Protected Structure from the public realm fronting the existing car park area on the appeal site. Notwithstanding limited additional restriction of views towards the Protected Structure, I am satisfied that the proposed development would not substantially interfere with the primary views of the Protected Structure and its setting. Given the separation distances, as well as the contemporary design and materials to be employed in the proposed building, the proposed development would not undermine or overwhelm the setting and appearance of Rosehill House. Furthermore, I am satisfied that the proposed building would be visually differentiated from Rosehill House, allowing the development to sit comfortably and sympathetically with the Protected Structure, allowing the Protected Structure to remain distinct and legible, and ensuring that the development would not detrimentally impact the character of the Protected Structure in an indirect manner.

Impact on Rosehill House Conservation Area

- 7.5.8. The Rosehill House conservation area covers an area zoned for Z1 'sustainable residential neighbourhoods' within the grounds of Rosehill House. Policy BHA9 of the Development Plan aims to protect the special interest and character of conservation areas. In my opinion, the existing special interest and character of the conservation area is generally defined by its landscaped grounds, featuring mature trees, affording the best views of Rosehill House, including its front elevation with stepped entrance. The Planning Authority do not state whether the proposed

development would or would not have a negative impact on the setting or character of this conservation area.

- 7.5.9. I acknowledge that the proposed development would feature buildings of increased height than those presently on the appeal site and it would introduce buildings closer to the conservation area boundary with a 2m to 5m separation distance from the new building to the conservation area boundary. Notwithstanding this, the proposed development would not directly impact on the conservation area, including the mature trees, boundary features and Protected Structure, and the proposed development introducing a contemporary building replacing a building that is not referred to as being of architectural merit, could reasonably be considered to enhance the setting of the conservation area. Furthermore, the proposed development would have very limited scope to interfere with views of the Protected Structure from the majority of the conservation area. In conclusion, I am satisfied that the proposed development would not have a negative impact on the setting and character of this adjoining conservation area.

Archaeological Heritage

- 7.5.10. Based on the maps accompanying the Development Plan, the appeal site is situated entirely within the identified zone of archaeological interest for Recorded Monument or Place (RMP) ref. DU014-079, which relates to the 18th / 19th-century Rosehill House. The northwest corner of the site is marginally outside the RMP area assigned to the historic settlement of Finglas (RMP ref. DU014-066). The Planning Authority recommend that archaeological testing should take place prior to the commencement of any site preparation works to inform a detailed strategy for further archaeological mitigation. Policy BHA26 of the Development Plan primarily aims to protect and preserve RMPs, including the various measures required to undertake same.
- 7.5.11. Much of the site has previously been constructed upon, however, given the site context within an identified zone of archaeological significance and as unknown archaeological evidence may remain on site, to adhere with the provisions of policy BHA26 to the Development Plan, a condition similar to that put forward by the Planning Authority should be attached in the event of a grant of planning permission,

requiring the preservation, recording and protection of archaeological materials or features that may exist within the site.

Conclusion

- 7.5.12. Subject to conditions, I am satisfied that the proposed development would provide an appropriate response to the built and archaeological heritage context, compliant with and not materially contravening the built and archaeological heritage policies of the Development Plan, which seek to preserve the built and archaeological heritage of the city, including safeguarding the special interest, character and setting of protected structures and conservation areas, and protecting and preserving archaeology.

7.6. Residential Standards & Amenities

- 7.6.1. The Planning Authority's second reason for refusal was centred on the proposed development not providing an adequate standard of residential amenity for future occupants and the perceived poor levels of safety and security for the proposed residential entrance points, which they considered to be contrary to the provisions of the New Apartment Guidelines and the Development Plan. Several concerns were also raised in the Planning Authority's report on the file, although these were not all referenced within the final decision of the Planning Authority. I note that concerns are not raised with regard to apartment mix, floor areas, lift and stair core access, floor-to-ceiling heights and the aspect to the apartments, as well as the provision and availability of supporting facilities, and I am satisfied that the proposals would satisfy the relevant requirements with respect to same.

Private Amenity Spaces

- 7.6.2. Section 15.9.7 of the Development Plan addresses the provision of private amenity space in new developments, referring to the New Apartment Guidelines for such standards. The New Apartment Guidelines require a minimum individual private amenity space provision of 5sq.m for one-bedroom apartments, 7sq.m for four-person, two-bedroom apartments and 9sq.m for three-bedroom apartments, with all spaces to be at least 1.5m in depth. The Planning Authority refer to nine of the proposed apartments (4, 6, 18, 20, 29, 31, 32, 33 and 44) featuring balconies or terraces split into two smaller spaces, rather than one continuous space. The New

Apartment Guidelines also state that private amenity space standards for apartments within urban infill schemes on sites of up to 0.25ha may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. These Guidelines also state that it is preferable for balconies to be primarily accessed from living rooms, although larger apartments may include wrap around and/or secondary balconies, which should also include a screened clothes drying space. The Planning Authority also refer to several balconies as falling short of the minimum 1.5m depth requirement.

7.6.3. It is asserted by the appellant that minimum depths of 1.5m are provided for each of the balconies and that sufficient private amenity space is proposed for the apartments. The application Housing Quality Assessment indicates that the minimum areas required are achieved for the private amenity spaces serving each of the apartments, although according to the appellant, splitting the private amenity spaces would be necessary to meet the relevant minimum requirements for several apartments.

7.6.4. Based on the floor plan drawings (nos.PL06 to PL09 inclusive) there would be 12 apartments (when including apartments 7, 16 and 19) that would feature a combined area from their two balconies or terraces, in order to comply with the minimum stated areas required for private amenity spaces. This would arise for nine two-bedroom apartments and all three of the proposed three-bedroom apartments. The Guidelines allow for secondary balconies serving larger apartments, which could reasonably include the three-bedroom units, however, I am not satisfied that this exception could strictly apply for the nine two-bedroom units, which I consider would not fall into the 'larger apartments' bracket. Any perceived substantial shortfalls in the 1.5m depth for the private amenity spaces do not appear accurate based on the drawings submitted. Given the intricacies of efficiently developing small infill urban sites for apartments, and as provided for in the New Apartment Guidelines, there is scope for a relaxation in private amenity standards and I am satisfied that this would apply for the appeal site. In conclusion, the provision of secondary balconies or terraces for 12 of the 48 proposed apartments, as well as the general size and arrangement of balconies and terraces would be satisfactory based on the terms of the New Apartment Guidelines.

Privacy

- 7.6.5. The Planning Authority assert there would be a lack of privacy buffers for the terrace space serving apartments 8 and 9, which are to be located along an access walkway at podium level off Main Street on the southern side of the development. The applicant asserts that the adjoining walkway would not be heavily used and that measures, such as planting or winter gardens in place of the terraces for proposed apartments 8 and 9 can be incorporated into the design to address this situation. The application Landscape Design drawing (no.P684 01) illustrates a privacy strip of varying depth comprising surface-level planting mix outside of a washed-cobble stone surface lining the edge of the southern-side terraces serving apartments 8 and 9. As these apartment terraces are positioned onto communal walkways, the 1.5m privacy-buffer depth requirement under the New Apartment Guidelines would not be strictly applicable, as this only relates to public space, although such a depth would be desirable. In compliance with the New Apartment Guidelines, I am satisfied that the detailed design adjoining these terraces would incorporate landscaping features appropriate to ensure a reasonable level of privacy and security for the respective apartments on this small urban infill site.
- 7.6.6. The Planning Authority also refer to the potential nuisance from noise as being problematic for the future residents of apartments 42 and 43 at third-floor level, given that their private terraces would directly adjoin a roof-terrace communal space. In response the appellant asserts that planting and screens could potentially be employed to address this situation. The application Landscape Details drawing (no.P684 02) indicates raised-bed planters lined by seating in this roof terrace communal space, a measure that could be employed to mitigate the impacts of using the communal space adjacent to the private terraces. However, the positioning of the planters and seating would not adjoin the private amenity space terraces to apartments 42 and 43, although I am satisfied that this could be revised to address the issue as a condition in the event of a permission. Defensible space should also be provided for the terrace space serving apartment 44 adjoining the communal amenity space. I am satisfied that this would suitably address the potential for undue impacts to arise for future residents, including residents of apartments 42, 43 and 44.
- 7.6.7. The Planning Authority also raise concerns regarding the potential for nuisance via noise to impact on residents due to the relationship between proposed private

amenity spaces of apartments and the proposed bedroom windows of neighbouring apartments. In this regard the Planning Authority refer to the rear bedroom windows at podium-level to apartment 7 and the terraces serving apartments 3 and 4, which would be separated by a distance of 8m to 9m. I do not share the reservations of the Planning Authority in this regard, as the bedroom windows to proposed apartment 7 would not directly overlook the private terraces serving proposed apartments 3 and 4, and as these apartments are separated by a communal space and walkways serving the complex. If noise nuisance was to be a realistic issue in this situation, in my opinion this would raise substantive concerns for most apartment developments on small urban-infill sites.

- 7.6.8. In conclusion, I am satisfied that excessive loss of privacy or undue nuisance from noise would not arise for future residents, with scope for mitigation to address any potential issues arising.

Access

- 7.6.9. The Planning Authority's second reason for refusal of planning permission refers to poor levels of safety and security for the proposed residential entrance points, which they assert would in part result in an unsatisfactory level of residential amenity for future occupants of the proposed scheme and would be contrary to the provisions of the New Apartment Guidelines and the Development Plan. With the exception of the main stepped pedestrian entrance off Main Street, the Planning Authority consider the remaining entrances would not be spacious, welcoming, covered or featuring good access to natural light and ventilation. Within the Planning Officer's report they refer to the entrance points as being narrow and secluded, featuring poor scope for overlooking or passive surveillance. In response the appellant asserts that the security and safety arrangements for the accesses, including the layout and accesses to the car park, would be similar to other developments in the city and that precise access details, including lighting, can be agreed with the Planning Authority.
- 7.6.10. The New Apartment Guidelines requires entrance points to apartment blocks to be clearly indicated, well-lit and overlooked by adjoining dwellings, with particular attention to be given to the security of ground-floor apartments and access to internal and external communal areas.

7.6.11. In addition to the main stepped pedestrian access from Main Street leading up to the communal amenity space and the three building entrances to the upper-floor apartments off the communal space, the proposed development would feature an additional stepped access off Main Street along the southern boundary with Rosehill House, as well as three internal circulation cores connecting through the building from the car park and one external stairwell from the car park to the communal space. By providing an array of entrance options, the applicant avoids the necessity for long corridors or hallways. I appreciate some residents may find the access to the circulation cores within the surface-level covered car park to provide more convenient access to the upper-floor apartments. However, I am satisfied that an array of entrances is proposed for the apartments, providing varied options to accessing the apartments in both a secure and safe manner, with windows or private amenity spaces to the apartments overlooking the external access routes, and most importantly the main stepped access off Main Street.

Daylight & Sunlight

7.6.12. Although the Planning Authority did not decide to refuse permission for reasons relating to lighting to the proposed apartments, they did note concerns regarding the potential for poor levels of daylight and sunlight to lower-level apartments, in close proximity to the site boundaries, including apartment nos.3, 4, 5 and 6. The application Daylight, Sunlight and Shadowing Assessment calculated sunlight and daylight provision for the apartments, based on the BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (Second Edition, 2011).

7.6.13. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines also state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 Guide 2011 and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. The Development Plan and the New Apartment Guidelines refer to a more up-to-date version of the BRE 209 Guide dating from 2022. The Sustainable Settlements Guidelines refer to guides like the BRE 209 Guide 2022. I am satisfied that the aforementioned guidelines provide some scope to rely on the BRE 209 Guide 2011. The subject proposals feature

substantive separation distances and do not propose excessively tall buildings. With the exception of apartment 5, three of the low-level apartments referenced by the Planning Authority feature dual aspect.

- 7.6.14. Based on the provisions of BS 8206-2: 2008, the BRE 209 Guide 2011 targets a minimum average daylight factor (ADF) of 1.5% for living rooms, with a 1% ADF for bedrooms and a 2% ADF for kitchens. The results of testing for all rooms are presented in tabular and graphical format in the applicant's Daylight, Sunlight and Shadowing Assessment with the calculated ADF values exceeding the target value for all of the rooms in the development, including those at first-floor level, including the use of a 2% ADF for the open-plan kitchen / living / dining room spaces. The appellant has also tested the sunlight available through windows to the apartments, revealing that the target value for the winter annual percentage sunlight hours (APSH) would be exceeded for 46 of the 48 proposed open-plan living / kitchen / dining rooms and that for an unstated minority of the windows the target annual value of percentage sunlight hours would fall short. The applicant refers to the positioning of balconies as impacting on sunlight and they refer to the dual aspect provision as compensating for shortfalls as well as generous balcony sizes.
- 7.6.15. Where proposals would not fully comply with daylight provisions, the Building Heights Guidelines and the New Apartment Guidelines outline that a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board should apply their discretion having regard to local factors, including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 7.6.16. The New Apartment Guidelines and the Sustainable Settlements Guidelines recognise that a discretionary approach should be taken with regard to compliance with daylight provision in certain circumstances, and I am satisfied that such an approach would be reasonable for the subject redevelopment scheme given the calculated overall compliance with ADF (daylight) values and the substantive compliance with APSH (sunlight) values for the majority of the rooms, as well as the compensatory design measures, in particular the extent of dual aspect units and the generous floor areas for the apartments and their respective private amenity spaces.

I am satisfied that the proposed development would allow for comprehensive redevelopment of this infill site on the edge of a district centre and the anticipated daylight and sunlight to the proposed development in this urban-infill context would provide for suitable levels of residential amenity for future residents of the development.

Noise

- 7.6.17. In addition to the noise nuisance concerns addressed above, the Planning Authority refer to the necessity for noise abatement measures to address the site context and the potential impacts of the proposed ground-floor hospitality unit on the upper-floor residential units. The appellant asserts that standard noise mitigation measures can be employed to address the site context and an acoustics report would not be necessary.
- 7.6.18. Section 15.9.16.3 of the Development Plan addresses principles with respect to noise and residential development proposals, including reference to proposals close to noisy places, such as busy streets, potentially requiring a noise impact assessment and mitigation plan. The Sustainable Settlements Guidelines suggest noise assessments as being beneficial in contexts such as along major transport infrastructure corridors and close to night-time activity. The primary source of noise in the vicinity is likely to arise from traffic, including along the R135 running parallel with Main Street fronting the site, while there would also be potential for noise emissions from the operation of the proposed hospitality unit, with greatest potential impacts for the overhead residential units.
- 7.6.19. From an urban design perspective there is a necessity for the buildings to address the adjoining roads in an appropriate manner, including Main Street facing the R135 regional road. Enclosing the street would provide for a quieter area to the rear, including the communal amenity space. I note that there are various other residential buildings positioned along the R135 corridor, including the neighbouring Fuel Yard, Prospect Hill and Premier Square apartment complexes featuring blocks closer to the roadside than the subject proposals. I would also note that it is not uncommon for residential units to be situated directly above operational commercial units, such as restaurants and public houses. It is standard practice for detailed specifications for the respective façades and internal noise insulation features to

form part of the finalised proposals to be agreed with the Planning Authority prior to commencement of a development. There are technical guidance documents with respect to noise, which the proposals would also need to adhere to. The Air Quality Monitoring & Noise Control Unit from the Planning Authority set out conditions in their internal consultation submission regarding noise minimisation and noise levels, and I am satisfied that in safeguarding the amenities of residents from excessive noise levels, similar conditions to those set out by the Air Quality Monitoring & Noise Control Unit can be attached in the event of a grant of planning permission for the proposed development.

Neighbouring Residential Amenities

- 7.6.20. With the exception of the potential impacts arising from overshadowing, which I address below, concerns with respect to the impacts of the proposed development on the amenities of neighbouring properties have not been raised in the application or in response to the appeal. I am satisfied that the site context within Finglas district centre, the buffers created by intervening roads and the separation distances between the proposed development and neighbouring residential properties, would not raise substantive concerns with respect to the impacts of the development on neighbouring residential properties.
- 7.6.21. In assessing the proposals the Planning Authority refer to overshadowing by the proposed development of the grounds to Rosehill House as being of concern. In response the appellant queries what part of Rosehill House the Planning Authority are referring to. For a development to be acceptable with respect to overshadowing impacts, the BRE 209 Guide 2022 (and 2011) requires greater than half of neighbouring gardens or amenity areas receive at least two hours of sunlight on the Spring equinox, or a change in overshadowing that would be no less than a ratio of 0.8 when compared with the existing situation. The first-party appellant's Daylight, Sunlight and Shadowing Report illustrates the extent of overshadowing that would arise following completion of the proposed development based on sunpaths. Notwithstanding that the results presented reveal some overshadowing of the grounds to Rosehill House, they reveal substantially greater than half of these adjoining grounds would receive at least two hours of sunlight on the Spring equinox. The area of Rosehill House that would be overshadowed most by the proposed development would be the lower-ground floor adjunct and Z4 zoned lands. In

conclusion, based on the information provided showing compliance with the minimum requisite standards, I am satisfied that undue overshadowing of neighbouring amenity and garden spaces would not arise as a result of the proposed development.

7.7. Vehicular Access & Parking

- 7.7.1. Other than the requirement for traffic management proposals during the construction phase, there are no concerns raised in the application and appeal with respect to the potential impacts on traffic. An outline construction traffic management plan has been submitted as part of the application Traffic and Transportation Assessment, including haul routes and a standard condition of the permission can be attached to require submission of a final construction traffic management plan for the project. I also note that concerns with regard to access and parking did not form part of the Planning Authority's reasons for refusal of planning permission.
- 7.7.2. It is proposed to access the development from Main Street and exit the development onto Ballygall Road West. The section of the footpath along Ballygall Road West closest to the junction with Main Street narrows to less than 1m and this would be widened to a minimum of 1.9m as part of the subject proposals. The Transportation Planning Division refer to the need for details of the gates / barriers to the car park, pedestrian crossing details, taken-in-charge proposals, parking allocation and typology, and a service and operational management plan to be provided.
- 7.7.3. The appellant asserts that all matters raised by the Transportation Planning Division can be addressed as conditions in the event of a permission. I agree with the Planning Authority that the details they have requested would be necessary to be provided from a planning perspective and I note that the details requested would not be likely to have a material impact on the proposals, with sufficient scope for these details to be provided, as would be typical as part of compliance conditions. Based on the information provided with the application, it is likely that only a very limited section of the site comprising the widened public footpath along Ballygall Road West would be taken in charge by the Planning Authority, and tactile paving, compliant with the provisions of the DMURS can be installed along the vehicular entrance and exit points, which I note not to be excessively wide given that they would only provide single-lane vehicular access and egress. I am satisfied that the layout of the

cycle parking could be subdivided or reorientated in a simple rational manner, in order to segregate the commercial and residential cycle parking spaces and provide for motorcycle and cargo-cycle parking spaces, as requested by the Planning Authority. Further clarification regarding car-sharing and use of the visitor car parking spaces would also be necessary and this is capable of being addressed in response to a condition of the permission.

- 7.7.4. The Transportation Planning Division also refer to concerns regarding the narrowing of the proposed footpath to a depth of 1.9m along Ballygall Road West, coupled with the increased footfall in this area arising from the subject proposals. The extent of pedestrian movement along this stretch of footpath was not extensive during my visit to the site and the increase in pedestrian movements along this footpath would not be substantive based on completed developments of a similar scale and nature in the vicinity, including St. Canice's Hall. Based on the guidance within the DMURS I am satisfied that the proposed footpath widths would be reasonable for this edge of district centre location with limited footfall. The proposals would offer improvements by widening this footpath, which would be beneficial to all pedestrians and other users of this stretch of footpath.

7.8. Drainage

Surface Water Drainage

- 7.8.1. The Drainage Division of the Planning Authority has sought further information regarding the sustainable drainage systems to be integrated with landscaping, private drainage elements, fuel interceptors, discharge rates and basement drainage. The appellant refers to the proposed surface water management for the development as featuring a suitably-sized on-site attenuation tank below the proposed surface-level car park, compliant with the provisions of the BRE Digest 365 Soakaway Design. As stated above, the proposals only feature an internalised basement intended to be used as a stage area for the hospitality unit.
- 7.8.2. The application was accompanied by a Site Layout Plan (drawing no. PL016) detailing the locations of the engineering services relative to the proposed development. SUDS measures would be incorporated into the development to provide interception storage, including an underground attenuation tank measuring

40m³. Calculations justifying the size of the attenuation tank are included on drawing no. PL017, which states that a hydro-brake flow control device would limit discharge to the nearest surface water drain along Main Street fronting the site to two litres per second per hectare i.e. greenfield runoff rates. This would offer improvements with respect to what at the present appears to be an unmanaged surface water drainage regime on site and conforms to a standard strategy for containing and managing stormwater on a small urban infill redevelopment site. I am satisfied that the proposed SUDS and stormwater drainage proposals can be refined as part of compliance with the permission and the approach as set out would be satisfactory, subject to appropriate conditions, including those relating to follow-up audits of the installed system.

Flood Risk

- 7.8.3. The Drainage Division of the Planning Authority also refer to the need for flood risk assessment. The appellant asserts that based on the strategic flood risk assessment appended to the Draft Dublin City Development Plan 2022-2028, the site is not within flood risk zones A or B, therefore, in accordance with the provisions of Flood Risk Guidelines the site features a low probability of flooding, the proposed uses would be appropriate and a site-specific flood risk assessment would not be justified. Flood risk zones A and B are stated in the Guidelines to comprise areas respectively featuring high (1%) and moderate (0.1%) probabilities of flooding.
- 7.8.4. I understand that a watercourse, known as the Bachelors or Finglas stream, runs under the R135 regional road corridor over 50m to the west of the appeal site and this watercourse is fully contained within a culverted channel flowing southeast towards the Tolka river. The appeal site is slightly elevated above the carriageway level for the R135 regional road, with the immediate land generally rising in an eastwards direction from the road. A review of flood maps for the area held by the Office of Public Works does not reveal a record of flooding on the site or in the immediate vicinity of the site. Furthermore, there is no record of flooding arising from the culvert in the vicinity of the site and the Strategic Flood Risk Assessment appended to the Development Plan does not include the site or any of its immediate environs in flood zones A or B.

- 7.8.5. As defined in Flood Risk Guidelines, the appeal site is located within flood risk zone C, where residential and retail development is stated to be appropriate in this zone and not necessarily to be subject of site-specific flood risk assessment. Based on the information available, I am satisfied that the proposed development would not be at risk of flooding, nor would it increase the risk of flooding to other lands, with runoff from the site proposed to discharge at greenfield rates.

8.0 Appropriate Assessment

8.1. Stage 1 – Screening

- 8.1.1. The grounds of appeal do not address Appropriate Assessment (AA) and the Planning Authority do not consider AA to be necessary.

Site Description

- 8.1.2. A description of the site is provided in section 1 and throughout the assessments above. I am not aware of any Annex I habitats within the appeal site, which would appear to be feature very limited use by flora or fauna. The site does not feature any substantive surface water bodies and as stated above, the Bachelors or Finglas stream is culverted where closest to the appeal site, flowing into the Tolka river approximately 1.4km to the southeast of the appeal site. The most recent Water Framework Directive (WFD) risk status (2013-2018) identified the Bachelors / Finglas stream and the Tolka river as having 'poor' water quality status and that these watercourses are at risk of not meeting WFD water quality objectives for 2027. The appeal site is located over the Dublin groundwater body and the most recent status (2013-2018) described by the EPA for this groundwater body categorised it as having a 'good' water quality status and that this groundwater body is under 'review' with regard to WFD water quality objectives for 2027.

8.2. European Sites

- 8.2.1. The nearest European sites are listed in table 1 within section 5.4 of this report. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website.

8.3. Is the Project necessary to the Management of European Sites?

8.3.1. The project is not necessary to the management of a European site.

8.4. Direct, Indirect or Secondary Impacts

8.4.1. The potential direct, indirect and secondary impacts of the proposed development that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, comprise the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
- Operation Phase – disturbance, surface water runoff and emissions to water.

8.5. Relevant European Sites

8.5.1. In determining the zone of influence for the proposed development, I have had regard to the nature and scale of the project, the distance from the development site to European sites and any potential pathways that may exist from the development site to a European site, application and appeal documentation and submissions, and my visit to the area. The distances and directions from the site to European sites are listed in table 1 above. I do not consider that any other European sites other than those identified in table 2 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the appeal site to European sites, the lack of an obvious pathway to European sites from the appeal site, local drainage patterns and catchments, and separation across open marine waters.

Table 2. Identification of relevant European sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA	QIs – 14 bird species https://www.npws.ie/sites/default/files/protected-		

004024	sites/conservation_objectives/CO004024.pdf		
North Bull Island SPA 004006	QIs – 18 bird species To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it To maintain the favourable conservation condition of the qualifying species	Weak hydrological connections exist through: Surface water ultimately discharging to Dublin Bay Wastewater from the site passes and would be treated in Ringsend wastewater treatment plant (WWTP), which also discharges to Dublin Bay.	Yes
North Dublin Bay SAC 000206	QIs – ten coastal habitats and species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf		
South Dublin Bay SAC 000210	QIs - Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf		

8.6. Potential Effects

8.6.1. Habitat loss and fragmentation would not arise given the location and nature of the site. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- surface water drainage from the proposed development site during construction and operational phases;

- increased noise, dust and/or vibrations as a result of construction activity;
- increased wastewater being sent to Ringsend WWTP during the operational phase of the proposed development.

Construction Phase

- 8.6.2. There are no surface watercourses on site based on the information available for the site and the drainage proposals submitted. Surface water from the proposed development would drain to the surface water network running along Main Street, which drains towards a tributary of the Tolka river and ultimately drains into Dublin Bay coastal waters. According to the EPA, based on categorisation for the purposes of the WFD the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' of meeting WFD good water quality status in 2027.
- 8.6.3. The project would require a final CEMP comprising typical and well-proven construction (and demolition) methods that would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Furthermore, the implementation of a final CEMP would be necessary for a mixed-use development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site.
- 8.6.4. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay, inclusive of the Tolka estuary area, can be excluded given the absence of a likely pollution source on the site, the considerable intervening distances and the volume of waters separating the appeal site from European sites in Dublin Bay (dilution factor).
- 8.6.5. In the event that the pollution and sediment-control measures were not implemented or failed during the construction phase, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites can be excluded given the distant, indirect and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the appeal site from European sites in Dublin Bay (dilution factor), inclusive of the Tolka estuary area.

8.6.6. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban landscape.

Operational Phase

8.6.7. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the indirect, distant and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the appeal site from European sites in the Dublin Bay area (dilution factor).

8.6.8. Wastewater would ultimately be treated at Ringsend WWTP and based on the estimated wastewater loading outlined in the foul water calculations submitted as part application drawing no.PL017, the proposed development would result in a residential loading equivalent to approximately 130 residents, as well as 51 patrons for the non-residential units. Having regard to the scale of the development proposed, it is considered that the development would result in an insignificant increase in the wastewater loading at Ringsend WWTP, which would in any event be subject to Uisce Éireann consent that would be subject to compliance with EPA licencing. Notwithstanding this, water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and the control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying interests, consequent to changes to the physical structure of the habitats or to the vegetation structure that defines their favourable conservation status.

8.6.9. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay and that there is no possibility of

the operational of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay, inclusive of the Tolka estuary area, via surface water runoff and emissions to water.

In-combination Impacts

- 8.6.10. This project would potentially take place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased wastewater volumes to the Ringsend WWTP.
- 8.6.11. The expansion of the city is catered for through land-use planning by the various Planning Authorities in the Dublin area, including the provisions of the Dublin City Development Plan 2022-2028. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Phased upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.
- 8.6.12. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

8.7. Stage 1 – Screening Conclusion

- 8.7.1. The distance between the appeal site and any European sites, across an extensive built-up urban area and with the very weak hydrological pathways, are such that the proposals would not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay.

- 8.7.2. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including European site no. 004024 (South Dublin Bay and River Tolka Estuary SPA), European site no. 004006 (North Bull Island SPA), European site no. 000206 (North Dublin Bay SAC) and European site no. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.
- 8.7.3. The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects on European sites have not been relied upon in my reaching of a conclusion in this screening process.

9.0 Recommendation

- 9.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.
- 9.2. 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.

10.0 Reasons and Considerations

1. Having regard to the zoning for the site, to the nature and scale of the proposed development, and to the provisions of the Dublin City Development Plan 2022-2028, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024, the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing,

Local Government and Heritage in 2023 and the Urban Development and Building Heights, Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in 2018, it is considered that subject to compliance with the conditions below, the proposed development would feature appropriate uses, building heights, density, design and layout for this site, would respect the character and setting of the area, including the Rosehill House Protected Structure and its associated conservation area, would not seriously injure the amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants, would feature an appropriate provision of drainage, access and parking services, would be acceptable in terms of road safety, would not be at risk of flooding and would not increase the risk of flooding to other lands. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 22nd day of August 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) 1.5m-deep defensible space shall be provided to the communal roof terrace areas directly adjoining the private terraces serving apartments 42, 43 and 44.

Revised drawings and details showing compliance with these requirements shall be submitted to, and 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 interests of the amenities of future occupants of the proposed development.

3. Prior to the occupation of the proposed non-residential units (hospitality unit and retail unit), final use for the proposed hospitality unit, finalised service details and opening hours, as well as details of any proposed signage to be applied to the elevations of the respective units, including details of the glazing, materials, colour, lettering and depth of the signage, shall first be submitted to and agreed in writing with the Planning Authority.

Reason: In the interest of clarity and the visual amenity of the area.

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.

Reason: In the interest of visual amenity.

5. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No

advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally-appropriate placenames for new development.

6. The road works along Main Street and Ballygall Road West, including the vehicular access and exit serving the proposed development, and the layout of the proposed development, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Proposals for gates / barriers to the car park and pedestrian crossing details, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. (a) The car parking facilities hereby permitted shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any other purpose than those stated in the application, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential and non-residential parking spaces and shall indicate how these spaces, including visitor spaces, within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car-share club parking, shall be continually managed.

(c) Details of all cycle parking, including the provision of cargo-cycle parking spaces, shall be submitted to and agreed in writing with the planning authority prior to the occupation of development.

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

8. A minimum of 50% of the proposed car parking spaces should be provided with electric-connection points, to allow for functional electric-vehicle charging. The remaining car parking spaces in the undercroft car park shall be fitted with ducting for electric-connection points to allow for future fit-out of charging points. Details of how it is proposed to comply 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 sustainable transport.

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

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

10. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

11. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and fuel interceptor(s) shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

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

12. Lighting shall be provided in accordance with a final scheme, which shall include lighting for the communal open space, undercroft parking and entry areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

13. The control odour and noise emissions from the proposed hospitality unit shall be in accordance with the detailed construction standards of the Planning Authority for such works, including extract duct details and noise

minimisation measures, which will be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

- 14.** The internal noise levels, when measured at the windows of the proposed apartments, shall not exceed:

- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
- (b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed apartments are made available for occupation.

Reason: In the interest of residential amenity.

- 15.** (a) Amplified music or other specific entertainment noise emissions from the proposed hospitality unit shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling, including apartments, in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.

(b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedance criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.

(c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either

- i. during a temporary shutdown of the specific noise source, or
- ii. during a period immediately before or after the specific noise source operates.

(d) When measuring the specific noise, the time (T) shall be any five-minute period during which the sound emission from the proposed hospitality unit is at its maximum level.

(e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. An acoustical analysis shall be included with this submission to the planning authority.

Reason: In order to protect the amenities of residential property in the vicinity having particular regard to the nuisance potential of low-frequency sound emissions during night-time hours.

- 16.** No additional development shall take place above roof-parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

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

Reason: In the interests of visual and residential amenity.

18. A plan containing details for the management of waste, 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

19. (a) Prior to commencement of development, the developer shall delineate on a map those areas that are to be taken in charge for the written agreement of the planning authority.
- (b) All areas not intended to be taken in charge by the planning authority, shall be maintained by a legally-constituted management company.
- (c) 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 proposed units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of communal areas.

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

20. The areas of communal open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the conditions above and the landscape design (drawing no.P684 01) and landscape details (drawing no.P684 02) submitted to the planning authority on the 22nd day of August, 2022. This communal open space

shall be completed before any of the apartments are made available for occupation.

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

21. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the Local Authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

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

(a) notify the planning authority in writing at least four weeks in advance of the commencement of development works on the site (including hydrological and geotechnical investigations) relating to the proposed development;

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and;

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

In default of agreement between the parties regarding compliance with any of the requirements of this condition, 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 remains that may exist within the site.

- 23.** Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan 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 Resource Waste Management Plan shall include specific proposals as to how the Resource Waste Management Plan will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The Resource Waste Management Plan 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 Resource Waste Management Plan shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

- 24.** The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including hours of working, noise and dust management measures, asbestos survey and, if necessary a management plan for removing asbestos, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

25. 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.

26. 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.

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an

agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

28. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities, and in lieu of the public open space requirement, 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.

Colm McLoughlin
Senior Planning Inspector

31st January 2024