



An
Coimisiún
Pleanála

Inspector's Report ABP-315183-22

Development

Demolish building and construct 580 apartments, a crèche and a 100-bed nursing home in seven blocks of 4 to 7 storeys, and associated development site works (www.foxlandslrd2022.ie).

Location

Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

LRD6002/22S3

Applicant(s)

Raheny 3 Limited Partnership

Type of Application

Large-Scale Residential Development

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Raheny 3 Limited Partnership

Observer(s)

Sean Haughey TD;
Aodhán Ó Ríordáin TD and others;
Colin and Janet Day;

Denis and Leny White;
Joe and Liz Nolan;
BirdWatch Ireland;
Margot Gordon;
Larry and Celia Stanley;
Raheny Heritage Society;
Iris O'Donovan;
Allison O'Hara;
Brenda and Finbarr Kelly;
Janice Leonard;
Claire O'Brien;
Colm and Rachel O'Toole;
John J Byrne;
Patricia Hartnett;
Ray Byrne;
Eamon and Jennifer O'Doherty;
Mark Gannon;
Gary Meyler;
Michael Walsh;
Donna Cooney;
Darragh Persse;
Joan and Larry Brayden;
John Leslie;
Clontarf Residents' Association;
Brendan Rankin;
Peter Smyth;
I Love Saint Anne's Community
Group;
Maura Ryan Smyth;

Kieran Kenny;
Eimear Kenny;
Geraldine Kenny;
Diarmuid Dunne;
John Conway and Louth
Environmental Group;
James Low;
Belinda Griffin;
Anthony Cerasi;
Ann Louise Mulhall

Date of Site Inspection

11th September 2025

Inspector

Emma Nevin

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1.0 Introduction

- 1.1. This is an assessment of an application for a proposed large-scale residential development (LRD) submitted to Dublin City Council under the provisions of the Planning and Development Act 2000, as amended (hereinafter referred to as 'the Act'). This application was refused permission by the Planning Authority and subsequently appealed by the applicant to An Bord Pleanála (now An Coimisiún Pleanála).

2.0 Site Location and Description

- 2.1. Situated approximately 5km to the northeast of Dublin city centre in the Raheny area on the eastern side of Sybil Hill Road (R808 regional road) and backing onto St. Anne's Park, the application site is stated to primarily comprise lands previously associated with St. Paul's College, an operational post-primary school facility adjoining the site. It is stated to measure a total of 6.7 hectares and is stated to primarily be formed by open lands previously used as recreational playing pitches for the school and local groups. Harmonstown DART station is situated 500m to the north of the application site and the commercial core to Raheny village is situated approximately 750m to the north of the site. The site also comprises a section of Sybil Hill Road fronting St. Paul's College, as well as a narrow section of ground within St. Anne's Park leading north towards All Saints Road. Gated vehicular accesses to the school complex are available from locations along Sybill Hill Road.
- 2.2. The site boundaries with the parklands generally consist of a mix of fences and ball-stop netting. The site is flanked by lines of mature trees within the adjoining parklands and there are mature trees and hedgerows on the western site boundary adjoining the rear gardens of detached houses in The Meadows cul de sac and Sybill Hill house, a Protected Structure. Walls associated with the gardens of a historic residence known as Maryville House, are stated to form the northern site boundaries with The Meadows.
- 2.3. The immediate area to the west of the site is characterised by two-storey houses in The Meadows, which are accessed from Howth Road, and the post-primary school accessed off Sybil Hill Road. St. Anne's Park adjoining the site to the south, east

and north, comprises public open space, including formal avenues and walkways, playing pitches, gardens and other facilities, all set in a mature parkland setting.

3.0 Proposed Development

3.1. The proposed development comprises of the following:

Demolition Works

- Demolition and removal of a prefabricated single-storey classroom block measuring a stated gross floor area of 694sq.m;

Construction Works

- Construction of 580 apartments in seven blocks between four and seven storeys in height with associated internal residential amenity areas (961sq.m) and two basement/below podium areas (14,007sq.m), a crèche facility (750sq.m) in block G with external play areas (583sq.m) and a 100-bedspace nursing home facility (5,153sq.m) also in block G;

Ancillary and Supporting Works

- Revised and widened vehicular access onto Sybil Hill Road, the provision of accesses off the new access road into St. Paul's College and Sybil Hill House and various upgrade works along Sybil Hill Road, including cycle and pedestrian path infrastructure and boundary treatments;
- Provision of 520 car parking spaces and 1,574 bicycle parking spaces;
- Provision of 2.09ha of public open space, including six playing pitches in the southeast area and a pedestrian access into St. Anne's Park;
- Provision of ancillary structures, including bin stores, bicycle stores, electricity substations and plant rooms;
- All associated site and infrastructural works, including surface water discharge attenuation and piped infrastructure, lighting, landscaping, green roofs, boundary treatments, signage, services and all associated site development works.

3.2. Key Development Statistics are outlined below:

Table 1 – Development Standards

Site Area (gross)	6.7ha
No. of apartments	580
Part V units (%)	58 (10%)
Residential Gross Floor Area (GFA)	53,429sq.m
Non-residential GFA (% GFA)	5,903sq.m (10%)
Total Residential/Non-residential GFA	59,332sq.m
Basement Car Park / Podium Level	19,614sq.m
Total GFA	78,946sq.m
Residential Density (net)	94 units per ha
Communal Open Space	8,527sq.m
Public Open Space (% of gross site area)	2.09ha (25%)
Plot Ratio (net)	1.15
Site Coverage (net)	34%

Table 2 – Unit Mix

	One-bedroom	2-bedroom (3-person)	2-bedroom (4-person)	3-bedroom (5-person)	3-bedroom (6-person)	Total
Apartments	272	15	233	58	2	580
% of units	46.9%	2.6%	40.2%	10.0%	0.3%	100%
Bed spaces	272	30	466	174	6	948

Table 3 – Building Heights

Storeys	Height
7	22.5m

Table 4 – Parking Schedule

Car parking - residential	471
Car parking – crèche	8
Car parking – nursing home	41
Total car parking	520
Motorcycle parking	18

Cycle parking	1,574
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3.3. The application was accompanied by the following technical reports, appendices and drawings:

- Planning Report and Statement of Consistency;
- Response to DCC Opinion;
- Environmental Impact Assessment Report (EIAR) Volumes I, II and III;
- Appropriate Assessment (AA) Screening Report;
- Natura Impact Statement (NIS);
- Architect's Design Statement;
- Traffic and Transport Assessment;
- Photomontages;
- Sunlight and Daylight Analysis;
- Part V Pack;
- Masterplan Approach for Redevelopment;
- Social Infrastructure Report and Childcare Needs Assessment;
- Travel Plan;
- DMURS Report and Statement of Design Consistency;
- Public Transport Capacity Assessment
- Engineering Assessment Report;
- Flood Risk Assessment;
- Construction and Environmental Management Plan (CEMP);
- Preliminary Construction, Demolition and Waste Management Plan;
- Landscape Design Statement;
- Arboricultural Report;
- Architectural Heritage Impact Assessment;

- Preliminary Fire Safety and Access & Use Strategy;
- Building Life Cycle Report;
- Property Management Strategy Report;
- Planning Stage Structural Report;
- Operational Waste Management Plan;
- Site Lighting Report;
- M&E Utilities Report;
- Energy Analysis Report;
- Car Parking Strategy.

4.0 Planning Authority Pre-Application Opinion

4.1. Pre-application consultation meeting

4.1.1. The Planning Authority refer to pre-application consultation meetings between representatives of the applicant and the Planning Authority on the 29th day of September 2021, the 3rd day of February 2022, and the 6th day of April, 2022, in respect of a proposed development generally comprising between 575 and 650 apartments, a nursing home and a crèche facility. The main topics raised for discussion at these meetings included the following:

- The principle of the development relative to the 'Z15' institutional and community land-use zoning objective in the Dublin City Development Plan 2016-2022, including the necessity for a masterplan, the provision of 25% open space and the established uses;
- The development strategy, including justification for the building heights, layout and any impacts on the open space in St. Anne's Park and housing in The Meadows;
- Impacts on biodiversity, including Light-bellied Brent Geese, badgers, and trees;
- The proposed apartment residential amenity standards, including access to light and the provision of communal and public open space;

- Traffic and transport, including car and cycle parking management strategies, site servicing, electric-vehicle charging, car-share proposals, pedestrian crossing upgrade and taking in charge details;
- Drainage, boundary treatments, public art, green roofs and CGIs.

4.1.2. According to the Planning Authority and the applicant a formal LRD meeting was undertaken on the 21st day of June 2022, under the terms of section 32C of the Planning and Development Act, 2000, as amended.

4.2. Planning Authority Opinion

4.2.1. In the Notice of LRD Opinion (DCC ref. LRD6002/22-S2) dated the 18th day of July 2022, the Planning Authority states that they are of the opinion that the documents submitted require further consideration and amendment to constitute a reasonable basis for an application under section 32D of the Planning and Development Act, 2000, as amended. In the opinion of the Planning Authority, an application for the proposed development should be accompanied by:

- A statement of response to the issues set out within the Planning Authority opinion;
- A statement of consistency with planning objectives.

4.2.2. Further justification and consideration was requested with respect to:

- Zoning – the principle of the development;
- Residential amenity – existing and proposed;
- Traffic and transportation issues;
- Landscape and biodiversity / AA;
- Archaeology;
- Surface water management, flood risk and foul drainage;
- Community and social infrastructure audits;
- Construction and other management plans.

4.3. Applicants Response to Opinion

- 4.3.1. The application includes a response to the Planning Authority's pre-application consultation opinion in a report titled 'Response to Dublin City Council Opinion'. Section 2 of the applicant's Statement outlines how the application is considered to comply with the respective requirements listed in the Planning Authority's opinion, including zoning, residential amenity, traffic and transportation, landscape and biodiversity, archaeology and drainage.
- 4.3.2. The applicant concludes that the documentation provided with the application confirms the consistency of the proposals with relevant objectives of the Dublin City Development Plan, 2016-2022.

5.0 Planning Authority Decision

5.1. Decision

- 5.1.1. The Planning Authority refused planning permission for the proposed development on 28th October 2022 for one reason, as follows:

"The submitted Natura Impact Statement has not demonstrated that the evidence provided supports the assertion that no impact arises to the Dublin Bay populations of protected Brent geese. Any assessment of the impacts of the proposed development on the site integrity of the Natura 2000 sites in Dublin Bay under the EU Birds and Habitats Directives cannot be made in the absence of data and the precautionary principle applies. It is considered that the proposed development would, therefore, materially contravene Policy GI23 of the Dublin City Development Plan 2016-2022 for the protection of European sites, and hence would be contrary to the proper planning and sustainable development of the area".

5.2. Planning Authority Reports

- 5.2.1. The Planning Report dated 28th October 2022 reflects the decision of the Planning Authority and can be summarised as follows:

Principle and Density

- The background to the proposals are noted, including the masterplan proposals for the wider 'Z15' landholding;
- The proposed development is consistent with the Z15 zoning objective as residential development is open for consideration under this zoning objective, given the provision of 25% public open space in a single area adjacent to St. Anne's Park, given the provision of new community uses in the form of a nursing home and crèche and given the retention and the potential for the expansion of the existing functional institutional and community uses;
- The site coverage and plot ratio are relatively low, while the high density of the development is reasonable;
- The proposed Part V social housing provision is compliant with the Act of 2000;
- The proposal retains the essential open character of the playing fields and contributes towards the development of a green network by the provision of substantial communal and public open spaces with linkages to St. Anne's Park;

Building Height, Scale, Layout and Design

- The block arrangement with high-quality robust brick finishes and detailing, interspersed with quality communal and public open space, as well as mature treelines to the boundaries would ensure that the proposed residential development would provide an environment with a high level of amenity;
- The proposed building heights are lower than those subject of previous applications on site (ABP refs. 305680-19 and 307444-20) and they are in compliance with Development Plan standards;
- The applicant should clarify whether an entrance is proposed to serve St. Paul's College and any impacts of this on traffic and pedestrian movement;

Visual Impact

- The Parks, Biodiversity and Landscape Services report concluded that the development would adversely affect the setting of St Anne's Park

Conservation Area through adverse visual intrusion and change in the landscape character of the site;

- Based on the photomontages provided, the proposed development would not be overly visible from other areas from within the interior of St. Anne's Park;
- The proposed height, mass and scale of the proposed development is acceptable and would not be visually obtrusive when viewed from within St. Anne's Park, a Conservation Area, and would not significantly detract from the amenities or setting of the park or the Protected Structure having regard to the need to provide a high-density residential development on site, the findings of the applicant's landscape and visual assessment, the separation distances from the proposed blocks to the eastern and southern boundaries, the maintaining of mature planting, the proposed screen planting and based on stated examples of other existing apartment developments that have been successfully located in close proximity to established public parks;
- No additional development should take place at roof level;
- The extent of tree removal and proposed planting is noted.

Residential Amenities and Development Standards

- The proposed housing mix, apartment floor areas, floor-to-ceiling heights, lift and stair core access, storage provision and private amenity space would meet or exceed the relevant standards within the New Apartment Guidelines;
- The overall proportion of dual aspect units may decrease based on suggested mitigation measures to address overlooking between proposed units;
- Hedging of sufficient height alongside buffer planting would ensure adequate levels of privacy and security for the future ground-floor apartment occupants;
- 1.8m-high vertical privacy screens should be provided between adjoining balconies and terraces, and it would be preferable for the ventilation shafts to be moved as far as possible from the apartment private amenity areas;
- The assessment of the impacts on lighting are noted, including the three rooms that would not meet the internal lighting standards, the compensatory

measures to address lighting shortfalls and the potential reduction in daylight arising from further measures to address overlooking;

- Despite some areas not being proportioned or suitable for inclusion as communal open space, the available useable provision of communal open space would comply with the New Apartment Guidelines;
- Residents' communal amenity spaces, including bin storage locations and playground areas, and the Building Life Cycle Report are noted;
- The findings of the applicant's Social Infrastructure Report and Childcare Needs Assessment are considered to be accurate, and it is acknowledged that the proposed development includes for additional community facilities that would serve the wider area;
- The proposed childcare facility featuring capacity to cater for 85 children would be sufficient to cater for the demand arising from the proposed development;
- Wind-flow speeds at ground-floor level are forecasted to be within tenable conditions.

Neighbouring Residential Amenities

- The contiguous elevation drawing (nos. FORA-HBA-SW-XX-DR-A-00-0042 & 0043) identifying the separation distance and planting between proposed block B and housing in The Meadows, indicates that the proposals would not have significant overbearing impacts when viewed from The Meadows;
- The separation distances between the proposed blocks would be sufficient to ensure that there would be no significant overlooking, however, measures such as opaque glazing, high-level windows or omitted windows are required for several inner-corner apartments in blocks A, B, C, D and F at right angles to each other;
- The assessment of the lighting impacts of the proposed development on neighbouring properties are noted;
- The potential noise-generating construction activities are noted and the applicant's mitigation measures for noise and vibration are noted;

- no significant noise and vibration impacts are expected during the development operational phase.

Light-bellied Brent Geese

- The Parks, Biodiversity and Landscape Services section consider the NIS submitted lacks the necessary scientific evidence to rule out without doubt; that displacement of Light-bellied Brent Geese as a result of the proposed development would not, and has not, caused significant negative impacts; and the NIS has little or no scientific reference to existing published knowledge of Light-bellied Brent Geese species ecology, population ecology/dynamics, distribution, foraging ecology, diet, responses to disturbance and other matters;
- The NIS fails to comprehensively review data and research that has or has not been undertaken as part of the assessment of the Light-bellied Brent Geese population in Dublin Bay;
- The NIS fails to provide scientific evidence based on robust data analysis to objectively conclude that the loss of the St Paul's site and wider environs of St Anne's Park as a result of development, has not, and will not have, a significant negative effect on the Light-bellied Brent Goose population of Dublin Bay, therefore, adverse effects on the integrity of North Bull Island SPA (Site Code: 004006), South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) and Baldoyle Bay SPA (Site Code: 004016) cannot be ruled out, particularly when considering in-combination effects of other projects;
- The practice of changing land management of known areas of high-ecological importance, to the possible detriment of its ecological status and with the objective of securing approval of development as a result of this practice, followed by the subsequent award of permission for development, would set an undesirable precedent;
- The scale of studies required across existing Light-bellied Brent Geese feeding grounds and potentially across a number of winter seasons, would be beyond the remit of a further information request;

- Construction-related surface water discharges and impacts on special conservation interest bird species, other than Light-bellied Brent Geese, would not have adverse effects on the conservation objectives of neighbouring European sites.

Mammals

- The two badger setts, the presence of five to six badgers on site in August 2022 and the proposals to construct an artificial badger sett within the boundaries of the site are noted, however, it is uncertain whether the proposed mitigation or compensation would be sufficient to address impacts on badgers;
- Relocation of the badger setts could be undertaken by way of a condition in the event of a grant of planning permission;
- The Parks, Biodiversity and Landscape Services section raise concerns regarding the proposed mitigation measures to address lighting impacts for bats with inconsistencies between the lighting plans and the mitigation set out in the EIAR;
- Additional mitigation measures for hedgehog, pygmy shrew and otter are required.

EIA

- Preparation of an EIAR is necessary for this project and the applicant has undertaken appropriate scoping during the preparation process;
- The submitted EIAR provides the appropriate information in terms of substance and adequacy having regard to the specific characteristics of the project and the proposed scale of the development;
- Reasonable alternatives have been studied by the applicant in the submitted EIAR;
- With the exception of biodiversity, the proposed development would not have any unacceptable direct or indirect impacts with respect of the above environmental factors;

- There is insufficient information on the environmental effects of the project, to enable an adequately informed determination to be made;
- There remains significant concern, including those of a cumulative nature, that the proposed mitigation measures are not satisfactory to ensure protection of the badgers and bats identified within the subject site, which are species protected under the Wildlife Acts (1976-2021) and EU Habitats Directive (92/43/EEC).

Other Matters

- The Drainage Division did not raise concerns regarding the surface water discharge to the Naniken River;
- Archaeological test trenching should be undertaken prior to the commencement of groundworks in order to ascertain the nature and extent of any archaeological deposits and to determine a strategy for protection or mitigation or archaeological finds;
- There is no justification for invalidation of the planning application and the Planning Authority's LRD opinion complies with the statutory requirements;

Conclusion and Recommendation

- Notwithstanding compliance with zoning objectives and satisfactory design and layout proposals, as well as concerns raised with regard to badgers and bats, the Planning Authority recommended a refusal to grant planning permission for this LRD based solely on the reason stated in their decision as noted in Section 5.1.1 above.

5.2.2. Other Technical Reports

- Archaeology, Conservation and Heritage (Archaeology Officer) – Archaeological surveying, test trenching, excavation, appraisal, and mitigation is recommended;
- Archaeology, Conservation and Heritage (Conservation Officer) – No conservation review undertaken by the Planning Authority;
- Engineering Department (Drainage Division) – No objection, subject to conditions;

- Environmental Health Officer – Should permission be granted; conditions are recommended with respect to noise and air quality control – check hard file to see if the standard DCC proforma outlines who was consulted;
- Housing Department – Previous engagement regarding Part V obligations are noted;
- Parks, Biodiversity and Landscape Services – Concerns raised regarding the adverse effect on St. Anne’s Park Conservation Area, significant negative effect on Light-bellied Brent Geese, the altered land management regime and the loss of a breeding badger sett;
- Transportation Planning Division – Further information requested regarding a potential entrance to serve St. Paul’s College and if permission is granted conditions are recommended, including the omission of a vehicular / pedestrian access between the application site and St. Paul’s College;
- Waste Regulation and Enforcement Unit – Conditions need to be addressed;
- Planning and Property Development Department - A bond and section 48 development contributions are recommended

5.2.3. Conditions

- Notwithstanding, the decision of the planning authority to refuse permission as noted in Section 5.1.1 above, where bespoke conditions, have been attached by the internal departments these relevant conditions will be considered in my assessment of the proposed development, and consideration will be given as to whether the condition should be included in any decision to grant by the Coimisiún.

5.3. Prescribed Bodies

5.3.1. Department of Housing, Local Government and Heritage (DAU) –

Report received 17th October 2022 notes *“the data presented in the NIS is insufficient to support a conclusion that the long-term population trend for Light-bellied Brent Geese for the five neighbouring SPAs is stable or increasing, or that*

there has not been an overall decrease in ex-situ feeding habitat for these geese due to the altered regime on the application site. The evidence of geese feeding on the '15-acres' in Phoenix Park cannot be taken to indicate its availability as a reserve inland feeding site for Light-bellied Brent Geese and the loss of ex-situ feeding habitat for relatively small numbers of other special conservation interest bird species would not be significant enough to effect the status of these species. The mitigation measures for surface water management should avoid the potential adverse effects of the proposed development on downstream European sites and European eel in the Naniken watercourse. Proposals with regards to alleviating impacts on bats are noted and any interference with active badger setts that is required to facilitate the proposed development must be regulated by the inclusion of conditions with regards to the treatment of the setts and the badgers inhabiting them. Conditions should be attached in the event of a grant of permission".

5.3.2. Transport Infrastructure Ireland –

Report received 17th October 2022 notes no observations to make.

5.4. Third Party Observations

- 5.4.1. 255 no. third party observations were received by the planning authority. Issues raised as set out in the Planning Report are as follows:

Overall Concerns, Social and Amenity Issues

- The application if approved, would mean that the equivalent of a small Irish rural town would be foisted on a public park that is already on the brink of an ecological and biodiversity disaster.
- With Ireland facing an unpredictable future climate, we must endeavour to preserve our green lands.
- The proposed development will have significant impact on the amenities in the areas of Raheny, Clontarf, Killester and other communities in the region.
- Any building on the St. Paul's lands will impact the students of St. Paul's college by constricting their school forever to its current very limited capacity; losing 5 grass pitches and enduring a building site in their school yard for up to 10 years.

- If this planning development goes ahead, it will greatly and negatively impact teaching and learning opportunities for children in the local area.
- Concerns that if permitted, the development will lead to the permanent loss of the much used and loved playing fields to a large residential development.
- As a direct result of the termination of the St Paul's pitch arrangements sports clubs have limited security and certainty necessary to coach and run teams and has left hundreds of children from Clontarf Rugby, GAA and soccer clubs, among others, with no place to play.
- The height of the proposed apartment blocks to the west will cause severe overlooking and privacy issues to the rear gardens of dwelling in The Meadows.
- The design of the nursing home layout appears to be constricted which would appear that the operational capabilities might be infringed thus leading to questions by HIQA – a licence could be refused.
- The parcel of land making up the St. Paul's Playing Pitches should be brought back into public ownership and restored as an integral part of St. Anne's Park.
- The EIAR does not address the negative, significant and permanent impact of the loss of the sporting grounds on the health and wellbeing of the local community or the negative health and wellbeing impact of the development on the community using the Park on a daily basis.

Legal Issues, Zoning Objective / Masterplan / Open Space

- The current planning application (LRD6002/22-S3) is in contravention of the Judgement of Humphreys J. delivered on Friday the 7th day of May 2021 ([2021] IEHC 303) which found that the zoning of the St Pauls Playing Fields is tied to its established use as a sports ground.
- The proposed development is contrary to the provisions of Z15 planning and specifically does not address the decision made in in the High Court by Judge Humphries.

- The lands legal use remains that of a sports ground, not a residential development site and so planning permission for residential development cannot be granted.
- Frustration is expressed relating to the applicant's unauthorised interference with an identified habitat that is subject to numerous protections under EU law, Irish law and the Dublin City Development Plan.
- The proposal does not include space for the necessary expansion of institutional and community uses.
- This application needs to be considered not in isolation but in conjunction with any plans Dublin City Council have in regard to St Anne's Park and any as yet undisclosed plans the Vincentians have for the school and the protected Sybil Hill House.
- The application is premature, prejudicial and not in compliance with the Draft Dublin City Development Plan 2022-2028, under which the elected representatives of Dublin City Council have zoned the St Paul's playing fields as Z9 "Amenity Use"
- The proposed pitches shown on the current application are miniature pitches, amounting in total to slightly larger than one GAA pitch, in lieu of the original 6 pitches from which sporting use was terminated by the applicant. The proposed development does not retain or protect the existing sporting and amenity use of the lands and therefore the development is not in compliance with the zoning under the Development Plan.
- Existing education facilities at the school will not be maintained or replaced. There is very limited scope for expansion.
- The lands in question have been used as playing fields for the children of North Dublin (and the pupils of St Pauls College) for over eighty years. It is not in the public interest that these lands be lost in whole or in part from their use as playing fields

Errors in Application

- In the planning application the lands are described as "Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5" whereas they should be more accurately described as the St Pauls Playing Fields in St Anne's Park, and which are geographically, ecologically and socially a part of St Anne's Park.
- Some reports have not been undertaken in accordance with ISO 9001 standards.
- The number of Site Notices for this Planning Application has been completely insufficient. It is a clear attempt to hide this development from members of the public who will be affected by it.
- The documents submitted include inaccurate population data – no mention of 2021 census – each electoral district is now available.
- Drawings scale and area unit measure results in confusion across drawings and reports.

Systemic issues

- The systematic and unrelenting efforts being undertaken by the Developer to obtain planning permission on the site is contrary to the wishes of the local politicians and the population of the Clontarf and Raheny areas.
- This application, and it's attempt to conflate the present housing exigency with a plan to build luxury units within the environs of a cherished and much used local amenity is expedient, misleading and self-serving.
- The proposal is not about the provision of much needed housing rather it is about land speculation in the service of windfall rezoning profits for the applicant.
- There is suggestion that DCC officials and Parks, Biodiversity and Landscape Services Department of DCC have facilitated an apparent operational developer bias being and allowed for commercial encroachment within the park.

- A fundamental flaw in planning authorities relying on reports commissioned by developers. Bias in favour of the commissioning organisation is always a possibility due to the financial relationship involved.
- There are concerns generally over whether it is truly a public space or a “pseudo-public” space overlooked by private security and surveillance and where activities within its boundaries may be prescribed by the owners and not subject to the same bye-laws as the rest of the park.
- Granting permission result in a further loss of confidence in the planning process.

Validity/Legality of the Application

- Transparency – the developer notes two planning meetings with DCC planners - DCC records indicate 3 meetings were undertaken – DCC planners shall take account of this issue and rule accordingly as to whether the process has been invalidated.
- Those who oppose the development are once again being asked to pay €20 to submit an objection.
- Documentation for the proposed development was not available for some time after the submission of the application.
- The wording of the DCC Notice of the LRD Opinion proposal goes beyond Section 32 D of the Planning and Development (Large Scale Developments) Act 2021 and it is suggested that the correspondence from Dublin City appears to go beyond an opinion of suitability to make an application but rather provides instructions to the developer.

Deficiencies in the Application

- The deficient traffic impact assessments, drainage, construction impact, waste management and environmental impacts have not been addressed within this new application.

Policy Issues

- Loss of the current playing fields runs contrary to Government health policy.

- The importance of Green Infrastructure is acknowledged in the DCC development plans of 2016-2022 and 2022-2028.

Design, Layout, Height & Visual Impact

- The abrupt change of scale and encroachment over St Anne's Park with buildings of 4 to 7 storeys in height is to the severe detriment of adjoining two storey homes in the Meadows estate, the setting of Sybil Hill House (a protected structure), and the St Anne's Park landscape, its fauna and recreational users.
- The photomontages and visual impact assessment does not appear to adequately establish or assess the true impact of the proposed development.
- The photomontages are based on photographs taken in August when trees have full foliage. The proposal does not demonstrate the visual impact in winter.
- There is no presentation of the visual impact from the sports pitched to the north of the application site which would be most heavily impacted by the proposed development.
- The proposed site intrudes deep into the body of the park will severely impact on the ambience and visual environment of the park, especially in the Millennium Arboretum and on the historic core of the Main Avenue.

Protected Structure / Landscape / St. Anne's Park

- The value of St. Anne's Park was never more apparent than in the recent Covid-19 crisis when it became the lifeblood for thousands of local residents.
- St. Anne's Park is a Green Flag Award Winning Park and was one of five winners in the global Green Flag People's Choice Competition, 2019.
- There is plenty of zoned land and a huge number of derelict buildings and/or vacant properties within the city that would be far more appropriate than St Anne's Park.

Transport and Services

- The traffic from the proposed scheme will exacerbate the existing congestion / hazard in the area, particularly on Sybil Hill Road and will result in higher pollutant levels close to schools and carbon emissions.
- There isn't the infrastructure to deal with more residential developments and given the location it's not possible to actually improve it. Public transport in/around St Anne's isn't well established at all either.
- The submitted Travel Plan states the "Impact of Covid 19 on work/college has decreased the need to commute daily." ... "A full "return to normal" level of commuting, post Covid, is unlikely." There is no evidence for this claim, based on either research or observation, is provided.
- The Traffic and Transport Assessment survey undertaken in September 2021 would not be representative of the new normal traffic levels given that this period was still heavily impacted by Covid restrictions.

Biodiversity / Appropriate Assessment / Environmental Impact Assessment

- The applicant has failed to establish that light bellied Brent geese will not be impacted in the long term by the loss of this feeding ground. Such statistics would take several years to gather and assess; we have only had one feeding season where the birds were excluded from the lands. Applying the precautionary principle, permission cannot be granted to build on these lands.
- The application arrives at contestable and puzzling conclusions in regard to the Brent Geese which conveniently are aligned with the interests of the applicant, whilst presented as independent.
- The lands in question remain within the boundaries of St Anne's Park, which forms a continuation of the unique biosphere of Bull Island.
- The development contravenes the EU Birds and Habitats Directives regarding the protection of feeding habitat for Brent Geese, Black Tailed Godwits and bats.
- The developer has interfered, and continues to interfere with, an identified, established EU habitat in breach of the "precautionary principle".

- This was the key feeding ground for a protected species, and it should be restored. Something that is not illuminated in the reports prepared by the developer or its advisors is the fact that the Light-bellied Brent Goose population has actually declined in the short-term.
- There are many protected species, including bats that will be particularly disrupted by the lighting at night from those apartments.
- It is clear that the developers have not taken the National Parks and Wildlife Service Bat Mitigation Guidelines for Ireland into full consideration with their application.
- The destruction of the two badger setts equates to an unacceptable negative, significant and permanent impact. It is a loss in biodiversity. The suggested mitigation - that the badgers, having been physically prevented from accessing their own setts, would take up residence in an artificial sett which is on a development site subject to construction activity and in the proposed location – is unrealistic.
- DCC must get a report from NPWS before allowing before any decision could be given to destroy the badger setts.
- The Freshwater Biological Assessment of the Naniken River and the survey of eels completed on the Duck Pond seems to be insufficient
- Granting this application would ensure the extinction of the Curlew as a breeding species in this country.
- The supporting documentation does not address the state of biodiversity decline in St. Anne's Park nor the additional deleterious impact which the planning application, if granted, will have on the frail, vulnerable and declining biodiversity and ecological status of St. Anne's Park.

Drainage

- The surface water discharge from the proposed development has the potential to exacerbate flooding of the Naniken River during storm events. This river floods annually and the draining of wastewater from 580 units into the river would be catastrophic for the park.

- The increase in the volume and flow of water from the proposed development will have a major damaging impact on the banks of the Nanekin. The exponential increase in the speed of the flow of rain water from the proposed man-made structures to be placed on the development site will lead to an exponential increase in the erosion of the banks of the Nanekin River.

6.0 Planning History

6.1.1. As part of the planning application documentation the applicant presented a site map identifying 3 no. sites (Figure 3 of the planning report), which I consider to be useful to present a picture of the planning history associated with these lands. I will also present the planning history having regard to the 3 no. sites identified in Figure 3 as follows:

6.1.2. Site 1 is located at 1, 1A and 1B Sybil Hill Road, Raheny, Dublin 5, Site 2 encompasses the current appeal site (i.e., east of St. Paul's College, Sybil Hill Road, Raheny, Dublin 5), and Site 3 relates to Saint Paul's College, Sybil Hill Road.

6.1.3. Site 1:

ABP Ref. PL 29N.238232/Reg. Ref. 3074/10 – Permission granted on appeal to An Coimisiún Pleanála on 11th May 2011 for a development consisting of the demolition of 3 habitable dwellings and the construction of 98 dwelling units (houses and apartments) on this site.

ABP Ref. PL 29N.244588/Reg. Ref. 3383/14 - Permission granted on appeal to An Coimisiún Pleanála on 13th July 2015 for a development consisting of the demolition of 3 habitable dwellings and the construction of 79 dwelling units (houses and apartments).

6.1.4. Site 2:

ABP-300559-18 & ABP-302225-18 - Planning permission was sought by way of a Strategic Housing Development Application to An Coimisiún Pleanála in December 2017 for the development of 536 no. units (104 no. houses and 432 no. apartments), widening and realignment of an existing vehicular access onto Sybil Hill Road to facilitate the proposed access road with footpaths and on-road cycle tracks from Sybil Hill Road and Sybil Hill House (Protected Structure) and St. Paul's College

incorporating new accesses to Sybil Hill House and St. Paul's College and associated site works.

Following consideration by An Coimisiún Pleanála the application was granted on 3rd April 2018 (ABP-300559-18) before being subsequently refused (ABP-302225-18) as outlined below.

The grant of permission under case reference ABP-300559-18, was challenged by way of judicial review and quashed in the High Court in August 2018. This was remitted to the Coimisiún for new decision under case reference ABP-302225-18. The Board subsequently refused this application in September 2018.

The reasons for refusal stated “1. *Having regard to the information provided in the Screening Report dated 21st December 2017, the Board could not be satisfied that the exclusion from the Natura impact statement of relevant species of special conservation interest associated with European sites within the zone of influence of the proposed development, on the basis of the infrequency of their use of development lands and the low numbers of species involved was appropriate, and therefore that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the North Bull Island Special Protection Area (SPA), (Site Code: 004006), the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the Baldoyle Bay SPA (Site Code: 004016), the Malahide Estuary SPA (Site Code: 004025), the Rogerstown Estuary SPA (Site Code: 004015), or any other European site in view of the sites' conservation objectives*”, and 2. *Having regard to the fact that the subject site is one of the most important ex-situ feeding sites in Dublin for the Light-bellied Brent Goose, a bird species that is a qualifying interest for the North Bull Island SPA (Site Code: 004006), the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the Baldoyle Bay SPA (Site Code: 004016), the Malahide Estuary SPA (Site Code: 004025), and the Rogerstown Estuary SPA (Site Code: 004015) and having regard to the lack of adequate qualitative analysis and accordingly the lack of certainty that this species would successfully relocate to other potential inland feeding sites in the wider area, as proposed as mitigation for the development of the subject site in the submitted Natura impact statement, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely*

affect the integrity of these European sites in view of the sites' conservation objectives. The Board considered that the proposed development would contravene materially a development objective (GI23) indicated in the Dublin City Development Plan (2016-2022) for the protection of European sites. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

The Decision of the Coimisiún was challenged by the Applicant by way of judicial review. The Board's refusal was quashed by Mr Justice Barniville in February 2019 and not remitted to the Coimisiún for a new decision.

ABP-305680-19 & ABP-307444-20 - Planning permission was sought by way of a Strategic Housing Development Application to An Coimisiún Pleanála in October 2019 for the development of 657 no. apartments, creche and associated site works. This was granted by An Coimisiún Pleanála on 13th February 2020.

The grant of permission under case reference ABP-305680-19, was challenged by way of judicial review and quashed in the High Court in June 2020. This was remitted to the Coimisiún for new decision under case reference ABP-307444-20. The Coimisiún subsequently granted this application in August 2020. The Decision of the Board was ultimately quashed (with no remittal to the Board) by the High Court in May 2021.

6.1.5. Site 3:

ABP-301482-19/Ref: 3777/17 – Permission was refused on appeal to An Coimisiún Pleanála on 6th February 2020 for a new sports hall and all weather-pitches at St. Pauls College. A small portion of this site overlaps with the appeal site.

The reason for refusal stated “Notwithstanding that the grass pitch on the appeal site and adjoining former pitches were recorded in the Natura impact statement submitted to the planning authority on the 4th day of September, 2017 as being one of the most important ex-situ feeding grounds for Light Bellied Brent Geese in Dublin, and having regard to the recent changed characteristics of the former pitches resulting in a possible reduction in the overall availability of grasslands for feeding purposes due to increased sward height, together with the absence of any up-to-date survey information present with the planning application relating to the current usage of the site itself and immediately adjoining lands by Light Bellied Brent Geese as a

feeding resource, or by any other Special Conservation Interest species for any other purpose, the Board is not satisfied that the usage of the site by any such species can be accurately determined at this time. The Board, therefore, cannot establish, beyond all reasonable scientific doubt, that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of the North Bull Island Special Protection Area (Site Code: 004006), ABP-301482-18 An Bord Pleanála Page 3 of 3 the South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), the Baldoyle Bay Special Protection Area (Site Code: 004016), the Malahide Estuary Special Protection Area (Site Code: 004025), and the Rogerstown Estuary Special Protection Area (Site Code: 004015), or any other European Site in view of these sites' conservation objectives".

7.0 Policy Context

7.1. National Planning Policy

National Planning Framework (2025)

7.1.1. The National Planning Framework (NPF) 2025 sets out that the 'major policy emphasis on renewing and developing existing settlements established under the NPF 2018 will be continued, rather than allowing the continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages'.

7.1.2. Relevant Policy Objectives include:

- National Policy Objective 7: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.
- National Policy Objective 8: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints and ensure compact and sequential patterns of growth.

- National Policy Objective 9: Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.
- National Policy Objective 10: Deliver Transport Orientated Development (TOD) at scale at suitable locations, served by high-capacity public transport and located within or adjacent to the built-up footprint of the five cities or a metropolitan town and ensure compact and sequential patterns of growth.
- National Policy Objective 11 – Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.
- National Policy Objective 20: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- National Policy Objective 22 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.
- National Policy Objective 43 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a

reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

Climate Action Plan, 2024 and 2025

- 7.1.3. Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.
- 7.1.4. 2025 update -Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. The residential sector is on track to meet its 2021-2025 sectoral emissions ceiling and is ahead of its 2025 indicative reduction target of - 20%.

National Biodiversity Action Plan (NBPA) 2023-2030

- 7.1.5. The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”.
- 7.1.6. This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:
- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
 - Objective 2 - Meet Urgent Conservation and Restoration Needs
 - Objective 3 - Secure Nature’s Contribution to People
 - Objective 4 - Enhance the Evidence Base for Action on Biodiversity

- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

Water Framework Directive

- 7.1.7. The Water Framework Directive (WFD) Directive 2000/60/EC focuses on ensuring good qualitative and quantitative health, i.e., on reducing and removing pollution and on ensuring that there is enough water to support wildlife at the same time as human needs.
- 7.1.8. The key objectives of the WFD are set out in Article 4 of the Directive. It requires Member States to use their River Basin Management Plans (RBMPs) and Programmes of Measures (PoMs) to protect and, where necessary, restore water bodies in order to reach good status, and to prevent deterioration. Good status means both good chemical and good ecological status. It establishes a framework for the protection of all inland surface waters, transitional waters, coastal waters and groundwaters.

7.2. Regional Planning Policy

Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)

- 7.2.1. 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 application:
- 7.2.2. 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.
- 7.2.3. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin 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.

7.3. Section 28 Ministerial Guidelines

7.3.1. 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, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines comprise of:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) (hereinafter the ‘Sustainable Settlements Guidelines’);

7.3.2. Table 3.1 – Areas and Density Ranges Dublin and Cork City Suburbs. In City – Suburban/ Urban Extension areas residential densities in the range of 40 – 80 net units per hectare shall be applied in Dublin and densities up to 150 units per hectare shall be open for consideration.

7.3.3. Policy and Objective 5.1 – Public Open Space: Minimum of 10% open space.

7.3.4. SPPR 3 – Car Parking: The site is in an intermediate location where the maximum parking provision shall be 2 no. spaces per dwelling.

7.3.5. SPPR 4 Cycle Parking and Storage: 1 cycle storage space per bedroom should be applied.

7.3.6. Section 5.3.7 Daylight: The provision of acceptable levels of daylight in new residential developments in an important planning consideration.

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (hereinafter the ‘Apartment Guidelines’);

7.3.7. I note that the new Planning Design Standards for Apartments Guidelines for Planning Authorities were published on 08.07.2025. Section 1.1 of this document states that the guidelines only apply to planning applications submitted after the publication of the guidelines. I am, therefore, satisfied that the 2025 guidelines are not relevant to the current appeal, and I will therefore base my assessment on the 2023 Apartment Guidelines.

7.3.8. Specific Planning Policy Requirement (SPPR) 1 – Mix: *“Housing developments may include up to 50% one bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.”*

7.3.9. SPPR 3 – Minimum Apartment Floor Areas

Minimum Apartment Floor Areas	
1 bedroom (2 persons)	45 sq.m
2 bedroom (3 persons)	63 sq.m
2 bedroom (4 persons)	73 sq.m

7.3.10. SPPR 4 – Dual Aspect: *“in suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme”*.

7.3.11. SPPR 5 – Floor to Ceiling Height: The minimum floor to ceiling height is 2.4m and 2.7m at ground floor.

7.3.12. SPPR 6 – Maximum Apartments per Floor per Core: *“A maximum of 12 apartments per floor per core may be provided in apartment schemes”*.

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the ‘Building Heights Guidelines’);

7.3.13. SPPR 3: An application needs to set out how the development complies with development management criteria in relation to at the scale of the relevant city/ town, at the scale of district/ neighbourhood/ street and at the scale of the site/ building.

- Design Manual for Urban Roads and Streets (DMURS) (2019);
- 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;
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009);

- Childcare Facilities – Guidelines for Planning Authorities (2001) (hereinafter the ‘Childcare Guidelines’).

7.3.14. Although not an exhaustive list, the following planning guidance and strategy documents are also considered relevant:

- Cycle Design Manual (2023);
- Transport Strategy for the Greater Dublin Area 2022-2042;
- Housing for All – A New Housing Plan for Ireland (2021);
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- Road Safety Audits (TII, 2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (TII, 2014);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (2nd Edition 2011, 3rd Edition 2022);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

7.4. Local/City Policy

7.4.1. I draw the Coimisiún’s attention to the fact that since the application was lodged on 24th November 2022, the Dublin City Development Plan 2022-2028 was made on 2nd November 2022 and came into effect on the 14th of December 2022.

7.4.2. As such I will assess the application having regard to the most recent Development Plan, and if/where conflict arises the Development Plan, 2022-2028 will take precedence.

7.5. Dublin City Development Plan, 2022 - 2028

- 7.5.1. The proposed housing area and narrow section of the application site leading north to the Naniken River, as well as the adjoining parklands to the north, south and east, have a zoning objective referred to as 'Z9 – Amenity / Open Space Lands / Green Network'. According to the Development Plan, this 'Z9' zoning has a stated objective 'to preserve, provide and improve recreational amenity, open space and ecosystem services'.
- 7.5.2. A narrow portion of the application site intended to provide access to the proposed development from the west off Sybil Hill Road is assigned a 'Z15 – Institutional & Community' zoning within the maps accompanying the Development Plan and such 'Z15' zoned lands have a stated objective 'to protect and provide for institutional and community uses'.
- 7.5.3. According to the Development Plan, the adjoining lands within The Meadows to the west of the application site have a land-use zoning 'Z1 - Sustainable Residential Neighbourhoods', while St. Paul's College and Sybil Hill House feature a 'Z15' zoning objective.
- 7.5.4. Within the Development Plan Z9 zoned lands, childcare facility uses are 'open for consideration', while residential or a nursing home use are not specifically referred to in the Development Plan as being a permissible or open for consideration use on lands, including Z9 lands.
- 7.5.5. Sybil Hill House adjacent to the west of the application site is included in volume 4 of the Development Plan comprising the Council's Record of Protected Structures (RPS) (ref. 7910). The adjoining parklands are included within a red-hatched 'Conservation Area', which are recognised in the Development Plan as areas that have conservation merit and importance and are stated to warrant protection through zoning and policy application.
- 7.5.6. Objective CUO25 - SDRAs and large-Scale Developments "All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage. The option of relocating a portion (no

more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need.

*Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector”.

7.5.7. Relevant Development Plan Sections and Objectives

- Chapter 11 of the Development Plan provides guidance relating to the built heritage and archaeology, including policy BHA9, which seeks to protect the special interests and character of all Dublin’s conservation areas.
- Objective GIO18 of the Development Plan addressing ‘landscape conservation areas review’ aims to investigate the suitability of designating St. Anne’s Park as a Landscape Conservation Area during the timeframe of the development plan, while objective GIO26 aims to implement conservation management plans for city parks, including St. Anne’s Park. With regard to recent achievements relating to St. Anne’s Park, the Development Plan refers to the provision of all-weather training pitches / astro-turf training surfaces and a community farm.
- Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 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 - 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 appendix 3. The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN36, QHSN37, QHSN38 and QHSN39.

- Policies SC15, SC15, SC16 and SC17 of section 4.5.4 to the Development Plan sets 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.
- Section 4.5.2 - Approach to the Inner Suburbs and Outer City as Part of the Metropolitan Area (policy SC8);
- CUO24 Masterplans
- Policy GI28 New Residential Development: "It is the policy of Dublin City Council to ensure that in new residential developments, public open space is provided which is sufficient in amenity, quantity and distribution to meet the requirements of the projected population, including play facilities for children and that it is accessible by safe secure walking and cycling routes."
- Section 4.5.3 – Urban Density (policies SC10, SC11, SC12 and SC13);
- Section 4.5.9 – Urban Design & 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 9.5.4 – Surface Water Management and Sustainable Drainage Systems (SuDS);
- Section 10.5.1 – Green Infrastructure;
- Section 10.5.2 – Biodiversity;
- Table 10-2: Protected Areas of International and National Importance
- GI9 European Union Natura 2000 Sites "To conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites designated, or proposed to be designated, under the EU Birds and Habitats Directives, as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (European / Natura 2000 sites)".

- “GI10 Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas To adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), the Fisheries Acts 1959 (as amended) and the Flora (Protection) Order 2022 S.I No. 235 of 2022, wherever they occur within Dublin City, or have been identified as supporting the favourable conservation condition of any European sites”.
- “GI13 Areas of Ecological Importance for Protected Species To ensure the protection, conservation and enhancement of all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives, including those identified as supporting the favourable conservation condition of any European sites, in accordance with development standards set out in this plan”.
- Section 10.5.4 – Parks and Open Spaces;
- Section 15.4 – Key Design Principles;
- Section 15.5 – Site Characteristics and Design Parameters;
- Section 15.6 – Green Infrastructure and Landscaping;
- Section 15.8 - Residential Development;
- Section 15.9 – Apartment Standards.

7.6. Natural Heritage Designations

- 7.6.1. The following European Sites should be noted. I note that additional sites have been included as part of Ecologists assessment under Appendix A of this report:

Site	Distance from the Subject Site
South Dublin Bay and River Tolka Estuary SPA (site code: 004024)	1.3 km approx.
North Bull Island Special Areas of Conservation (site code: 004006)	1.1 km approx.

North-west Irish Sea Special Protection Area (site code: 004236)	3.98 km approx.
Baldoyle Bay SPA (site code: 004016)	4.8 km approx.
Baldoyle Bay SAC (site code: 000199)	4.8km approx.

8.0 The Appeal

8.1. Grounds of Appeal

8.1.1. A first party appeal has been submitted on behalf of the applicant in response to the local authority reason for refusal including a report prepared by Enviroguide Consulting. The first party grounds of appeal may be summarised as follows:

- The reason for refusal has not been supported by any scientific evidence to undermine the NIS as submitted.
- Any science that is quoted or suggested is either irrelevant (such as the study of pink-footed geese on migration Chudinska et al 2016) or outside the scope of any NIS.
- Much of the criticism of the NIS in the Parks Report is based on speculation or conjecture on the part of the author and does not for a sound basis for any scientific assessment.
- The NIS as submitted was produced to demonstrate that the proposed development will not have a significant effect on the relevant European Sites, alone or in combination with other plans and projects.
- The NIS is based on the best scientific evidence available including six years of survey data and the most recently published population data showing both international and national trends.
- The NIS has concluded that, ensuring the avoidance and mitigation measures contained therein are implemented as proposed, the Proposed Development will not have any significant effects on the integrity of the relevant European sites, individually or in combination with other plans and projects.
- The reason for refusal does not hold up and therefore the development should be permitted by An Coimisiún Pleanála.

- Planning permission has been granted on this site on a number of occasions, most recently in February 2020, only to be overturned at Judicial Review. It is considered that this site is an important site in the provision of high quality residential development in an established and accessible part of Dublin City.
- Dublin City Council, notwithstanding the Parks Department Report concluded that '... the proposed development is in compliance with zoning objective under Z15 and the accompanying criteria outlined under Section 14.8.14 of the Dublin City Development Plan 2016-2022. The Z15 lands of which the subject site is part of will retain existing institutional uses with the potential for expansion and will provide new community uses which includes a nursing home and crèche. While the proposed development will result in a loss of existing area for sports and amenity use, the development will retain in excess of 25% of the site for sports/amenity and will provide a natural extension to St. Anne's Park.
- The proposed new public open space to the south and east will be taken in charge by DCC ensuring that the lands will have full public access. On balance, it is considered that the retention of lands for sports/amenity use alongside proposed community uses and retention of existing institutional uses within the wider Z15 lands demonstrates compliance with the Z15 zoning objective, and the proposed landscape plan for the scheme demonstrates that the proposed development will provide a high quality residential scheme with a height, mass and scale which will sit comfortably within its surroundings and shall not have a significant negative impact upon the adjoining Conservation Area or the residential amenity of nearby dwellings”.

8.1.2. The Enviroguide Consulting report addresses the following specific points raised in the Parks report as follows:

- **Scientific Evidence** - the scientific evidence reproduced in the NIS is based on 4 years of Winter Bird Surveys and use of an additional 2 years of Scott Cawley data is the best scientific information available, all of which was used to demonstrate that the Light Bellied Brent Geese have successfully relocated to other ex-situ grassland feeding areas following the loss of the proposed development site. The consultant would question the relevance of a number of the scientific references relied on in the Parks Report to assess the NIS for

the proposed development. The original paper on use of inland feeding sites by Brent Geese (which the NIS has also referenced) is based on one year's survey work. (Benson 2009). The consultant further disagrees with the statement in the Parks Report that 'and waterbird site-specific trends for Dublin Bay have not been referenced (i.e. Kennedy et al. 2022)' and refers the Board to the NIS p74 Figure 8 which clearly references Kennedy et al 2022).

- **Trends** - Section 7.3 of the NIS uses the most up to date published data on both National and International trends and the conclusions arrived at in the NIS are on the basis of this published data. The NIS has demonstrated that there is no carry over effects due to the loss of the proposed development site, there is an even distribution of birds throughout the network of ex-situ feeding sites over four survey seasons, and there is no evidence to suggest that the Dublin Bay population of LBBG is not healthy. The short-term trend of LBBG is for decline and this is recognized in Section 7.3.2 of the NIS so it is not correct for the Parks Dept. to state that the NIS does not mention recently published data in this regard. For the purpose of the NIS the trends cited in the NIS (7.2.3 and 7.3.3) are the most recently available published National and International Trends and are sufficiently robust to enable the determination that the loss of a single ex-situ site (the site of the Proposed Development) has not and will not have any significant impact on LBBG in view of the Conservation Objective 'Population Trend' which should be stable or increasing. The consultant acknowledges that the Parks Dept. state that the numbers should perhaps regarded as stable rather than increasing and this supports the conclusion of the NIS that there will be no impact from the Proposed Development in view of the Conservation Objective 'Population Trend'.
- **Importance of St. Anne's Park** – The validity of the figure quoting the peak count of LBBG is contradicted throughout the Parks Report. The NIS does assess the site in the context of the wider network, and this is set out in Table 4 of the NIS which demonstrates that St. Anne's Park was an important site holding the highest peak count in 2016/2017. The data for all sites is detailed in Table 4 Section 7.2.2 of the NIS. The loss of part of the St. Paul's site has resulted in the birds relocating to other sites in subsequent winters (Table 11

of NIS). The data in the NIS has demonstrated that the LBBG have successfully relocated and that the proposed development will not have any impact on European sites. The data presented in the NIS is based on the survey results and is fact. The Parks Dept. are unwilling to accept the evidence put forward in the NIS, which is based on six years of survey work and presented factually in both the tables and the discussions within the NIS. Agree that the geese are likely to require a wide network of sites and the existing and known sites provide a wide network without the proposed development site. The addition of the Phoenix Park site provides additional resources.

- **Expertise of NIS Project Team** - The expertise of the team that produced the NIS is detailed in Section 2.2 of the NIS.
- **Analysis of Colour-Ring Data** – The consultants confirm that the authors of the NIS have fully considered the welfare of the geese as part of the assessment of potential impact. It is considered that the Parks Department have not fully understood the reasoning for including the ring data. This is used to demonstrate that birds displaced from the site of the proposed development redistributed themselves throughout the network of sites and it also demonstrates that they had been doing this even when the site of the proposed development was available to them.
- **Consideration of the effects of disturbance of the geese** - The NIS is for the sole purpose of determining if the proposed development will have significant effects on the integrity of these European Sites, either alone or in combination with other plans and projects, taking into account the conservation objectives of these European Sites. Section 7.2.3 of the NIS states that St. Anne's Park in general showed little to no usage by LBBG throughout the winter of 20/21, with 12 geese recorded on Site 11, St. Anne's (Southern Hill) on one occasion, and droppings recorded on just one Site: Site 10, 'St. Anne's 3 (Pitches 9-16) in November and December 2021. This was despite all pitches being maintained in suitable condition for LBBG according to the surveyor i.e., short sward and well managed. The lack of use of the St Anne's pitches is attributed to a high level of human activity there during Covid

imposed lockdowns. The NIS has demonstrated that there has been no stress on the species since the loss of the development site. Some of the references within the Parks report are outside of the scope of the NIS.

- **Assessment/consideration of the zostera food resource** - Section 7.5 of the NIS assesses the potential for impacts from construction related discharges from the proposed development on South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC and North Bull Island SPA. It has been determined that when the proposed mitigation measures are implemented this will ensure that no adverse effects on the Natura 2000 sites will arise during the Operation Stage of the Proposed Development. Section 7.6.2 of the NIS addresses the in-combination effect of the Operation Phase with Ringsend Wastewater Treatment Plant. It is concluded beyond reasonable scientific doubt in the NIS that the proposed development will not have any impact on the zostera beds within any of these European sites. The current and future status of zostera are a matter for the NPWS and the local authority and it is suggested here that a zostera management plan based on scientific studies should be drawn up and implemented by the Local Authority.

- 8.1.3. The Enviroguide Consulting report concludes that the Parks Report does provide confirmation that data used in the NIS is factual and correct contrary to some of the assertions contained within their report. In general, the Parks report does not present any scientific evidence to undermine the NIS.

8.2. Planning Authority Response

- 8.2.1. Response received from the Planning Authority dated 5th December 2022 requesting the decision be upheld. Standard conditions are recommended in the event of a grant, including development contribution, bond, open space, and social housing.

8.3. Observations

- 8.3.1. Thirty six (36 no.) observations were received. The key planning issues raised in the observations, and the relevant sections within the report where the issue is addressed can be collectively summarised as follows:

Observer(s)	Issues	Main Reference in Report (Not Exhaustive)
Allison O'Hara, Brendan Rankin, Claire O'Brien, Colm and Rachel O'Toole, Darragh Persse, Donna Cooney, Eamon and Jennifer O'Doherty, Eimear Kenny, Gary Meyler, Geraldine Kenny, Kieran Kenny, Janice Leonard, Joan and Larry Brayden, John J. Byrne, Larry and Celia Stanley, Maura Ryan Smyth, Patricia Hartnett, Mark Gannon, Margot Gordon, Diarmuid Dunne.	Contravention of Judgement of Humphreys J. delivered on Friday 7th May 2021 ({2021} IEHC 3030) which found that the zoning of St. Pauls playing fields it tied to its established use as a sports ground. Change of ownership does not change the zoned and established use. Under the current City Development Plan the land is zoned 'Z9', and therefore a large residential development is not permissible. Permission was refused by the Council on the basis of the precautionary principle. The zoning previously applied to the lands was intended to protect the amenity and biodiversity use of St. Pauls playing fields. The strength of the zoning was undermined in an unforeseen case taken by the Sisters of Charity vs Dublin City Council, which forced an amendment to the Z15 zoning on religious and institutional lands to allow for the 'consideration of residential	Section 9.2 with respect to planning history. Section 9.3 with respect to zoning, Development Plan principles and masterplan. Section 9.4 with respect to Appropriate Assessment and Section 9.5 Biodiversity. Section 9.6 other considerations. Section 9.17 with respect to other matters. Section 9.18 with respect to material contravention. Section 9.4 with respect to Appropriate Assessment.

	development'. The open for consideration clause should not be utilised to achieve Z1 type uses on lands that the city clearly intended to maintain for community and infrastructure. It is notable that Dublin City Council under the new Development Plan seek to protect the spirit of the law in relation to Z15 zoning. The proposed development does not retain or protect the existing sporting and amenity use of the lands and it not in compliance with either the previous Z15 zoning or the current Z9 zoning. Impact negatively on the use of the park. The lands area an established part of St. Anne's Part through public use as evident from historic maps. Dublin City Council refused permission on the basis of the precautionary principle as the proposed development would materially contravene the Development Plan.	
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	The Global Biodiversity Framework has been adopted at CPO15, we have a responsibility to protect our biosphere and the forthcoming National Biodiversity Action Plan. The proposed development does not retain or protect the existing sporting amenity use of the land and is not in compliance with the Development Plan zoning. These are not residential lands – the RZLT map prepared for the purposes of identifying land that satisfies the relevant criteria and is to be subject to the residential zoned land tab does not show the land as either residential land or vacant/idle, mixed use zoned land. The Z15 zoning requires a masterplan to be submitted – this does not appear to be the masterplan as previously submitted. The proposal will result in unsustainable traffic levels. Government policy is to encourage greater exercise by children and young adults – loss	
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	of the currently playing fields runs contrary to Government Health Policy. Size of the development will have an immeasurable long-term negative impact on the biology of the park.	
Aodhan O'Riordain	An Coimisiún Pleanála is requested to respect the high court judgement of Mr Justice Richard Humphreys made on 7 th May 2021 in the Judicial Review taken by Clonres CLG.	Section 9.2 with respect to planning history. Section 9.17 with respect to other matters.
Breda and Finbarr Kelly	Support the refusal of planning permission, especially for Brent Geese and the stance taken by the Parks Department. Biodiversity Tree Surveys (BTS 1 and BTS 2) undertaken on selected areas of St. Annes Park, which prove factually, analytically and scientifically that biodiversity destruction and starvation in St. Annes Park is at tipping point. The proposed high density development will be an additional biodiversity burden and will have a serious consequent for Brent Geese. Object to the admissibility and purported validity of the content of the submission and response	Section 9.2 with respect to planning history. Section 9.3 with respect to zoning, Development Plan principles and masterplan. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.11 open space. Section 9.17 with respect to other matters. Section 9.18 with respect to material contravention.

	by Enviroguide Consulting, which confirms that there has been and will continue to be harmful impacts on Brent Geese into the future. A possible constitutional impropriety in regard to the structure, process and operation of An Coimisiún Pleanála appeals mechanism in this case. Implications for the possible breach of Habitat Protection Law by the developer and An Coimisiún Pleanála. Breach of duty of care and responsibility on the part of the local authority in not drawing the attention of the appropriate authorities to these breaches. Object to the planning authority decision which adopts a positive and approving stance to the proposed development – the original submission to the planning authority was not given adequate consideration due to wider biodiversity impacts and climate change. The biodiversity impact of the proposed development to the	
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	overall wider biodiversity impact and capacity constraints. Non-protected species also need to be considered. Question the legality and constitutionality of An Coimisiún Pleanála granting permission where the developer has taken actions that have resulted in the removal and destruction of habitat. Consultants of the application have been by-standards in the removal and destruction of habitat. An Coimisiún Pleanála inspectors are invited to visit St. Annes Park and assess the biodiversity degradation taking place.	
Clontarf Residents Association.	Welcome the Dublin City Council decision. An Coimisiún Pleanála are requested to take the entirety of the observation when determining the appeal. The planning history for the lands is extensive. To ensure that the case is dealt with in an open and transparent manner it is suggested that the inspector or commissioners involved in	Section 9.2 with respect to planning history. Section 9.3 with respect to zoning, Development Plan principles and masterplan. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.17 with respect to other matters.

	the previous applications not be a party to this decision. There has been no attempt by the developer to assert how this applicant complies with the 'Z9' zoning objective. The application would materially contravene the new City Development Plan and there is no suggestion from the applicant that this proposed development is in accordance with the Development Plan. Retention of the site is essential to ensure compliance with Green Infrastructure Policy GI13. The developer has sought to destroy the sites ecology value by allowing it to become overgrown. To grant permission would permanently preclude the protection, conservation and enhancement of the ecologically important characteristics of the playing pitches, would contravene the Development Plan and the Habitats Directive.	Section 9.20 with respect to material contravention. All submissions and reports on file have been taken into account during the assessment of this appeal.
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	Policies GI49 and GI23 are of relevance which protect sport and recreation facilities. The proposal is a material contravention of the Development Plan. The power of An Coimisiún Pleanála to request further information is precluded as the rezoning of land is not a matter of technical or environmental detail. The public open space provision to serve the proposed development has not been met. The proposed development is contrary to the National Planning Framework Strategic Outcomes 1 and 7. The National Planning Framework supports the 'Z9' zoning of the site. The submission of both Bird Watch Ireland and the Dublin City Parks Department are reiterated and adopted in respect of the Bird Directive and the Natura Impact Statement. The current state of the NIS and appeal is not sufficient to eliminate scientific doubt insofar	
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	as the Enviroguide asserts to the contrary, the evidence is insufficient to justify the conclusions. Masterplan approach for the site should be considered comprehensively in line with zoning objective Z15. The application fails to make any reference to the recent application for a senior living facility on the Sybill Hill House site in the ownership of the vincentians/orsigny. The NIS and other documents submitted are based on proprietary standards which were not made available. These should be made available to allow for public comment. Similarly, the new apartment guidelines 2020 state that planning authorities should have regard to qualitative performance approaches to daylight provision, however the BRE Guide has been updated and there is no access to this document, and it is not included with the application.	
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	Public consultation is required in order to verify that the developer has complied with them. It is noted that appeal 315179 was lodged with An Coimisiún Pleanála on 23rd November 2022, and was deemed invalid, no reason has been given, and this documentation is not available online. The next day 315183 was lodged. The planner is requested to satisfy themselves that the correct procedures were taken regarding the lodgement of the second appeal and the availability of documents for comment.	
Colin and Janet Day	The site is of extreme importance to not only protect Brent Geese but also to other special conservation interest birds as well as protected bats and badgers. The development would materially contravene the Development Plan for the protection of European Sites and therefore would be contrary to the proper planning and sustainable development of the area.	Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.18 with respect to material contravention.

	An Coimisiún Pleanála is urged to refuse permission.	
Dennis and Leny White	The park is public and a great amenity for the people of Dublin and beyond. The proposal contravenes zoning objective Z15 and will devastate the local GAA, Soccer and Rugby clubs. No logic or common sense to the proposal, the only gain is for the developer. Disaster in terms of traffic and the environment. The Park will be destroyed. The proposal will have an adverse effect on wintering birds and will impact bat species. Previous proposals were rescinded by Judicial Review.	Section 9.3 with respect to zoning. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.11 open space. Section 9.13 with respect to traffic and Section 11 EIAR. Section 9.17 with respect to other matters.
Sean Haughey TD	Opposed to the planning application. Large scale residential development is inappropriate for Z15 zoning. The land will be zoned for open space in the new Development Plan, which was agreed by the democratically elected Councillor's for the City.	Section 9.2 with respect to planning history. Section 9.3 with respect to zoning, Development Plan principles. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity.

	The proposal will result in the loss of recreational amenity space. Residential development will have a major impact on St. Anne's Park which is a significant recreational amenity and is a highly sensitive public space. The development will intrude and encroach on users of the park and will destroy the unique visual landscape. Adverse impact of the development on the eco system and on the biodiversity of the park is a concern. St. Annes Park forms the buffer zone for the proposed UNESCO biosphere at Bull Island, and the playing fields are integral to the Dublin Bay biosphere and EU Bird and Habitats Directives are particularly relevant. Impact on the Light Bellied Brent Geese. Impact on traffic on Sybill Hill Road, which is a heavily congested road with already huge amounts of traffic.	Section 9.6 other considerations and adjoining context i.e., St. Annes Park. Section 9.13 traffic. Section 9.17 with respect to other matters. Section 9.18 with respect to material contravention.
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	The site has been subject of multiple planning applications for housing and court actions. This application should also be considered in the context of a further application for residential development at adjacent Sybill Hill House. The proposals are unsustainable and are contrary to the proper planning and sustainable development of the unique neighbourhood.	
Ray Byrne	Unreasonable that another planning application is lodged following the Humphreys Judgement which precluded residential development on the lands. The lands are zoned objective Z9, and large residential development is not permissible and on that basis the appeal must fail. Loss of established amenity value of these lands – community sports provision and visually. It is hoped that the clubs can return to St. Pauls pitches in the near future.	Section 9.2 with respect to planning history. Section 9.3 with respect to zoning, Development Plan principles. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.8 relates to building height. Section 9.11 open space. Section 9.17 with respect to other matters. Section 9.18 with respect to material contravention.

	Loss of the land's biodiversity function – ex-situ site for Brent Geese. The planning application is in contravention of Humphreys Judgement, which found that the zoning of the St. Pauls playing fields is tied to its established use as a sports ground. The development is premature, prejudicial and is not in compliance with the Dublin City Development Plan, 2022 – 2028. The planning application lands should be more accurately described as the St. Paul's playing fields in St. Annes Park, which are geographically, ecologically and socially a part of St. Annes Park. The development contravenes the EU Birds and Habitat Directive, and the developer is in breach of the precautionary principle having removed the maintained grass football pitches and having partly erected hoardings to change the use of the land.	
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	The proposed building height will be detrimental to adjoining residential amenity. The application is an attempt to upzone land without going through the required land rezoning process that is a reserved function of the Council. No displacement of established community and sporting use should be permitted. The surviving park scape is a unique asset for Dublin and must not be lost. An attempt to privatise an established public amenity. This application is not about the provision of much needed housing; it is about land speculation and profit for the applicant. Housing supply problem will not be solved by destroying an important amenity space that serves surrounding built up areas. Land value is a planning concern and will out the established and intended use of the land beyond the use of the community.	
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	To restore public confidence the planning process needs respect the planning history and established use of these lands and refuse the latest attempt to gain permission for a change of use which is grossly inappropriate and demonstrably outside of established planning and environmental law.	
Raheny Heritage Society	Biodiversity – winter feeding birds and summer nesting birds. Other protected species – Eurasian badger and bats (5 species) Proposed nursing home - Block G – 4 storeys high. The drawings are incomplete and have the appearance of a ‘work-in-progress’. Is the development compliant with HIQA’s National Requirements. This is the fourth planning application on this Z15 zoned land. The proposed development requires to be critically assessed with how the development sensitively and	Section 9.3 with respect to zoning, Development Plan principles. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.8 building height. Section 9.10 development strategy, adjoining context and open space. Section 9.12 identifies impact on adjoining amenities. Section 9.16 social infrastructure. Section 9.17 with respect to other matters. Section 9.18 with respect to material contravention.

	visually blends in with the existing landscape. The only lands in the applicant's ownership should be used for calculating public open space provision. The applicant is relying on Z15 'open for consideration' for seeking approval for the LRD development. The three community facilities within the application are operationally questionable. The previous planning application was not supported which led to the decision being quashed in the High Court. Judge Humphreys Judgement reiterates the importance of these lands. The applicant should still have to comply with the EU Bird Directive. St. Paul's playing fields are of considerable environmental, ecological and recreational importance. The provision of six mini pitches in lieu of six full sized publicly accessible pitches, which are	
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	only suitable for under ages primary school children. Is the Parks Dept. to take these pitches as 'in-charge'? Pluvial flooding occurs on the development site. Query regarding what average has been used to determine the percentage areas for open space, public open space, play areas, exercise areas and the less than 50% area and the overall site area.	
Michael Walsh	Site background presented. The use of the site by the wintering Brent Geese has been a significant consideration in previous decisions relating to the site. The likely effect of the development on the population of Brent Geese is a material consideration in this case in addition to all relevant planning matters. Impact on Brent Geese as the site is of significance as ex-situ sit for the migrating birds. The zoning of the site should be considered, and certain specific	Section 9.2 planning history. Section 9.3 with respect to zoning, Development Plan principles. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.8 building height. Section 9.9 and 9.11 references unit mix. Section 10 development strategy, adjoining context and open space.

	criteria should be satisfied if permission is to be granted. The impact of any large development on the visual amenities of the park is a material contravention. Access to public transport – while there are frequent bus services, there is not a direct walking route to Harmonstown Dart Station. Residential unit mix – all apartment development. Given the site location, there should be provision of houses and a mix of unit sizes.	Within sections 9.7 and 9.13 access to public transport is considered. Section 9.18 with respect to material contravention.
Iris O'Donovan	The high court case establishes a precedent for any subsequent similar planning application such as the current appeal. Case law decisions of the courts form part of our legislative system. The potential impact on Dublin Bay biodiversity is significant. We need to preserve our public parks and maintain a quality of life for all the users of the park for now and the future.	Section 9.2 with respect to planning history. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.11 open space. Sections 9.17 other matters.

I love Saint Annes Community Group	The appellant does not provide appropriate scientific fact to support their claim and do not have the specific expertise required to address this complex environmental issue. The appellant is in disagreement with established experts in Birdwatch Ireland and Dublin City Council Parks Department. Under the precautionary principle the burden of proof shifts to the landowner. Under the precautionary principle if it is not possible that a given action might cause harm to the environment and if there is no scientific agreement on the issue the action in question should not be carried out. The protection afforded by this principle is crucial in the current climate, as ecosystems come under increased pressure. There are many reasons why this application should not and cannot be granted. The issues pertaining to the previous planning applications	Section 9.2 with respect to planning history. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.17 with respect to other matters. All observations have been considered as part of the assessment of this appeal.
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	on site, have not and cannot be addressed by the landowner. The lands were, and presumably if restored would continue to be the prime ex-situ feeding site for the protected Brent Geese. Birdwatch Ireland has called on the landowner to restore the lands. The established use of the lands as a sports field continued to apply and unaffected by the change in ownership, the landowner has evicted local sports clubs. Dublin City Councils decision to apply a Z9 zoning to the lands is an acknowledgement of the primary function of these lands as amenity, open space lands which are inextricably linked to the surrounding St. Annes parklands. The lands are inside St. Annes Park, with no road frontage and a proposed road which skirts the St. Pauls school buildings. Regardless of the expertise or otherwise of Enviroguide and other environmental consultancy	
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	firms, concern expressed regarding the process of having one party commission vital environmental reports that are used to decide planning issues across the country – with respect to transparency and confidence in the planning system. It is inappropriate for a developer to commission such reports. Note: 134 names have been included to this observation.	
Joe and Liz Nolan	The area is zoned Z15. It is a buffer for Bull Island UNESCO Biosphere and internationally protected wintering birds use the whole of St. Annes Park as feeding grounds, Brent Geese, in particular. The proposed development will have an adverse effect on the integrity of the park and all the wildlife. The Compulsory Purchase Order of 1938 of St. Annes Park excluded Sybill Hill House and 22 acres of parkland, these	Section 9.2 planning history. Section 9.3 with respect to zoning, Development Plan principles. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.8 building height. Section 10 development strategy, adjoining context and open space. Within section 9.13 traffic, access and parking is considered. Section 11

	were to be kept for playing fields. The proposed development is unjustifiable. The removal of this site will result in the displacement of an unacceptably high proportion of the Brent Geese population to be expected to be displaced to and absorbed within the existing network of sites and is not in keeping with the conservation objectives of adjacent European protected sites. There is a proposal to run a pipeline for wastewater across part of St. Annes into the Naniken River and into the Bull Island UNESCO Biosphere. This will have server consequences for the park and the lagoon. The Brent Geese are of National and International Importance and protected under Irish and European Law. The development will result in gridlock and traffic congestion. We should be promoting sports. These developments are destroying our environment.	EIAR also considers the impacts of traffic. Section 9.17 with respect to other matters.
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	No community gain from this proposal. St. Annes Park should be enhanced as it is a green flag award winning park. The development is obnoxious, incorrect, inadequate, and will have a detrimental effect on St. Annes Park.	
BKC Solicitors – John Conway and Louth Environmental Group	An Coimisiún Pleanála should refuse to consider and cannot grant permission for the proposed development where such a grant would have to be justified by reference to the Guidelines for Planning Authorities on Urban Development and Building Height 2018. These guidelines in particular SPPR3 are ultra vires and not authorised by Section 28 (1C) of the 2000 Act. Guidelines are contrary to the SEA Directive in that they purport to authorise contraventions of development plan/local area plan. The grant of permission in excess of the maximum height results in a contravention of the zoning.	The relevant guidelines are referenced throughout the assessment in Section 9 of this report. Section 9.3 relates to zoning. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.8 assesses building height. Section 9.3 assesses traffic, access, and parking. Section 9.14 drainage and site services, and Section 9.15 for flood risk. Section 9.18 with respect to material contravention.

	The application does not comply with the mandatory requirements of the Planning and Development Regulations, 2001, as amended, as there is insufficient detail provided in relation to the sub-structures referred to in the Outline Construction Management Plan and/or insufficient detail or information in relation to the construction phase operations required to realise such sub-structures. The application does not comply with the mandatory requirements of the Planning and Development Regulations, 2001, as amended, and the EIA Directive, as it does not include an EIA report. Has not demonstrated that there is sufficient infrastructure capacity to support the proposed development, including reference to public transport, drainage, water services and flood risk. No regard and/or adequate regard has been given to the cumulative effects of the proposed development in	Section 11 with respect to Environmental Impact Assessment.
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	combination with other development in the vicinity, on the protected sites. No regard being given to the most recent Judgement of the High Court dated 7th May 2021, in relation to zoning, in particular. The application is contrary to the zoning under the 2022-2026 City Development Plan. The EIAR is inadequate and deficient and does not permit an assessment of the potential impacts of the proposed development. The information presented by the developer in respect of Screening for Appropriate Assessment is insufficient, contains lacunae and is not based on appropriate scientific expertise – as such cannot comply with the requirements of the Habitats Directive and relevant provisions of national law under the Planning and Development Act, 2000. The proposed development does not comply with the requirements of the Planning and Development Act, as	
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	amended (under Part XAB), and the Habitats Directive.	
John Leslie	This land was originally part of the park and is within the curtilage of St. Annes Park, which is a designated buffer zone for the Dublin Bay Biosphere. The Environmental Impact Statements provided by the developer are inaccurate, incomplete, overly partisan and not objective. Wintering bird implications – Brent Geese will be adversely impacted by this development. The impact to the Dublin Bay biosphere is significant. The developer has understated the likely landscape and visual impacts of the proposed development on St. Annes Park – the nature and scale of the proposed development does not integrate with the surrounding lands and does not properly assess the visual significance and sensitivity of the site.	Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.10 with respect to architectural, urban design, and adjoining context with St. Annes Park. Section 11 with respect to Environmental Impact Assessment.
Peter Smyth	The applicant has not demonstrated or documented significant expertise. Scope and	Section 9.2 with respect to planning history. Section 9.3 with respect

	focus on respect of assessments in relation to Brent Geese. Appropriate weight must be given to the Brent Geese expert engaged by Dublin City Council and the expert opinions expressed by Birdwatch Ireland. These opinions both agree that the NIS does not provide the precise and definite findings required to show that the Brent Geese population and other conservation interests will not be impacted by the loss of the development site. Conflicts of opinion in the surveys carried out on site (both in the current and previous applications) to support an assertion that there is no adverse impact on the Brent Geese. There are deficits in the research completed by the developer documented in the DCC Parks report and the Birdwatch Ireland submission. The first party appellant asserts that there is no scientific basis or evidence to support the	to zoning, Development Plan principles and masterplan. Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 9.11 with respect to open space. Section 11 with respect to Environmental Impact Assessment.
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	conclusions made by DCC Parks Department. The precautionary principle is the basis for European Environmental Law. Previous precedents for refusal on this site. Brent Geese population trends – it is not safe to assume that the negative population trends and in particular the negative juvenile population trends are not relation to the loss of habitat on the St. Pauls playing fields – once the most important ex-situ foraging site for Brent Geese. It cannot be conclusively confirmed that the proposed development will not impact the North Bull Island SPA. Any doubt in this regard is sufficient to refuse permission. Personal observation of brent geese on the site. It is not the number of sites that is important, it is the quality and proximity of those sites to the SPA that it important. Other ecological factors should be considered – European eels, the biological status of the	
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	Naniken River and the protected badgers. An Coimisiún Pleanála need to consider what zoning applies to the land. Inadequacies/omission of a masterplan should invalidate the planning application. DCC erred in their interpretation of Z15 zoning and have essentially ignored the outcome of previous judicial review outcome. There is no evidence that the reduced footprint of pitches will meet the needs of the established users. The proposed mini fields in this application will be insufficient in isolation or in combination with the existing school pitches to meet the community sporting needs.	
Bird Watch Ireland	Deeply concerned that since the last decision to refuse permission at this same site, the developer has refused to cut the grass at the site. The survey work and analysis by the consultants for this application show the impacts of	Section 9.4 and 9.5 with respect to Appropriate Assessment and Biodiversity. Section 11 with respect to Environmental Impact Assessment.

	the elimination of this habitat, despite this site being the top site for Brent Geese in Dublin, according to the analysis in previous applications. Ireland has significant responsibility to safeguard the species and habitats it relies upon. Article 4.4 of the Habitats Directive requires that the state avoid deterioration of habitats. The information in the NIS cannot justify the conclusion that the loss of habitat at the appeal site, and the use of other sites by the geese shows that there will be no significant impacts to Brent Geese or the integrity of adjoining SPAs. No definite or precise findings have been provided in the conclusions. The site at St. Paul's should be restored for Brent Geese and other conservation interests. It is a failure of the local authority and state agencies that no comprehensive survey or management plan has been put in place in the interim to safeguard the ex-situ feeding	
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	sites of Brent Geese and other conservation interests of adjacent SPAs. The results in the NIS confirm nothing more than the fact that number of birds were recorded on sites other than St. Pauls, from which they have now been displaced. Specific factors pertaining to the Brent Geese have not been addressed in the NIS. The data provided by the consultant shows that the geese are using other sites, but it does not say why. There is no data on the quality of these sites, and whether they are less important overall. None of the data provided prove that St. Pauls playing pitches was not an important site, nor that the other available sites can replace this major site. Nor do they prove that there is 'no impact' on the species. The factors influencing Brent Goose use of a site have not been investigated. There is no scientific evidence to show that the use of new and	
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	additional sites will not affect the population in the long term. A full understanding and assessment of the cumulative impacts is not presented in the NIS. No data is provided on the overall loss of sites important for foraging since 2016, or the increased disturbance at some sites. The statement that the site is no significant is contrary to the findings of the 2107 NIS for the previous development application and the 2019 NIS which identified the proposed development site as a priority site. The assessment of use of grassland by other bird species that are conservation interests is also lacking. Dublin Bay holds important wetlands and internationally important numbers of wintering waterbirds that use the grasslands surrounding the bay to feed on. It would be worthwhile if resources were spent to	
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	understand the importance of these grasslands to the waterbirds of the adjacent SPA(s) before they are lost.	
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8.4. Further Responses

- 8.4.1. On foot of the items raised in observation received from Bird Watch Ireland, a Section 131 Notice was issued to the applicant and the observers in order to provide the opportunity to comment on the specific items raised in the Bird Watch Ireland observation.
- 8.4.2. Twenty (20 no.) responses were received, including a response from the applicant. The Section 131 responses can be summarised as follows.

Applicants Response:

- Project Ecologists DNV (formerly Enviroguide) have prepared a detailed consideration and response.
- The report concludes that site specific survey data records no terrestrial grazing/foraging by LBBG on the lands since winter 2018/2019, confirming unsuitability has persisted for six winters.
- Over the same period, population/context indicators for Dublin Bay SPAs show no observable long-term adverse effect on population trends for LBBG.
- The report relies on the best scientific knowledge reasonably available and present complete, precise, and definitive findings to remove any reasonable scientific doubt that the development in question will not adversely affect the integrity of the relevant SPAs in view of their Conservation Objectives.
- Planning permission has been granted on this site on a number of occasions, most recently in February 2020 (ABP-305680-19 and ABP-307444-20), only to be overturned at Judicial Review, on the basis of the same level of bird surveys/counts.

- It is considered that the third party observation incorrectly asserts that there is a lack of substantive data, where the extent of surveys/data has only increased with every application.
- It is considered that there is sufficient data to reach the same finding as the submitted Natura Impact Assessment that the development of the site will not adversely affect the integrity of the Natura 2000 sites either alone or in combination with other plans and projects, taking into account the conservation objectives of the Natura 2000 sites.

Observers Responses:

- Fully agree with the content of Birdwatch Ireland submission.
- Consider the NIS produced by the developer to be flawed, non-comprehensive not a sign versus how much to accept any proposal on the lands.
- The Brent Geese, other protected bird species and individuals remain excluded from the Saint Paul's playing fields by the developer who has acted against planning judgments and environmental laws and has turned the playing fields into a fenced off wilderness in an unauthorised attempt to destroy the ecology and immunity function of the lands.
- The developer has interfered and continues to interfere with an identified established EU habitat in breach of the precautionary principle having removed the maintained grass football pitches and haven't erected hoardings around the lands.
- The applicant is attempting to destroy protected ecological habitat and amenity lands and then our pursuit of profit at the expense of the wider environment and community.
- The site was always part of the park and is zoned 'Z9' the objective of which is to preserve provide an approved recreational amenity open space and ecosystem services.
- The park is also part of the wider North Bull island SPA and the UNESCO biosphere which is protected under both EU and Irish law.

- The proposed development will do nothing to solve the housing crisis as it contains 580 apartments.
- Granting permission would compound the recent mismanagement of this site and represent a breach of Ireland's obligations under the Birds Directive.

8.5. Further Information

8.5.1. Section 32A (1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, refers to large-scale residential development on land 'the zoning of which facilitates its use for the purposes proposed in the application', accordingly the applicant was requested to submit further information to assist the Coimisiún in assessing the appeal as follows:

1. To clarify how the proposed Large Scale Residential Development (including the proposed nursing home facility), proposed in this application, complies with the criteria set out under the zoning objective for the subject site as per the Dublin City Development Plan, 2022-2028 i.e., Z9 'Amenity/Open Space Lands/Green Network', and Z15 'Community and Social Infrastructure'.
2. To clarify having regard to the current zoning of the site, how the development complies with the legislative provisions of Section 32A (1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, which refers to Large-Scale Residential Development (LRD) on land 'the zoning of which facilitates its use for the purposes proposed in the application'.
3. To provide further information pertaining to the Natura Impact Report, which accompanies the Dublin City Development Plan, 2022-2028 and to clarify how the proposed development, complies with the protective policies and objectives (including the zoning objectives set out therein) of the Dublin City Development Plan, 2022-2028, which protect the network of ex situ inland feeding sites in order to avoid or reduce the potential for impacts on the integrity of Natura 2000 sites.
4. To provide any further information, for example any relevant provisions of the current Dublin City Development Plan, 2022-2028, or any other relevant matter in accordance with the applicable legislation for Large Scale

Residential Development, which you consider might assist the Coimisiún in clarifying its ability to deal with this appeal.

8.5.2. The applicant responded to the further information request on 14th day of October 2025. The response can be summarised as follows:

- In response to item 1, the applicant stated when the LRD Application was lodged with Dublin City Council, determined by Dublin City Council and ultimately appealed to An Coimisiún Pleanála (An Bord Pleanála at the time) the area of the site on which residential development is proposed was zoned 'Z15 – Institutional & Community Uses' which facilitated the development of residential accommodation and as such was compliant with the provisions of the Dublin City Development Plan.
- In response to item 2, the applicant stated when the LRD Application was lodged with Dublin City Council, determined by Dublin City Council and ultimately appealed to An Coimisiún Pleanála (An Bord Pleanála at the time) the area of the site on which residential development is proposed was zoned 'Z15 – Institutional & Community Uses' which facilitated the development of residential accommodation and as such was compliant with the legislative provisions of Large Scale Residential Development.
- In response to item 3, the applicant stated as set out in the previous submission, in response to a submission made by Birdwatch Ireland, site-specific survey data records no terrestrial grazing/foraging by LBBG on the lands since winter 2018/19, confirming unsuitability has persisted for six winters. Over the same period, population/ context indicators for Dublin Bay SPAs show no observable long-term adverse effect on population trends for LBBG. We rely on the best scientific knowledge reasonably available, and we present complete, precise and definitive findings to remove any reasonable scientific doubt. On the basis of complete, precise survey and population evidence provided in the 2022 NIS, there is no reasonable scientific doubt that the development in question will not adversely affect the integrity of the relevant SPAs in view of their Conservation Objectives.
- In response to item 4, the applicant stated when the LRD Application was lodged with Dublin City Council, determined by Dublin City Council and

ultimately appealed to An Coimisiún Pleanála (An Bord Pleanála at the time) the area of the site on which residential development is proposed was zoned 'Z15 – Institutional & Community Uses' which facilitated the development of residential accommodation and as such was compliant with the legislative provisions of Large Scale Residential Development and with the provisions of the Dublin City Development Plan.

9.0 Assessment

9.1. Introduction/Context

- 9.1.1. The Coimisiún received a first party appeal on a large scale residential development for 580 no apartments, 100-bed nursing home, creche and all associated site works. As noted above numerous observations were made in respect to the first party appeal, the issues have been summarised above and will be considered in my assessment to follow.
- 9.1.2. In summary, the Dublin City Council planners' report considered that the principle of the development was in compliance with zoning objective under Z15 and the accompanying criteria outlined under Section 14.8.14 of the Dublin City Development Plan, 2016-2022. There was no significant objection to the delivery of a high density residential development on part of the St. Paul's lands, subject to complying with relevant planning standards, and demonstration that the proposed development will not have a significant impact on biodiversity.
- 9.1.3. The provision of new community uses as part of the proposal including a nursing home and crèche was welcomed. The loss of the existing area for sports and amenity use was not considered an issue as the development would retain in excess of 25% of the site for sports/amenity in the form of the proposed mini pitches.
- 9.1.4. The planner further considered that the design and layout would provide a high quality residential scheme with a height, mass and scale which will sit comfortably within its surroundings and shall not have a significant negative impact upon the adjoining Conservation Area or the residential amenity of nearby dwellings.
- 9.1.5. Notwithstanding, the planner noted the significant outstanding biodiversity issues as outlined within the Parks, Biodiversity and Landscape Services report (20th October

2022) and the Department of Housing, Local Government and Heritage report (17th October 2022). Therefore, it was considered that it has not been established beyond reasonable scientific doubt, that adverse effects on site integrity will not result in the displacement of geese as a result of the proposed development, and that the development will not, and has not, caused significant negative impacts to Light Bellied Brent Geese. Permission was refused for this reason as noted in Section 5.1.1 above.

9.1.6. Therefore, the following are the main issues I consider to be pertinent in my assessment of this first party appeal:

- Planning History and Precedence
- Principle of Development
- Appropriate Assessment
- Biodiversity
- Density
- Building Height
- Unit Mix and Tenure
- Development Strategy
- Residential Standards
- Impact on Amenities
- Traffic, Access, and Parking
- Drainage
- Flood Risk
- Social Infrastructure
- Other Matters
- Material Contravention

9.2. Planning History and Precedence

- 9.2.1. At the outset, I draw the Coimisiún's attention to the planning history on this site, including numerous Court Judgements, which have been referenced as precedence in the third party observations submitted in respect of this appeal. Notwithstanding, while the history is of relevance, I consider that this case should be assessed and determined on its own merits having regard to the sensitivity of the receiving environment, the proper planning and sustainable development of the area, and the specifics of the proposed development.
- 9.2.2. The subject lands had originally been laid out as five pitches, with one pitch attached to St. Paul's College. It is understood that the use of the five pitches by sports clubs was terminated in late 2017 and following this in August 2018 the grass was no longer cut, the third party observations make reference in this regard. The application lands have been fenced off, as evident at time of site visit, and licenses to use them by sports groups have not been renewed, this has also been referenced in the third party observations. However, I note that the site was sold by the original owners and has been in private ownership for a number of years, and as noted above has been subject to several planning applications for redevelopment. As such, I consider that the issues pertaining to the use or otherwise of the lands by third parties as a sports ground/playing pitch are beyond the scope of this appeal.
- 9.2.3. A number of third-party observations also reference the planning history and consider that the current application has not adequately addressed the previous concerns raised in the planning history.
- 9.2.4. Whilst this report represents my de novo assessment of the current application, I will reference the previous applications on site throughout my assessment in respect to specifically how to the current application has addressed the concerns, where relevant.

9.3. Principle of Development

Zoning

- 9.3.1. As noted in the foregoing the Planning Authority assessed the proposed development against the provisions of the Dublin City Development Plan, 2016 – 2022. Under this Plan the site was zoned objective Z15 and the planning authority considered that the proposed development would be consistent with the Z15 zoning

objective based on the nature and scale of the proposals, the site zoning and context.

- 9.3.2. However, since the decision of the planning authority and the subsequent appeal to An Coimisiún Pleanála, the Dublin City Development Plan, 2022 – 2028, has been adopted and in place since 14th December 2022.
- 9.3.3. Observers assert that the appellant would have been aware of the revised zoning of the application site prior to appealing the decision of the Planning Authority to An Coimisiún Pleanála on the 24th day of November 2022. While the appellant may or may not have been aware of the revised zoning adopted in the Dublin City Development Plan, 2022-2028 for the application site, the Dublin City Development Plan, 2022-2028 did not formally become the statutory plan for the application site area until after their appeal was lodged to An Coimisiún Pleanála.
- 9.3.4. I note, however, that the site was zoned objective 'Z9', in the Draft Dublin City Development Plan which was on public display until 14th February 2022 i.e. prior to the lodgement of the planning application and appeal.
- 9.3.5. The appellant did not address the compliance or otherwise of the proposed development with respect to the zoning of the application site under the Dublin City Development Plan, 2022-2028 in their appeal. This application is made under the applicable legislation for large scale residential development, specifically, Section 32A (1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, which refers to Large-Scale Residential Development (LRD) on land *'the zoning of which facilitates its use for the purposes proposed in the application'*.
- 9.3.6. As the zoning of the site changed from 'Z15' under the Dublin City Development Plan, 2016 – 2022, to 'Z9', and part 'Z15', under the Dublin City Development Plan, 2022 – 2028, and to enable the Coimisiún deal with the appeal, further information was requested as noted in Section 8.6 above.
- 9.3.7. The applicant responded to the further information on 14th October 2025 and stated that when the LRD Application was lodged with Dublin City Council relating to the Dublin City Development Plan, 2022-2028, determined by Dublin City Council and ultimately appealed to An Coimisiún Pleanála (An Bord Pleanála at the time) the area of the site on which residential development is proposed was zoned 'Z15 – Institutional & Community Uses' which facilitated the development of residential

accommodation and as such was compliant with the legislative provisions of Large Scale Residential Development and with the provisions of the Dublin City Development Plan.

- 9.3.8. While I acknowledge that the site was zoned 'Z15' at the time of the Local Authority decision and the appeal to An Coimisiún Pleanála (24th November 2022), a judicial review was lodged in the Courts, against Dublin City Council (Record Number, 2022 JR 1133), on the 21st of December, and a stay sought on the further processing of the case lodged with An Coimisiún Pleanála i.e., ABP-315183-22.
- 9.3.9. On the 23rd of January 2023, Mr. Justice Humphreys, granted a stay on any further processing of the subject appeal (ABP-315183 – 22). These proceedings were withdrawn and by order of the court, perfected on the 9th of June 2025, the Judicial Review was struck out.
- 9.3.10. On the 31st of July, 2025, the Court, made an ancillary Order, ordering that the 16-time period referred to in section 126A (1) and (3) of the Planning and Development Act 2000 (as amended) shall deem to expire 16 weeks from the date of the perfection of the Order striking out the proceedings on the 9th June, 2025.
- 9.3.11. As a result, of the perfection of this order, the stay on the Coimisiún's processing of the LRD appeal was lifted and a new decision date was given, and the inspector could commence the assessment of the appeal.
- 9.3.12. Accordingly, the inspector must have regard to the Development Plan in place at the time of the assessment of the appeal i.e., from 9th June 2025, which in this case is the Dublin City Development Plan, 2022 – 2028.
- 9.3.13. The appellant has been afforded the opportunity to comment on the provisions of the now adopted Development Plan having regard to the change in zoning and any other relevant provisions of the current Plan.
- 9.3.14. As such, under the Dublin City Development Plan, 2022 – 2028, the majority of the subject lands are zoned 29 'Amenity/Open Space Lands/Green Network', with a stated objective "To preserve, provide and improve recreational amenity, open space and ecosystem services". Part of the application site, i.e., the location of the proposed access through St. Paul's College is zoned Z15 'Community and Social

Infrastructure’, with a stated objective “To protect and provide for community uses and social infrastructure”.

- 9.3.15. Based on the terms of the Development Plan, residential or nursing home uses are not listed as being ‘permissible’ or ‘open for consideration’ on lands assigned with a ‘Z9’ zoning objective. Childcare facility uses are ‘open for consideration’ on lands assigned within the Development Plan for ‘Z9’ zoning objectives.
- 9.3.16. Section 14.3 of the Development Plan initially states that there will be a presumption against uses not listed under the ‘permissible’ or ‘open for consideration’ categories in certain zones, including Z9 zones.
- 9.3.17. Accordingly, it would appear that there is an initial presumption against the proposed residential and nursing home uses on the subject lands as these lands are central to providing for amenity open space and generally the only new development permitted in these areas, other than amenity or recreational uses are those associated with the open space use, which is not proposed under the current application.
- 9.3.18. Several third party observers assert that residential development is not permissible on the subject lands based on this zoning objective.
- 9.3.19. As noted above, nursing homes are not listed as being ‘permissible’ or ‘open for consideration’ on ‘Z9’ lands and, as such, there is a presumption against this use on these lands. I also note that nursing homes are not listed as being ‘permissible’ or ‘open for consideration’ in any of the zones listed in the Development Plan.
- 9.3.20. Section 15.13.7 of the Development Plan sets out the requirements in consideration proposals for nursing homes, including the locating of such facilities in established neighbourhoods / residential areas well served by community infrastructure and amenities. However, based on the provisions of the Development Plan it would appear that the only zones where there would not be a presumption against nursing homes would be in zones Z3, Z4, Z5, Z7, Z10, Z13 and Z14. While the site might be considered to be within an area featuring an established neighbourhood, including the residential communities of Killester, Raheny and Clontarf, the provisions of the Development Plan, 2022-2028, including the ‘Z9’ land-use zoning objectives for this site do not allow a nursing home to be located on these lands.

9.3.21. I note that the proposed creche facility would be open for consideration under the 'Z9' zoning objective, however, the proposed creche facility forms a minor element of the overall proposals.

9.3.22. In respect to residential development, Section 14.7.9 of the Development Plan sets out that in certain specific and exceptional circumstances, and where it has been demonstrated to the satisfaction of the Planning Authority, some limited degree of residential or commercial development may be permitted on 'Z9' zoned lands subject to compliance with five criteria, including demonstration that such development:

- Would be essential in order to ensure the long term retention, enhancement and consolidation of a sporting facility on the site;
- That the primary sporting land-use on the site would not be materially eroded, reduced or fragmented;
- That the sports facility would be retained and enhanced on site;
- That the future anticipated needs of the existing use, including extensions or additional facilities, would not be compromised;
- The applicant shall be the sports club owner or have a letter of consent from the owner.

9.3.23. As noted in foregoing, the proposed development comes within the definition of a large-scale residential development and the extent of residential development featuring an integrated commercial 100-bedroom nursing home within four floors of proposed Block G, would not be of 'limited' degree. I would not consider the provision of the 580 residential units and the 100-bed nursing home to be in anyway representative of a 'limited degree' of residential or commercial development. The proposal is clearly a large scale form of development as alluded to in the definition provided for the application type under the Planning and Development Act, 2000, as amended. Accordingly, I am satisfied that it would not be possible for the proposed development to be considered under the exceptional circumstances provided for under section 14.7.9 of the Development Plan.

9.3.24. Further to this, I have no evidence from the appellant to demonstrate that the proposed development would comply with any of the stated criteria listed in the Development Plan to allow for an element of residential and commercial

development on the application site as the development proposed is clearly not intrinsically linked to the ongoing operation or enhancement of the existing sports facility.

- 9.3.25. I acknowledge the planning application landscape layout drawing (drawing no.L1-105) setting out the location, playing pitch layouts and dimensions, however, I fail to see how it could be reasonably demonstrated that the loss of the six full-size playing fields that had once occupied the site, could be retained and enhanced as a sports facility via their replacement with six miniature playing pitches associated with the residential development under the current proposal. Various third-party observations refer to the limited benefit, including in sporting terms, of the six miniature playing pitches. Consequently, it would not appear possible for the applicant to comply with all of the criteria set out in Section 14.7.9 of the Development Plan, even if the proposed development had been considered of 'limited degree'.
- 9.3.26. As such, I am satisfied that the proposed development would represent a material contravention of the 'Z9' zoning objective of the Development Plan, and I recommend that permission be refused in this instance. This issue is also discussed in Section 9.18 of this report (Material Contravention).
- 9.3.27. The lands zoned 'Z15', are located to the western portion of the overall application site. The works proposed on the 'Z15' lands include the proposed access to the development via the school lands. The school lands will be retained and do not form part of the overall proposal. The 'Z15' zoning objective, is to protect and provide for community uses and social infrastructure and it is the policy of the Council to promote the retention, protection and enhancement of the city's Z15 lands. Having regard to the nature and extent of the proposed works on 'Z15' lands, I am satisfied that these works are acceptable in principle and will not detract or impact upon the existing community use, i.e. the associated school grounds and therefore demonstrates compliance with the Z15 zoning objective.

CUO25

- 9.3.28. Having regard to the change in Development Plan, it is also pertinent to consider any other substantive policy changes that have occurred in the current Plan. In this context, I reference Objective CUO25 of the Development Plan, which states with respect to large scale developments above 10,000 sq. m. in total area, which are

required to provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their development at the design stage.

- 9.3.29. As the Development Plan states total area, the gross floor area of this development is 71,207 sq. m (10. (c) of the application form), and therefore a minimum total of 3,560 sq. m of floor area would be required to comply with this objective. No community, art and cultural spaces have been provided as part of the proposed development and the failure to demonstrate compliance with this objective would result in a material contravention of the Development Plan. Therefore, I recommend that permission be refused in this instance. This issue is also discussed in Section 9.18 of this report (Material Contravention).

Masterplan

- 9.3.30. Various observations refer to their concerns with the masterplan document accompanying the planning application, in particular with regard to the proposals with respect to other lands outside the site and the overall allocation of public open space.
- 9.3.31. In contrast to the previous Z15 zoning objectives under the 2016 - 2022 Development Plan, the Z9 zoning objective now pertaining to the majority of the site does not specifically set out that a masterplan is required as part of the application, nor is there a minimum provision of public open space stated in the current Development Plan for lands featuring a Z9 zoning objective.
- 9.3.32. However, Policy SC17 of the Development Plan, 2022-2028, requires a masterplan for any site over 0.5ha, in accordance with criteria for assessment set out in Appendix 3 to the Development Plan. The criteria in Appendix 3 refers to a masterplan providing a vision for the development of the entire site area. The applicant has provided detailed proposals for the entire area within the redline boundary of the application site, including landscaping and therefore accords with the Development Plan in this regard.
- 9.3.33. While observers refer to the need to include detailed proposals for other lands in the former 'Z15' land bank as part of the application masterplan proposals, including the proposed senior-living scheme (DCC ref. 5155/22 / ABP ref. 315672-23), based on the provisions of the Development Plan, this would not appear necessary having

regard to the change in zoning. I will consider the appropriateness of the development relative to neighbouring properties under several of the headings in my assessment below, including the impacts on neighbouring residences. Cumulative impacts of the proposed development alongside other developments are considered as part of the EIA in Section 11 below.

Phasing

- 9.3.34. Policy QHSN49 of the Development Plan, 2022 - 2028 addressing phasing requires larger schemes to be developed over a considerable period of time to be developed in accordance with an agreed phasing programme to ensure that suitable physical, social and community infrastructure is provided in tandem with the residential development and that substantial infrastructure is available to initial occupiers.
- 9.3.35. Within their Preliminary Construction, Demolition & Waste Management Plan the applicant states that a detailed construction programme has not been developed at this stage, although it is envisaged that the proposed development would be constructed over an 18-month period in two stages comprising site demolition, clearance and preparation work, followed by site development and construction.
- 9.3.36. Section 15.2 of the EIAR refers to the programme for the removal of excavated material occurring over an eight-month period.
- 9.3.37. A ten-month period for the site development and construction phase, would not be a considerable period of time for a project of this scale, and I am satisfied that the proposed phasing accords with the Development Plan and if the Coimisiún were minded to grant permission a condition could be attached to ensure agreement on the phasing programme.

Demolition

- 9.3.38. The application seeks permission to demolish an existing prefabricated school building within the St. Paul's College grounds that are stated to amount to 694sq.m, as well as a pedestrian crossing structure over the Naniken River in St. Anne's Park.
- 9.3.39. This prefabricated school building and river crossing structure would not appear to be of architectural merit or otherwise. The prefabricated school building would appear to require removal in order to facilitate access to the proposed housing area

of the application site. The river crossing would be reconstructed as part of the subject proposals.

- 9.3.40. The current Development Plan references climate mitigation actions specifically with regard to proposals for substantial demolition and reconstruction works and the justification for same having regard to the 'embodied carbon' of existing structures and the additional use of resources and energy from new construction. Section 15.7.1 of the Plan also highlights that applicants are encouraged to reuse and repurpose the buildings for integration within the scheme, where possible in accordance with Policy CA6 and CA7. Where demolition is proposed, the applicant must submit a demolition justification report to set out the rationale for the demolition having regard to the 'embodied carbon' of existing structures and demonstrate that all options other than demolition, such as refurbishment, extension or retrofitting are not possible. I do not consider that the extent of demolition proposed as part of this development to be significant and comprises a prefabricated structure associated with the school. The demolition of the structure would be essential to ensure access to the site and is located on the lands zoned 'Z15' and I am satisfied that this element of the proposal complies with the Development Plan.
- 9.3.41. I am satisfied that demolition of these structures and construction of a replacement river crossing structure would not appear contrary to any of the provisions of the Development Plan, 2022-2028. The applicant's Preliminary Construction, Demolition and Waste Management Plan sets out measures to be employed as part of the removal and replacement of these structures, including general water protection measures, which I consider further in my assessment below.

Building life Cycle

- 9.3.42. I note Section 15.9.14 of the Development Plan, 2022 – 2028, which states that *"All residential developments should include a building lifecycle report that sets out the long term management and maintenance strategy of a scheme, should include an assessment of the materials and finishes proposed, the ongoing management strategy, the protocol for maintenance and repair, the long term maintenance costs for residents and the specific measures that have been taken to effectively manage and reduce the costs for the benefit of residents. The reports should address the assessment of Long Term Running and Maintenance and Measures to Manage and*

Reduce Costs. Compliance and acknowledgement of the provisions set out in the Multi-Unit Developments Act 2011 for the ownership and management of multi-unit developments should also be included”.

- 9.3.43. A Building Lifecycle Report has been provided with the application which provides an initial assessment of long-term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered to effectively manage and reduce costs for the benefit of the residents.
- 9.3.44. The document also reviews the outline specification set out for the proposed development and explores the practical implementation of the design and material principles which has informed design of building roofs, façades, internal layouts and detailing of the proposed development. This accords with the requirements of the Development Plan and is considered adequate and acceptable.

Conclusion:

- 9.3.45. Based on the foregoing, I am satisfied that the proposed residential element including the proposed 100-bed nursing home of the proposed development would materially contravene the ‘Z9 – Amenity / Open Space Lands / Green Network’ land-use zoning objectives contained in the Development Plan 2022-2028 and therefore is not acceptable. While the proposed creche facility would be acceptable under this zoning objective, this element of the proposal forms a minor element of the overall proposals, which is for a large scale residential development.
- 9.3.46. I note that the Planning Authority did not refuse to grant planning permission on the basis of the proposed development materially contravening the land use zoning objectives of the Development Plan, as the development was assessed under the 2016 – 2022 Development Plan.
- 9.3.47. Accordingly, as the residential and nursing home elements forming the vast majority of the proposed development, this would materially contravene the land-use zoning objectives for this site.
- 9.3.48. Moreover, the proposed development does not provide for 5% community, arts and culture spaces as part of the development and therefore materially contravenes

objective CU025 of the Development Plan, 2022-2028. I am satisfied that permission should also be refused on these grounds.

9.4. Appropriate Assessment

- 9.4.1. The planning authority's single reason for refusal related to the inadequacy of the Natura Impact Statement (NIS), which has not demonstrated that the evidence provided supports the assertion that no impact arises to the Dublin Bay populations of protected Brent geese. The Planning Authority further considered that any assessment of the impacts of the proposed development on the site integrity of the Natura 2000 sites in Dublin Bay under the EU Birds and Habitats Directives cannot be made in the absence of data and the precautionary principle applies. It was, therefore, considered that the proposed development would, materially contravene Policy GI23 of the Dublin City Development Plan, 2016-2022, for the protection of European Sites.
- 9.4.2. The first party appeal considers that the reason for refusal has not been supported by any scientific evidence to undermine the NIS as submitted and any science that is quoted is irrelevant or outside the scope of the NIS. The appellant further considers that much of the criticism in the Parks Department report is based on speculation and does not form a sound basis for any scientific assessment.
- 9.4.3. The appeal further states that the NIS, as submitted, was completed by competent authors and is based on the best scientific evidence available including six years of survey data and the most recently published population data showing both international and national trends. The NIS has concluded that, ensuring the avoidance and mitigation measures contained therein are implemented as proposed, the Proposed Development will not have any significant effects on the integrity of the relevant European sites, individually or in combination with other plans and projects.
- 9.4.4. Most of the observations, including an observation from Bird Watch Ireland, express concerns in respect of the Brent Geese and the resultant impact on the species from the loss of this site. The evidence provided in the application, is also not considered sufficient to ensure that there will be no impact on the species.
- 9.4.5. The applicant was requested to respond to the observation received from Bird Watch Ireland and was also afforded the opportunity by way of further information to respond to the new Development Plan and any relevant policies or objectives in this

regard. The applicant's response on both matters stated that site specific survey data records no terrestrial razing/foraging by LBBG on the lands since winter 2018/2019, confirming unsuitability has persisted for six winters. The report relies on the best scientific knowledge reasonably available and present complete, precise, and definitive findings to remove any reasonable scientific doubt that the development in question will not adversely affect the integrity of the relevant SPAs in view of their Conservation Objectives and considered that there is sufficient data to reach the same finding as the submitted Natura Impact Assessment that the development of the site will not adversely affect the integrity of the Natura 2000 sites either alone or in combination with other plans and projects, taking into account the conservation objectives of the Natura 2000 sites. Reference was also made to the Development Plan in place at the time of the planning authority decision and first party appeal, i.e. the 2016 – 2022 Development Plan.

- 9.4.6. In respect to the 2022-2028 Dublin City Development Plan, the Plan includes a suite of policies in relation to Biodiversity, and the protection of areas of national and international importance as identified in Section 10.5.2 and Table 10-2 of the Plan. Of particular relevance are Policies GI9, GI10 and GI13, which all relate to the conservation, protection, restoration and enhancement of European Sites and all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives.
- 9.4.7. Moreover, the Natura Impact Report (NIR), which accompanies the Dublin City Development Plan, 2022-2028 states “ publicly available data and information (Benson 2009, Scott Cawley Ltd., 2017, Enviro Guide 2019) which is based on records compiled from the Irish Brent Goose Research Group, BirdWatch Ireland and survey data collected to inform research and planning applications, confirms that there is a network of ex situ inland feeding sites used by Qualifying Interest winter bird species of Special Protection Areas” . The NIR also states that “Loss of these ex-situ sites, individually or cumulatively, has the potential to adversely affect these bird species”. The NIR further states that “the majority of sites previously surveyed and identified as ex-situ inland feeding sites are proposed for the zoning category 29 Amenity / Open Space Lands / Green Network. There are aspects of this zoning category which provide a protective function to these sites as they will be retained as green amenity spaces”.

Appropriate Assessment Screening

- 9.4.8. In this regard, I refer the Coimisiún to Appendix A (including A-A, A-B and A-C), which documents the report from Ecologist and the Screening Determination in respect to the current appeal.

Screening Determination and Overall Conclusion

- 9.4.9. I note the Screening Determination which concludes,

“Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on 7 European Site(s): North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015) in view of the sites conservation objectives.

Appropriate Assessment is required.

This determination is based on:

- Permanent loss of a previously known potential ex-situ inland feeding site previously used by Special Conservation Interest (SCI) bird species from nearby European sites.*
- Potential for construction related disturbance to SCI species using lands adjacent to the proposed development site.*
- Hydrological pathway from the proposed development site to some European sites and potential for construction-related surface water discharges entering into Dublin Bay.*
- The qualifying interests and conservation objectives of the European sites”.*

- 9.4.10. I further note the Ecologist Appropriate Assessment Report, which concludes,

“In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

9.4.11. *Following an examination, analysis and evaluation of the NIS and all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage and Birdwatch Ireland and the DCC Parks report prepared as part of the planning report for DCC , I consider that adverse effects on site integrity of the North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015 cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects. Therefore, the precautionary principle has been adopted.*

9.4.12. *My conclusion is based on the following:*

- *There is reasonable scientific doubt that the proposed development alone, or in combination with other plans and projects will not affect the attainment of the conservation objective attributes of LBBG of “Distribution” and “Population Trend and their specific targets”.*

9.4.13. Noting the planning authority reason for refusal, whilst under a difference Development Plan (i.e. the 2016-2022 Development Plan), the main thrust of the objectives pertaining to the protection of biodiversity and Protected Areas of International and National Importance, have been carried into the 2022-2028 Development Plan, specifically Policy GI9 European Union Natura 2000 Sites, GI10 Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas and GI13 Areas of Ecological Importance for Protected Species relates.

Conclusion:

9.4.14. Having regard to the concerns expressed in the ecologist report in relation to the impact of the proposed development on the integrity of the protected Brent Geese, I consider that the development as proposed would materially contravene Policy GI9 European Union Natura 2000 Sites, Policy GI10 Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas and Policy GI13 Areas of Ecological Importance for Protected Species. This is further considered in my assessment under material contravention.

9.5. Biodiversity

- 9.5.1. Having regard to the planning history associated with this site and noting the reason for refusal, appeal and third party observations on file, it is noted that this site was a previously used ex-situ inland feeding site that was of importance to some of the SCI species, in particular the Light Belled Brent Geese (LBBG) (wintering birds). However, as per the information provided with the case and noting the expert reports, no LGGB, have been recorded within the site since 2017/2018, this is due to the lack of grassland management. The DHLGH submission suggests that unsuitability could probably be reversed with a change of the land management back to amenity grassland.
- 9.5.2. The proposed development will result in the permanent removal of this site from the ex-situ land feeding network, with the likely effects of the proposed development primarily related to changes in water quality, disturbance and/or displacement of species and changes in population density of the LBBG, in particular.
- 9.5.3. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted.
- 9.5.4. The ecologist considers that *“the analysis presented by the applicant in the NIS (and in subsequent submissions) fails to provide robust scientific evidence based on compelling data analysis that the loss of the previously used ex-situ inland feeding site alone, will not have an adverse impact on the conservation objective attributes of LBBG of “population trend” and “distribution” for the five SPA sites from which the geese were identified as using the development site”*.
- 9.5.5. While I note that the submitted EIAR details disturbance to the species during construction, there is no assessment of the impact of the proposal on the LBBG. The applicant refers to the submitted NIS in this regard. Therefore, I am not satisfied that the applicant has adequately addressed the impact on biodiversity, in particular the loss of a previously used ex-situ inland feeding site for LBBG, and the resultant impact on the wintering birds within the biodiversity section of the submitted EIAR. This will be further assessed and considered in detail in Section 11 below.

9.6. **Other Considerations:**

- 9.6.1. While I note that the pertinent issues relating to this first party appeal have been discussed above, the following sections of my assessment address matters raised by third party observers and assess how the proposed development complies with the relevant provisions of the current 2022-2028 Development Plan, and other relevant guidance to allow for a full consideration of the proposed development in the current local and regional policy context.

9.7. Density

- 9.7.1. Comprising 580 units on a gross site area of 6.7ha, the proposed development would feature a density of 86 units per hectare. The subject development would have a plot ratio of 1.06 and a site coverage of 25.86% (based on the application site boundary).
- 9.7.2. The planning authority noted that no concerns were raised in the previous applications on site in respect of the density proposed on this site and following my review of the planning history I also note that the previously proposed density on the site was acceptable in principle. The Dublin City Council planners' report also states *"Harmonstown Dart station (c. 420m) and the need to balance the scale of development due to the location adjacent to St. Anne's Park Conservation Area, it is considered that the proposed density is reasonable. The proposed density is considered consistent with Policy SC13 of the DCDP 2016- 2022 which promotes sustainable densities, particularly in public transport corridors and are appropriate to their context and the Government policy to support increased building height and density as outlined within the NPF and the guidelines 'Urban Development and Building Heights Guidelines for Planning Authorities' (2018). The relatively low plot ratio and site coverage may reflect the need to respect the site context adjacent to St. Anne's park, open space requirement and proximity to residential dwellings"*.
- 9.7.3. The third party observers assert that the proposed development is not one that would be appropriate for these lands, as they would introduce an excessive increase in population into the area, due to the limited provision of public transport and as the core strategy and housing strategy targets for the city would be exceeded.
- 9.7.4. Observers also assert that the proposed development would be contrary to strategic outcomes 1 and 7 of the NPF respectively relating to compact urban growth and enhanced amenities and heritage.

9.7.5. Having regard to the current Development Plan, density is considered in the context of Table 1: Density ranges of Appendix 3. Moreover, where a scheme proposes density and building height that are significantly higher than the prevailing context the performance criteria in Table 3 Appendix 3 shall apply. As such I will assess the appropriateness of the density in the context of the Development Plan and in the context of the prevailing character of the area, as follows.

Development Plan and Appendix 3

9.7.6. Appendix 3 of the *Dublin CDP* sets out guidance regarding density and building height in the city. Table 1 in Appendix 3 identifies density ranges for different locations. The site is located in Raheny approximately 7km outside of the City centre and as such, I consider this to be an outer suburb location in respect to density ranges and location. I also note that Raheny is identified as an 'urban village' in Figure 7, of Chapter 7 and is not a 'key urban village'. Having regard to Table 1 Appendix 3 net density ranges of 60 – 120 units per hectare will be supported. As noted above, the development is proposed at a density of 86 units per hectare which in principle is appropriate for this urban location.

9.7.7. Table 2 of Appendix 3 of the Development Plan sets out indicative plot ratio and site coverage standards for different areas of the city. Based on the criteria in table 2 the site is considered in an 'outer employment and residential area' and the indicative plot ratio is between 1.0 and 2.5, while indicative site coverage is between 45% - 60%. I also note the site content in relation to the proximity to St. Anne's Park, which was also acknowledged as part of the planning authority assessment. This proposed development provides for a plot ratio of 1.15 and site coverage of 34%. As such, the proposal is within the indicative range for both plot ratio and site coverage. Again, I note the location of the site and the proposed amenity space provided within the development, which results in a lower site coverage, which I consider to be appropriate in the site context.

9.7.8. Notwithstanding the appropriateness of the proposed density at 86 units per hectare, Table 3 Performance Criteria of Appendix 3 assesses urban schemes of enhanced density and scale.

9.7.9. The immediate areas to the application site, including The Meadows, and residential communities adjoining St. Anne's Park are very much defined by low residential

densities. With reference to the closest recent housing developments permitted by in the vicinity of the application site, I note that the Ardilaun development was permitted along Sybil Hill Road, the development initially permitted under Ref: 4242/15/ABP Ref: PL29N.246250 had a density of 111 dwelling units per hectare as noted in the Dublin City planners' report (4242/15). While the principle of the proposed density is appropriate for this site, the density is further considered in Section 9.7 below in respect to performance criteria in Table 3 in relation to the proposed density and building height and further concluded in the context of both density, height and scale under this assessment.

National Planning Framework (NPF)

- 9.7.10. In terms of the national policy context, the NPF (2025) promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 7, 8, 9, 11, 22 and 43 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 signals a shift in Government policy towards securing more compact and sustainable urban development within existing urban envelopes. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary.

Compact Settlement Guidelines

- 9.7.11. I reference the Compact Settlement Guidelines, which replaced the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, 2009. There are a number of references in the current Dublin City County Development Plan 2022-2028 to the 2009 Guidelines, however these references generally add 'any amendment thereof' e.g., Policy SC10, and Policy QHSN2, as such the Compact Settlement Guidelines are the superseding document in this regard.
- 9.7.12. The site is located in Raheny approximately 7km outside of the City centre and as such I consider Table 3.1 - Areas and Density Ranges Dublin and Cork City and Suburbs to be of relevance, which states that in City - Suburban/Urban Extension areas that "Suburban areas are the lower density car-orientated residential suburbs constructed at the edge of cities in the latter half of the 20th and early 21st century, while urban extension refers to the greenfield lands at the edge of the existing built up footprint that are zoned for residential or mixed-use (including residential)

development. It is a policy and objective of these Guidelines that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin and Cork, and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations".

- 9.7.13. In addition, I reference Table 3.8: Accessibility of the Guidelines which states accessible locations are "lands within 500 metres (i.e., up to 5-6 minute walk) of existing or planned high frequency (i.e., 10 minute peak hour frequency) urban bus services". This is further assessed in respect to the accessibility of the site in terms of public transport and the site context.
- 9.7.14. The applicant highlights that the 2009 Guidelines refer to walking distances from public transport services as best guiding densities along public transport corridors with scope for increased densities in locations within 500m walking distance of a bus stop or within 1km of a light rail stop or a rail station. Harmonstown DART rail station would be within a 1km walk from the application site. The nearest public bus stops to the application site include stop no.605 fronting The Meadows on the Howth Road (R105) and stop no.659 on All Saints Road. This bus stop is within a 500m walk of the proposed housing development area of the site and provides access to bus route H1 with stop no.605 also serving routes H3 and 6. In this regard, the site could be considered to fall into the category of a site located within a public transport corridor.
- 9.7.15. The proposed development provides for an overall net density of 86 units per hectare, as such, the density as currently proposed on this site accords with the Compact Settlement Guidelines which require a range of 40 – 80 (net), allowing for up to 150 (net) in accessible locations. The guidelines made reference to refining density (Section 3.4), specifically "*The density ranges set out in Section 3.3 should be considered and refined, generally within the ranges set out, based on consideration of centrality and accessibility to services and public transport; and considerations of character, amenity and the natural environment*". As noted above, the location of the site and the proximity and accessibility to services and public transport with the DART station within walking distance of the site. Notwithstanding, the accessible location of the site, I also reference the site context, character and amenity of the immediate area, and the directly adjoining St. Annes' Park, in particular. I am satisfied that the quantum and scale of development at all locations can integrate successfully into the receiving

environment. I consider that the density as proposed to be appropriate for this site and accords with the guidelines.

Other Section 28 Guidelines

- 9.7.16. In relation to Section 28 guidance addressing housing density, the Building Heights Guidelines and the Apartments Guidelines all provide further guidance in relation to appropriate densities and support increases in densities at 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.
- 9.7.17. 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 should not only be facilitated but actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Coimisiún 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. Building height is assessed further in Section 9.8 below.
- 9.7.18. The Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going 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'.
- 9.7.19. 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'.

Site location – public transport & neighbouring context

- 9.7.20. Third party observers refer to limitations in public transport in this area, including the need for alternative services and improved infrastructures.
- 9.7.21. Within their Public Transport Capacity Assessment report, the applicant has provided details of an assessment undertaken of the existing, adjusted, and forecasted capacity of rail services from neighbouring DART stations and for local bus services. The applicant's assessment is asserted to indicate 4.4% reserve capacity in morning peak hour inbound trains with the development in place with sufficient spare capacity to serve the 245 passengers anticipated from the proposed development. With respect to buses 42% reserve capacity is forecasted for morning peak hour inbound services with sufficient spare capacity to serve the 86 passengers anticipated from the proposed development.
- 9.7.22. I am satisfied that based on the existing rail and bus services presented as part of the planning application, the future occupants of the proposed development would be served by high frequency and high capacity public transport within easy walking distance of the site. Based on the above information and a review of the location categories in the Apartment Guidelines relative to the provision of public transport services proximate to the site, this would suggest that the site would best fall into the category of an 'intermediate urban location', as asserted by the applicant.
- 9.7.23. The Guidelines state that for a site to be in a central and/or accessible urban location it must be within easy walking distance to/from a high frequency urban bus service. Easy walking distance is referred to in the New Apartment Guidelines as being up to five-minute walk time or up to 500m from a site. I am satisfied that based on bus timetables and guidance within the Apartment Guidelines defining 'high-frequency' bus services as those operating at a minimum of every ten-minutes during peak hours, the bus stops within easy walking distance of the application site feature 'high-frequency' bus services. Given the present provision of bus services, the additional potential future population residing in the proposed development, the timelines for the proposed construction of the development and the stated improvements in public transport services envisaged for the area, the proposed development would be unlikely to overwhelm public transport services.
- 9.7.24. As such, I am satisfied that the site can be categorised as being within an 'accessible urban location' and in accordance with the Apartment Guidelines such

locations can support higher-density residential development that may wholly comprise apartments. Minimum and maximum residential densities are not set within the New Apartment Guidelines for such locations, although I recognise that with regard to less accessible 'intermediate urban locations' the Guidelines refer to densities of greater than 45 dwellings per hectare being appropriate.

Core Strategy

- 9.7.25. With respect to the consideration of urban density, policy QHSN10 of the Development Plan promotes residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area. The applicant addresses the consistency of the proposed development with the core strategy adopted in the Development Plan 2016-2022. The applicant notes "the subject area is located in the North Central housing strategy area. The Core Strategy in the Development Plan indicates the subject lands zoned have strategic capacity in terms of housing provision for the North Central Area. The lands have been included in the residential core strategy as 'available suitable land for housing development'". The applicant further considers that "the proposed development supports the achievement of the above vision by providing high quality residential development in proximity to public transport corridors". Observers assert that the proposals would fail to comply with housing strategy targets and the core strategy provisions of the Development Plan, 2016-2022.
- 9.7.26. The relevant Development Plan, 2022-2028 sets out that there will be need for 40,150 housing units in the Dublin City area up to and including 2028, and that the appropriately zoned lands available and amounting to 550 hectares would have capacity for 49,175 residential units, representing a 23% exceedance of the housing need. This increase in residential accommodation, however, is not intended to be accommodated on certain zoned lands, including the subject lands featuring a Z9 and Z15 zoning. I also recognise that the housing capacity figure includes 12,900 residential units arising from extant permissions on infill / smaller scale brownfield and opportunity sites within the M50 corridor, excluding the Strategic Development Residential Areas. There is no extant permission on the subject site.

Conclusion:

- 9.7.27. Section 28 Guidelines and strategic guidance in national and regional plans, highlight that increased densities should generally be sought in the subject location, primarily based on access to public transport. As per the above the site is within an accessible urban location where higher-density development should be sought. In addition, the density proposed on the subject site would be comparable with densities recently permitted for other housing developments closest to the site.
- 9.7.28. The proposed density for the application site complies with national policy seeking to increase densities in appropriate locations and thereby deliver compact urban growth. The proposed development in this location would also comply with the net density range standards contained in the Development Plan, 2022-2028 and given the context of this site relative to St. Annes Park, the proposed provision of 580 residential units would in my opinion promote appropriate residential development at sustainable densities in the city, as required by policy QHSN10 of 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.
- 9.7.29. The proposed density is generally consistent with policy context, however, having regard to provisions of the core strategy, residential development is not promoted on 'Z9' zoned lands.
- 9.7.30. Notwithstanding, while the principle of the proposed density would be acceptable, as noted above, the site is not zoned for residential development and therefore materially contravenes the zoning objective for this site under the Dublin City Development Plan, 2022 – 2028.

9.8. Building Height

- 9.8.1. Third party observers raised concerns in respect to the height of the proposed development and the impact of the building height on the area. Reference is also made to the Building Height Guidelines and that the guidelines are ultra vires.
- 9.8.2. The Dublin City planners' report considers Policy SC16 and Section 16.7 of the 2016 – 2022 Development Plan, however I note that this has been superseded in the current Development Plan.

- 9.8.3. While I will note the Building Height Guidelines in my assessment, I reference Appendix 3, section 3.1 – Height of the 2022 – 2028 Development Plan, which states *“The key factors that will determine height will be the impact on adjacent residential amenities, the proportions of the building in relation to the street, the creation of appropriate enclosure and surveillance, the provision of active ground floor uses and a legible, permeable and sustainable layout.”*
- 9.8.4. Section 3 of Appendix 3 also provides guidance in respect to building height. Having regard to the location of the appeal site, the location I consider applicable for the subject site, as per the Appendix, is public transport corridors where “higher densities will be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes”.
- 9.8.5. Appendix 3 further states *“as a general rule, the development of innovative, mixed use development that includes buildings of between 5 and 8 storeys, including family apartments and duplexes is promoted in the key areas”*, including public transport corridors.
- 9.8.6. Following on from my assessment of the proposed density above, Appendix 3 also states that where a scheme proposes buildings and density that are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply.
- 9.8.7. In terms of height the 7 no residential buildings range from four to seven storeys in height, with maximum heights of 13.2 metres to 22.5 metres. Four of the 7 proposed buildings are 5 storeys (i.e., Blocks A, B, F and G) and these range in height from 14.1 metres to 16.3 metres, Block D is 4-5 storey and is 13.2 metres – 15.9 metres in height, while Blocks C and E are the highest at 22.5 metres.
- 9.8.8. The character of the immediate surroundings of the development consists of mainly low density residential use, with a school site, two-storey in nature (comprising a detached two storey Protected Structure – Sybil Hill House) directly adjoining the site. I do note however, some increased density and building height proximate to the site such as ‘Ardilaun Court’, which is 2 - 6 storeys in height, with a density in excess of 100 dwelling units per hectare, which is northeast of the appeal site. There is also

an existing nursing home to the west of the site across Sybil Hill Road, which is predominantly 5 storeys in height.

9.8.9. Notwithstanding, noting the height and low density of the immediately surrounding area of the site, and the proximity to the adjoining St. Annes Park, I consider the proposed development to comprise buildings (and a density), which is higher and denser than the prevailing context.

9.8.10. I therefore consider that an assessment against the performance criteria in Table 3 is required. As the proposed development was assessed under the 2016 – 2022 Dublin City Development Plan, the planning application does not provide any details in this regard.

Notwithstanding, the following table examines the performance criteria in Table 3, Appendix 3 of the Development Plan 2022 - 2028 against the proposed development:

Objective	Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale	My Analysis
To promote development with a sense of place and character	Enhanced density and scale should: • respect and/or complement existing and established surrounding urban structure, character and local context, scale and built and natural heritage and have regard to any development constraints, • have a positive impact on the local community and environment and contribute to ‘healthy placemaking’, • create a distinctive design and add to and enhance the quality design of the area, • be appropriately located in highly accessible places of greater activity and land use intensity, • have sufficient variety in scale and form and have an appropriate transition in scale to the boundaries of a site/adjacent development in an established area,	• The site currently consists of vacant greenfield site at a key location along a public transport corridor. The immediate surroundings of the site to Sybill Road, consists of residential and education. • The proposed building heights step from 4 storey to a maximum of 7 storey, which is an appropriate scale and form for this site in this location, which in my opinion can absorb the proposed maximum height of 7 metres. The development steps down to the nearest adjoining residential boundaries and to the boundaries adjoining St. Anne’s Park to provide an appropriate transition (this relationship is further considered in Section 9.10 below). I also note the separation distances to the southern and eastern site boundaries in particular.

	• not be monolithic and should have a well-considered design response that avoids long slab blocks, • ensure that set back floors are appropriately scaled and designed.	• The proposal is not monolithic, is contemporary, with the buildings stepped to break up the mass and is an appropriate design for this location. • I consider that the massing of the blocks has been appropriately scaled and designed. • I therefore consider that the development would positively impact on the environment and would enhance the quality of the area.
To provide appropriate legibility	Enhanced density and scale should: • make a positive contribution to legibility in an area in a cohesive manner, • reflect and reinforce the role and function of streets and places and enhance permeability.	• The proposed development will create an urban edge at this location. Given the layout, varying heights, and stepped nature of the proposed buildings will in my opinion allow the development to have a positive contribution to the area and the proposed playing pitches and open space provided within the scheme will ensure that this is carried out in a cohesive manner and respects the park setting.

		In terms of permeability within this site, I note connectivity and permeability are key in the overall design of the development. One entry point provides a direct route to the proposed public amenity space as well as promoting connectivity to the residential development. Other connections within the development have been considered to link up the proposed public open spaces and key communal amenity spaces. Both the crèche and the nursing home are also well connected to ensure functionality and ease of wayfinding. This will enhance permeability for the intended residents.
To provide appropriate continuity and enclosure of streets and spaces	Enhanced density and scale should: - enhance the urban design context for public spaces and key thoroughfares, - provide appropriate level of enclosure to streets and spaces,	- I note that the appeal site is a greenfield site. - The design of the development creates a focal point at this location adjacent to the school site and St. Annes Park.

	• not produce canyons of excessive scale and overbearing of streets and spaces, • generally, be within a human scale and provide an appropriate street width to building height ratio of 1:1.5 – 1:3, • provide adequate passive surveillance and sufficient doors, entrances and active uses to generate street-level activity, animation and visual interest	• I do not consider that the scale and form of the proposed apartment buildings to be overbearing to the street or to the adjoining St. Anne's Park, or adjoining school site or residential dwellings at The Meadows, given the separation distances proposed. • The scheme will provide adequate passive surveillance throughout and to the adjoining sites.
To provide well connected, high quality and active public and communal spaces	Enhanced density and scale should: • integrate into and enhance the public realm and prioritises pedestrians, cyclists and public transport, • be appropriately scaled and distanced to provide appropriate enclosure/exposure to public and communal spaces, particularly to residential courtyards, • ensure adequate sunlight and daylight penetration to public spaces and communal areas is received	• I consider that the design of the pedestrian and cycle routes within the scheme enhances the public realm and prioritises the movement of pedestrians and cyclists throughout the development. I am satisfied that the design creates a safe environment which is people friendly. • Given layout of the scheme the proposed communal and public open spaces are well located to accommodate the future residents.

	throughout the year to ensure that they are useable and can support outdoor recreation, amenity and other activities – see Appendix 16, • ensure the use of the perimeter block is not compromised and that it utilised as an important typology that can include courtyards for residential development, • ensure that potential negative microclimatic effects (particularly wind impacts) are avoided and or mitigated, • provide for people friendly streets and spaces and prioritise street accessibility for persons with a disability	• The Daylight and Sunlight Assessment states that the proposed amenity spaces will receive sunlight in excess of the minimum recommended in the BRE guidelines. I am satisfied with the communal areas to serve the intended residents. • B-Fluid Limited carried out the Wind Microclimate Study for the Proposed Development. The results of this wind microclimate assessment were used to configure the optimal layout for the Proposed Development. In this regard and noting the site context, I do not consider that wind impact would be a major issue on this site.
To provide high quality, attractive and	Enhanced density and scale should: • not compromise the provision of high quality private outdoor space,	• The proposed private amenity space serving the proposed units is considered acceptable and complies with the Apartment Standards.

useable private spaces	• ensure that private space is usable, safe, accessible and inviting, • ensure windows of residential units receive reasonable levels of natural light, particularly to the windows of residential units within courtyards – see Appendix 16, • assess the microclimatic effects to mitigate and avoid negative impacts, • retain reasonable levels of overlooking and privacy in residential and mixed use development.	• I am satisfied that the overall layout and design of the scheme minimises overlooking. While some perceived overlooking may occur between the proposed blocks. A condition could be attached in the event of a grant of permission to address any concerns in this regard and to protect the amenity of intended occupiers. • I am also generally satisfied that the majority of the units meet the minimum recommended direct sunlight hours in line with the BRE Guideline example.
To promote mix of use and diversity of activities	Enhanced density and scale should: • promote the delivery of mixed-use development including housing, commercial and employment development as well as social and community infrastructure, • contribute positively to the formation of a ‘sustainable urban neighbourhood’,	• The development would deliver 580 residential units in a mix of one/two/three beds in apartment and duplex units within 7 no. blocks. • The proposed development also includes a 100 bed nursing home and creche in Block G.

	• include a mix of building and dwelling typologies in the neighbourhood, • provide for residential development, with a range of housing typologies suited to different stages of the life cycle.	• A series of amenity space types have been provided through the development; a concierge with building management, a gym, residential lounges associated to each block, a games rooms, a screening room and a flexible use space • As such the mix of use and activities is acceptable.
To ensure high quality and environmentally sustainable buildings	Enhanced density and scale should: • be carefully modulated and orientated so as to maximise access to natural daylight, ventilation, privacy, noise and views to minimise overshadowing and loss of light – see Appendix 16, • not compromise the ability of existing or proposed buildings and nearby buildings to achieve passive solar gain, • ensure a degree of physical building adaptability as well as internal flexibility in design and layout,	• Having regard to the layout and design of the scheme, including the proposed separation distances, I am satisfied that the development will ensure acceptable natural daylight, ventilation, privacy, will not result in excessive noise or overshadowing, etc. • Noting the location of the development in the context of the existing houses in area and the results of the Daylight and Sunlight Assessment, I am satisfied that any impacts on the daylight received by the surrounding dwellings would be minimal.

	• ensure that the scale of plant at roof level is minimised and have suitable finish or screening so that it is discreet and unobtrusive, • maximise the number of homes enjoying dual aspect, to optimise passive solar gain, achieve cross ventilation and for reasons of good street frontage, • be constructed of the highest quality materials and robust construction methodologies, • incorporate appropriate sustainable technologies, be energy efficient and climate resilient, • apply appropriate quantitative approaches to assessing daylighting and sun lighting proposals. In exceptional circumstances compensatory design solutions may be allowed for where the meeting of sun lighting and daylighting requirements is not possible in the context of a particular site (See Appendix 16),	• A Building Life Cycle Report has been submitted and is considered acceptable. • The development proposes to incorporate a green roof provision. The SUDs proposal accords with best practice. • A Flood Risk Assessment was submitted. • In terms of proposed finishes and materials, I consider that the proposed development has been designed to a high standard and utilises an approximate mix of materials and finishes which will read as a contemporary development at this location. • An Energy Analysis Report has been prepared. The proposed development will aim to achieve Nearly Zero-Energy Buildings (NZEB) standard, in accordance with Section 15.7.1.
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	• incorporate an Integrated Surface Water Management Strategy to ensure necessary public surface water infrastructure and nature based SUDS solutions are in place – see Appendix 13, • include a flood risk assessment – see SFRA Volume 7. • include an assessment of embodied energy impacts – see Section 15.7.1	
To secure sustainable density, intensity at locations of high accessibility	Enhanced density and scale should: • be at locations of higher accessibility well served by public transport with high capacity frequent service with good links to other modes of public transport, • look to optimise their development footprint; accommodating access, servicing and parking in the most efficient ways possible integrated into the design.	• The site is located in close proximity to public transport including the bus and Harmonstown DART Station which connect the site to the wider area. Bicycle parking is proposed within the scheme for both residents and visitors. • The proposed density is considered appropriate for this site context given the urban location of the site, the proximity to the city centre and the highly accessible location as assessed above.

To protect historic environments from insensitive development	Enhanced density and scale should: • not have an adverse impact on the character and setting of existing historic environments including Architectural Conservation Areas, Protected Structures and their curtilage and National Monuments – see section 6 below. • be accompanied by a detailed assessment to establish the sensitivities of the existing environment and its capacity to absorb the extent of development proposed, • assess potential impacts on key views and vistas related to the historic environment.	• There are no Protected Structures on site, and the site is not located within an Architectural Conservation Area. However, the adjoining site to the west, contains Sybil Hill House which is a protected structure. The adjoining St. Anne's Park is a conservation area. A Heritage Impact Assessment has been submitted as part of the planning application. • Having regard to the separation distances, height and design of the development in addition to the proposed layout relative to both the adjoining protected structure and St. Anne's Park, I do not consider that the development would have an adverse impact on the character of the historic environment (this is further considered in Section 9.10 Development Strategy below).
To ensure appropriate	Enhanced density and scale should:	• A Property Management Strategy Report has been submitted which confirms that a

management and maintenance	• Include an appropriate management plan to address matters of security, management of public/communal areas, waste management, servicing etc.	property management services provider will be appointed and will be responsible for the management of the day-to-day operations, including facilities, I consider the Statement to be acceptable.
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Conclusion of Analysis on the Performance Criteria in Table 3, Appendix 3 from the Dublin CDP

- 9.8.11. I consider that the proposed development generally accords with the performance criteria set out in Table 3 in Appendix 3 of the Development Plan 2022-2028. I am satisfied that the development has justified the increased height, density and scale of development proposed. I consider that the given the scale, design, and separation distances to adjoining boundaries, the development would not have a negative visual impact on the existing dwellings, I am also satisfied that the proposed development will not impinge or impact on the visual setting of St. Anne's Park which adjoins the site to the south, east and north, this relationship is considered further under Section 9.10 below. I also consider that the current proposal would promote development with a sense of place and character at this location.
- 9.8.12. In addition, I consider that the scheme would promote pedestrian and cycle permeability and connectivity within the area and will work in conjunction with the existing public transport options in the immediate vicinity and therefore would not negatively impact the legibility of the area and enhances the permeability of the area.
- 9.8.13. I also consider that the proposed development will provide appropriate communal and private amenity areas for the future residents.
- 9.8.14. Therefore, I am satisfied that the development has been appropriately designed and scaled to respond to the existing site and neighbourhood context.

Building Height Guidelines

- 9.8.15. The Building Height Guidelines under section 3.2, sets out criteria which An Coimisiún Pleanála should be satisfied that the development adheres to. The criteria are divided into 3 no. categories in relation to the development at the scale of the relevant city/ town, at the scale of the district/ neighbourhood/ street and at the scale of the site/ building. Various observations refer to the lack of compliance with and the appropriateness of the Building Height Guidelines.
- 9.8.16. With regards to development at the scale of the relevant city/ town, I consider that the site is well served by public transport. I am satisfied that the development enhances the character and public realm of the area at this location.

- 9.8.17. In relation to the development at the scale of district/ neighbourhood/ street, I am satisfied that the height and scale of the proposed development is appropriate for this site and will not appear overbearing when viewed from the surrounding area.
- 9.8.18. With regards to the scale of the site/ building, I consider the massing of the blocks to be appropriate for this site context and respond to the siting of the protected structure within the site and the conservation area of the adjoining St. Anne's Park and will not appear to be overly dominant. Whilst I acknowledge the development will be visible from the public realm, St. Anne's Park, St. Pauls school site, and the directly adjoining residential dwellings, I am satisfied that the design response is appropriate.

Conclusion

- 9.8.19. As set out above, I consider that the proposed development accords with the performance criteria set out in table 3 in Appendix 3 of the *Development Plan* and the development management criteria in the Building Height Guidelines. As such, I am satisfied that the development has justified the increased height and scale of development proposed and integrates with the existing character of the area and therefore will not have a negative visual impact on the character of the area. I will further assess the relationship between the proposed development and St. Annes Park in Section 9.10 below.

9.9. Unit Mix and Tenure

- 9.9.1. Several third party observations express concerns in respect to the proposed unit mix, in that only apartments are proposed.
- 9.9.2. The current proposal provides for an apartment development consisting of 580 no. residential units in the form of 7 no. blocks with a mix of 1, 2 and 3 bed units apartment units featuring duplex units in Blocks D and G. The proposed unit mix is 46.9% 1 bed, 42.8% 2 bed, 10.3% 3 bed.

The proposal includes the following mix:

Unit Mix		No.	%	%
	Studios	0	0.0%	46.9%
	1 beds	272	46.9%	
	2 beds (3P)	15	2.6%	42.8%
	2 beds (4P)	233	40.2%	
	3 beds	60	10.3%	10.3%
	Total	580	100.0%	100.0%

- 9.9.3. The proposed 7 blocks (A-G) vary in character and inform a series of connected green spaces.
- 9.9.4. Section 5.5.7 of the Development Plan, 2022 – 2028 states that *“The type of housing in the city has been changing, with apartments now constituting the main household type in the city”,* and that *“Successful apartment living requires that the scheme must be designed as an integral part of the neighbourhood and it is the policy of this development plan to have regard to the relevant guidelines for apartment development and sustainable communities including the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007) and ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2020)”.*
- 9.9.5. The Plan further states “All apartment and housing development shall provide an appropriate mix of housing types and shall clearly demonstrate how the resultant mix of units has had regard to the Housing Strategy, HNDA and the development standards set out in Chapter 15”, and “This requirement is necessary to ensure a mix of dwelling types and sizes so as to best cater for the expected future household needs in these areas, so that as household needs change, the need of citizens, in all stage of lifecycle and family circumstance can be met within or adjoining their existing neighbourhoods”.
- 9.9.6. To this end, Policy QHSN38 Housing and Apartment Mix is of note, *“To encourage and foster the creation of attractive, mixed use, sustainable residential communities which contain a wide variety of housing and apartment types, sizes and tenures, in accordance with the Housing Strategy and HNDA, with supporting community facilities and residential amenities”.*

- 9.9.7. The Development Plan also references the apartment standards, and unit mix in Sections 15.9 and 15.9.1, of the Plan, and states that there shall be no minimum requirement for apartments with three or more bedrooms unless specified as a result of a Housing Need and Demand Assessment (HNDA) carried out by the Planning Authority as part of the development plan process.
- 9.9.8. I consider that the overall unit mix within the development to be appropriate with a mix of 1, 2 and 3 bed units. I consider that this would lead to a good future population mix within the scheme. I also consider that the proposed apartment development would cater to persons at varying ages/stages in life. Given the established nature of the area, the proposed apartment development would allow individuals to downsize and remain in the area, which has benefits to the overall sustainable development of the area.
- 9.9.9. In relation to the Dublin City Housing Strategy and Interim HNDA (Appendix 1), the Plan states that the requirement for unit mix are, therefore, required in these two sub-city areas; (i) the Liberties and (ii) the North Inner City, only and SPPR1 is applicable to the remainder of the Dublin City Council administrative area, which is the location of the appeal site.
- 9.9.10. The Compact Settlement Guidelines, also acknowledge to create sustainable communities a diverse mix of housing and variety in residential densities across the scheme is required. I consider that an appropriate variety in apartment mix to be presented as part of the current scheme.
- 9.9.11. The Dublin City Council planners' report referenced the previous 2016 Development Plan with respect to unit mix and notes the Apartment Guidelines and considers that the proposed unit mix is acceptable and this will be further assessed in Section 9.11 of my assessment below.

Conclusion:

- 9.9.12. I am satisfied that the unit mix and tenure proposed is acceptable at this site in accordance with the current Dublin City Development Plan 2022-2028. I also consider that the proposal provides for a holistic approach towards sustainable neighbourhoods containing a variety of apartment types and tenure as outlined in the Development Plan and Section 28 Guidelines noted above. Issues in relation to the

overall design strategy proposed from the and apartment units, and residential amenity of the scheme for future occupants will be addressed in Section 9.11 below.

9.10. Development Strategy

9.10.1. The third party observations raise concerns regarding the design of the scheme, the proposed apartment development and the impact of the proposed development on the adjoining protected structure and the setting and importance of St. Annes Park, which is a landscape conservation area.

9.10.2. The first party appellant states that the proposal will provide a high quality residential scheme on these lands.

Architectural and Urban Design:

9.10.3. The proposed development comprises 520 no. apartments. The Architectural Design Statement outlines the main design characteristics stating that site strategy and design evolution for the development is in response to the site specific characteristics. The main access into the site is proposed off Sybil Hill Rd forms a strong east west axis. Pedestrian and cycle friendly routes have been considered throughout the site with vehicle access limited. The site is broken into character zones which form a collection of individual building types with a varying material palette, however unified through common architectural details and landscape design. Blocks A and B located to the west of the site contain areas of communal amenity, due to their proximity to the Meadows and Sybill Hill House they have a reduced scale, they also step in and out to break up the overall massing. Podium block G is also broken down into 3 smaller blocks with breaks forming landscaped hills spilling into the public realm.

9.10.4. The crèche and the nursing home are located within Block G, at the centre of the site. The crèche faces out towards the central green / public open space and the nursing home wraps around the block to the south. The nursing home has been designed to function independently from the residential elements.

9.10.5. In terms of distinctiveness the site is separated into character areas, all of which have been designed to their own identity with visually different building topography, unit types, materials, and finishes as follows:

- Blocks A and B - Grove Blocks – The Grove Blocks are surrounded by generous communal open space. These two blocks are connected by a central colonnade which offers views into the wider green spaces. The streetscape here is lined with trees/green buffers on both sides. Both blocks are linear in form, 5 storeys in height and stepped in profile to break down the overall massing. A number of own door dwellings have been created at ground floor to animate and activate the public realm whilst providing good passive surveillance.
- Blocks C and E - Walled Garden Blocks - These two blocks form courtyards which create a sense of enclosure to the amenity spaces behind. The walled garden terminology took inspiration from the heritage wall, retained to the north of block C which is a remnant from the historical use of the lands. These two blocks range from 4-7 storeys in height with a lower connecting terrace element. Articulation to balconies and amenity spaces at the corners of the finger blocks help to great focal points along key routes.
- Blocks D and G - Raised Garden Blocks - Both blocks are podium in form with own door dwellings and amenities at ground level. Block D is predominantly a perimeter block with lower terrace elements mimicking the scale of the adjacent Walled Garden Blocks. Whilst Block G is broken into three smaller blocks. The nursing home is located to the south of this block whilst the crèche is to the north adjacent to block F and the central green.
- Block F - Pavilion Block - This building is slightly unique within the overall composition and sits within the heart of the site. The block has its own unique character to the other blocks, however its reads as part of the collection due to the proposed material palette complimenting the other blocks

9.10.6. As noted in Section 9.9 above (unit mix and tenure) the mix of units proposed includes an appropriate mix of apartments and duplex units within the scheme. In respect to the design strategy, I welcome the use of the character areas, each with a unique design and unit mix which provides variety and distinctiveness within the scheme. I acknowledge the site constraints, in respect to the proximity of the adjoining St Anne's Park, which will be discussed further below, and I consider that

the current proposal responds to the constraints of this site with an appropriate design approach.

- 9.10.7. In terms of materials and finishes, each character area comprises a different architectural design. The proposed apartment Blocks A and B are very similar in their detailing, and are positioned along the north-south axis, two differing brick tones have been proposed. Block A will be in a brown / buff brick and Block B in stock red. The proposed Blocks C and E are also very similar in their detailing, with recessed balconies. The predominant brick colour will differ between the two blocks. Both blocks will have a palette of creams and brown bricks. Block D is a podium block with duplexes with entrances into the podium and basement as well as to the communal amenity spaces. Block D adopts some of the detailing on Block C and E, however it is unique in colour and variety, with a wrapper detail similar to Block G. Colours proposed to Block D are a pink/brown brick at the top and a brown brick to the plinth wrapper.
- 9.10.8. The proposed Block F has its own architecture and is proposed in a fiery red brick with articulation to the corners and communal amenity spaces. There is a step in the building and change in brick bonding.
- 9.10.9. Block G takes on the language of the brick plinth from block D at the lower levels to express entrances, spaces, and duplexes etc. This block, however, houses the crèche and the nursing home, which have their own unique form. The spacing between the blocks sitting on the podiums allow for a variety of brick tones and detailing all unified by the podium.
- 9.10.10. Each block is further given its own identity with splashes of colour proposed through the metal work, Glass Reinforced Concrete (GRC) cladding and glazed brick details.
- 9.10.11. I am satisfied with the proposed materials and finishes to the scheme and consider that the variety in finish will add to the uniqueness of each character area.

Adjoining context Sybill Hill House and St. Annes Park

- 9.10.12. As noted above Sybil Hill House adjacent to the west of the appeal site a Protected Structure (RPS Ref. 7910). The adjoining parklands, St. Anne's Park are included as a 'Conservation Area', which are recognised in the Development Plan as

areas that have conservation merit and importance and are stated to warrant protection through zoning and policy application. I note however, that the appeal site does not come within this conservation area boundary, although it directly adjoins the park on to the north, east and south.

9.10.13. Within the Architectural Design Statement, it is stated that “The proposed development therefore aims to retain the green and open character towards St Anne’s Park, with consideration for the large mature trees that create a strong edge along the north, east and south of the project site”, and in relation to the proposed materials *“The material palette draws upon the surrounding brick palette whilst introducing colour to celebrate and articulate corners and entrances. The bright accent colours also take reference from St Anne’s Park with it’s rose garden and rich textures and detailing drawing upon the existing follies and structures within the park”*. Further design inspiration is drawn from the park such as the decorative gate to Block C and E, which takes inspiration from the southside gates into St Anne’s Park.

9.10.14. The planning application is also accompanied by an Architectural Heritage Impact Assessment which examines the impact of the development on the nearby protected structure, Sybil Hill House and the conservation area within St. Anne’s Park. The Architectural Heritage Impact Assessment *“In examining these issues, the principal issue relates to the operational element of the proposal. The impacts during the construction phase are not considered to have any specific impact in relation to built heritage”*.

9.10.15. The report specifically examines the potential impacts upon the access road to Sybil Hill House, brick wall to the northern boundary (remnant of walled garden to Maryville), Sybil Hill House. The report considered that the proposed development will not have any specific impact in relation to the built heritage. I also note that the nearest apartment Block (Block A) to Sybil Hill House is at a distance of some 71.5 metres.

9.10.16. Having regard to the location of the proposed development relative to the existing protected structure located to the west of the site at a distance of some 71.5 metres, I am satisfied that the proposed development would not impact on the setting or curtilage of the adjoining Protected Structure.

- 9.10.17. I reference Objective GIO18 Landscape Conservation Areas Review “To investigate the suitability of designating St. Anne’s Park as a Landscape Conservation Area and to prepare a review to examine the potential for other Landscape Conservation Areas as appropriate during the timeframe of the development plan”.
- 9.10.18. In relation to St Anne’s Park conservation area, the Architectural Heritage Impact Assessment noted that *“the proposed development would locate public open space in the area adjacent the avenue leading to the park in an east-west direction from Sybil Hill Road. This avenue is presently flanked by lines of substantial holm oak and pine trees that provide a high evergreen wall on either side of the avenue. The proposed building that would be nearest to the main avenue in St Anne’s Park is Block G, which is to house the nursing home and the crèche. This building will be located approximately forty-five metres from the boundary and would be four storeys in height”*. It also noted *“that Apartment Block F and Block G with the nursing home and creche, will be at a distance of more than seventy metres from the eastern boundary, while apartment Block E will be more than fifty-five metres from the eastern boundary. The apartments buildings are to be higher on the northern side of the site and the upper part of these apartments will be visible from the area of the park adjacent to the northern site boundary, which is used as playing pitches. While all areas of the park are used for walking, those areas used for pitches are not as sensitive as the parkland, the rose garden and other high-quality elements of the park and it is not considered that the proposed development would have a significant impact on the character of the park”*.
- 9.10.19. The Park Biodiversity and Landscape Services report expressed concerns in relation to the visual impact of the proposed development on the park and concluded *“The development will adversely affect the setting of St Anne’s Park Conservation Area through adverse visual intrusion and change in the landscape character of the site which is in immediate proximity to the park”*.
- 9.10.20. The Dublin City Council planners’ report, however, considered *“On balance, it is considered that the proposed height, mass and scale is acceptable and would not be visually obtrusive when viewed from within St. Anne’s Park and would not significantly detract from the amenities or setting of the park or the protected structure having regard to: the need to provide high density residential development*

as outlined in the development plan and national guidelines; the submitted landscape and visual assessment, the separation distance of the proposed blocks to eastern and southern boundaries the existing mature planting to be retained and proposed new planting which will screen the development; and examples such as Herbert Park where substantial apartment development is successfully located in close proximity to an established (Z9 zoned) public park”.

- 9.10.21. As part of my site visit (11th September 2025), I walked the perimeter of the appeal site, including all site boundaries as viewed from within St. Anne’s Park and beyond in order to gain a complete assessment of the potential impact that the proposed development would have on the visual appearance and amenity of the park, which as noted above is a conservation area.
- 9.10.22. I acknowledge the importance of St. Annes Park in terms of its amenity value for a substantial area of northeastern Dublin. Any redevelopment of this site would be visible from the adjoining park, however having regard to the overall height of the proposed development at a maximum height of 22.5 metres, I accept that the development will be visible from within the park. I note that the proposed development is located at the edge of the park near the Sybil Hill Road, where residential development has occurred and also is directly adjoining a school site.
- 9.10.23. However, having regard to the proposed site layout, the side elevations of blocks proposed apartment blocks B, C and E to the northern part of the site are some 1.9 – 5.4 metres from the boundary with St. Anne’s Park, while this provides the closest separation with the park this adjoins playing pitches within the park. To the south of the application site there is a broad avenue that runs roughly east-west, from a gateway fronting Sybil Hill Road at the western end, towards the site of the former St Anne’s House to the east. This avenue is flanked by lines of substantial holm oak and pine trees. The proposed Block G will be set back some 44.3 metres from the southern site boundary with the park. The east the site adjoins a walkway within the park which runs parallel with the site and some playing pitches which are located further along this walkway to the northeast. This boundary with the park also comprises of mature tree and hedge planting, although not as dense at the planting to the main avenue. The proposed apartment blocks E, F and G are located some 59.2 metres - 80.7 metres from this site boundary. The proposed playing pitches to

serve the scheme are located in the south eastern section of the site, which adjoins the park.

9.10.24. While the entire development will be visible from the park, I consider that given the position of Blocks G, B, C and E, these will be the most visible to the north and south of the site. In terms of scale and mass, Block G comprises three blocks in a U-shape. One block will extend along the southern portion of the site to a height of 14.1 metres, with the other two blocks orientated north, both increasing to 15.9 metres. Blocks B, C and E to the north have overall heights of 16.3 metres and 22.5 metres. Blocks G, F and E which address the park to the east are 15.9 metres in height.

9.10.25. Having regard to the high quality design and layout of the proposed scheme, the proposed setbacks in particular to the southern and eastern site boundaries and the existing screen planting to the boundaries with St. Anne's Park, I do not consider that the development as proposed would unduly detract from the existing amenity of the St. Anne's Park, nor would it impact on the park's conversation status. Similarly, while the separation distance of the proposed development to the northern site boundary has a pinch point of 1.8 metres, this adjoins a large playing field to the north of the site within the park. Again, when the site is viewed from the east, along the walkway within the park, while visible the proposed separation distances and screen planting will in my opinion ensure that the development would not significantly detract from the visual amenities of the park. I also note that Landscaping/Townscape and Visual Assessment will be further considered in the EIAR in Section 11 below.

Disposition of Apartments

9.10.26. The development includes 7 no. apartment blocks spanning the site with B, C and E located to the northern portion of the site, with Blocks A, D and F centrally located within the site and Block G to the southern portion of the site, comprising of 520 no. units in total. Duplex units occupy the ground and first floor levels in Block D and Block G. The apartments range in height from 4 to 7 storey.

9.10.27. I am satisfied with the location of the apartment blocks, with the main bulk of the development concentrated to the centre and northern portions of the site. All of the apartment blocks are accessed off one main route, with the entry point off Sybil

Hill Road. Parking at ground level has been minimised with provision for drop-off, servicing and deliveries. The majority of the parking is located with the podium blocks of both blocks D and G, as well as the basements, located under Blocks C, D, F and G.

9.10.28. Section 15.9.17 of the Development Plan states, *“Traditionally a minimum distance of 22m is required between opposing first floor windows. In taller blocks, a greater separation distance may be prescribed having regard to the layout, size, and design. In certain instances, depending on orientation and location in built-up areas, reduced separation distances may be acceptable. Separation distances between buildings will be assessed on a case by case basis. In all instances where the minimum separation distances are not met, each development will be assessed on a case by case basis having regard to the specific site constraints and the ability to comply with other standards in terms of residential quality and amenity”*.

9.10.29. In this regard I also note Section 5.3.1 and SPPR 1 of the Compact Settlement Guidelines, which states that *“Through the careful massing and positioning of blocks, positioning of windows and the integration of open space at multiple levels it is possible to achieve a high standard of residential amenity and good placemaking with separation distances of less than 22 metres. Separation distances should, therefore, be determined based on considerations of privacy and amenity, informed by the layout, design and site characteristics of the specific proposed development”*.

9.10.30. In terms of separation distances between the blocks, the proposed apartment blocks to the north of the site B, C and E, have 22 metres separation distance between each block. Between Block A and Block B, a separation distance of 23.5 metres is proposed. Block A to Block D has a separation distance of 18.4 metres, while Block D is 20 metres from Block E and 48.8 metres from Block F. Block F is 21 metres from Block G to the south.

9.10.31. Due to the position of Block D and F relative to the adjoining Blocks to the north reduced separation distances of 12 metres and 16.9 metres are proposed. Centrally within the courtyard Blocks D and G, 28 metres and 33 metres separation distances are provided.

9.10.32. I am generally satisfied with the proposed principal layout, location, scale, and design of the proposed apartment blocks within the scheme. I will address amenity issues and overlooking in Section 9.12 below.

Open Space, Landscaping and Green Infrastructure

9.10.33. Observers express concern in respect to the loss of open space, and the reduced open space provided in the form of mini-pitches, and loss of public amenity space as a result of the proposed development. The first party appellant states that the proposal provides for the retention of lands for sports use, and that full public access will be permitted to the lands, as agreed with Dublin City Council.

9.10.34. With respect to open space, the scheme provides for both communal and public amenity spaces. In terms of public open space, the scheme provides two areas of dedicated public open space (POS) as follows:

- POSA – located to the site’s eastern and southern boundaries with St Anne’s Park and consists of 6 no. playing pitches of mixed sizes. It is 18,110m² in size. This area includes a railing boundary to the proposed development to the west with a single gate entrance and connecting path southwards to the main avenue of St Anne’s Park.
- POSB - located between the proposed blocks D, E and F and has an area of 3154m². It is envisaged as a great lawn with recreational facilities.
- The overall area of POS is approximately 33% of the site area.
- Reference is made in the documentation to the proposed new badger sett which is located to the northeast of the site and the applicant confirms that this area has been excluded from the total POS calculation. The existing badgers on site and badger sett is referred to in more detail Section 11 of my report.

9.10.35. I note that the applicant has referenced the open space standards from the 2016 Development Plan and specifically sets out the requirements in relation to public open space on Z15 lands.

9.10.36. As this Plan has been superseded, I will reference the current Dublin City Development Plan, 2022 – 2028 in my assessment. Section 15.8.6 Public Open Space of the Plan, states that the public open space requirement for all residential

developments shall be 10% of the overall site area as public open space. Table 15.4 of the Plan referenced public open space requirements for residential developments based on the land use/zoning as follows:

Table 15-4: Public Open Space Requirements for Residential Development

Landuse / Zoning	Requirement (minimum)
Residential development (Z1, Z2, Z3, Z4, Z5, Z6, Z8, Z10, Z14)	10%
Residential development (Z12) (Z15)	25%

9.10.37. As noted in the forgoing assessment, the appeal site is zoned Z9, under which residential development is not permitted. Notwithstanding, for the purposes of assessing the public open space, I will refer to Section 15.8.9 which states that 10% shall be the requirement for all residential developments in respect to public open space.

9.10.38. I also reference, Policy and Objective 5.1 - Public Open Space of the Compact Settlement Guidelines, which states “the requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas”.

9.10.39. Therefore, the proposed public open space of 30% exceeds the 10% requirement of the Development Plan and complies with the Compact Guidelines.

9.10.40. Moreover, Policy GI28 of the Plan, requires that “in new residential developments, public open space is provided which is sufficient in amenity, quantity and distribution to meet the requirements of the projected population, including play facilities for children and that it is accessible by safe secure walking and cycling route”. In respect to the proposed development, I am satisfied that the scheme provides several public open spaces, which are acceptable in terms of quality, quantity and are safely and easily accessible.

9.10.41. With respect to communal open space, the proposed development provides for a total of 580 apartments, in a mix of 1, 2, and 3 bed units. Based upon the

proposed quantum of apartments and duplex units, the total required communal open space to be provided as per the Apartment Guidelines and that provided is detailed in the figures below:

The Guidelines require the following minimum communal open space areas:

- Studio 4 sq.m
- 1-bed 5 sq.m.
- 2-bed (3P) 6 sq.m.
- 2-bed (4P) 7 sq.m.
- 3-bed 9 sq.m.

		Area	Total
Communal Open Spaces	Studios	4	0
	1 beds	5	1360
	2 beds (3P)	6	90
	2 beds (4P)	7	1631
	3 beds	9	540
	Total		3621

	Block	Required	Provided
Communal Open Spaces Proposed	Block A	375	1441.14
	Block B	402	1656.99
	Block C	710	890.28
	Block D	876	1217.62
	Block E	581	1083.59
	Block F	214	526.52
	Block G	463	1711.1
		3621	8527.24

9.10.42. Accordingly, the proposed development provides for of 8,527.24m² of communal open space. There are 6 areas of communal open space dispersed throughout the site associated with the proposed apartment blocks. Facilities within the communal open space areas also include children's play and exercise areas. I am generally satisfied with the layout and location of the proposed communal space to serve the units. I also note the quantum of open communal open space provided, which is well in excess of the requirements of the Apartment Guidelines.

- 9.10.43. Concerns have been raised in the observations in respect to the taking in charge of the areas by the local authority. I note in the report received from the Parks Department that *“Park Services would take in charge POS A only subject to a grant of permission for the development. POS B would not be taken in charge and would require a suitable condition safeguarding public access and use”*. I would recommend the inclusion of a condition in relation to the taking in charge of the proposed development, and details to be agreed with the Planning Authority, in the event of a grant of permission.
- 9.10.44. I note the references to the historic use of the appeal site by the existing sports clubs and the adjoining school which have been raised in several of the observations received. However, at time of site inspection the site was not easily accessible from the school grounds and has been enclosed from the overall adjoining St. Annes Park lands by fencing. The only access to the site is via the school lands. In addition, the site has not been maintained and is an overgrown and uneven state. Notwithstanding, the existing condition of the lands, I note that they are in private ownership and any use historically or otherwise of the appeal lands by third parties is considered to be a civil matter and is not a matter for An Coimisiún Pleanála in determining this appeal.
- 9.10.45. In terms of landscaping and green infrastructure, as note above the site is currently in an overgrown an unkempt state. The on-site trees are to the west of the application associated with Sybil Hill House and St Paul’s School grounds. There is also a cluster of trees between the adjoining residential dwellings to the west (i.e., the Meadows), and the adjoining football pitches to the north External to the site are the tree planting groups within and along the boundary of St Anne’s Park to the north, south and west, in particular. The application includes a tree survey, constraints plan, impact plan and tree protection plan.
- 9.10.46. In terms of removal 33 no. trees are proposed to be removed within the application site which are primarily located along the western boundary with the Meadows and along the access route from Sybil Hill Road. The Landscape Design Statement indicates that 714 no. new trees will be planted to compensate for these losses as well as define spaces, enhance character and biodiverse credentials.

9.10.47. Sheet 1 & 4 of the Landscape Plan indicate that the additional tree planting will be provided along the western boundary with The Meadows, which shall include a mix of street trees, woodland planting and feature trees (e.g. *Quercus robur*, *Platanus x hispanica*, *Betula utilis* Multistem, *Sorbus aria*, *Liriodendron tulipifera*, *Pinus sylvestris*).

9.10.48. Section 10.5.7 of the Plan relates to the Urban Forest with Policy GI40 relating to the general tree planning within new developments and Policy GI41 in relation to the protection of existing trees as part of new developments. I also consider Objective GIO42 to be of relevance to the appeal site as follows, "To protect trees, hedgerows or groups of trees which function as wildlife corridors or 'stepping stones' in accordance with Article 10 of the EU Habitats Directive".

9.10.49. The report received from Parks Department notes that "*Development impact will occur to existing trees in two areas, along the proposed access route where trees impacted are mainly cherries, Lawson cypress and Leylandii. And the area adjacent the Meadows where there is tree removal due to existing poor tree condition and direct impact of proposed block B layout. The main species here are sycamore and Austrian pine. No rare species or TPOs are affected by the development. Overall, approximately one third of existing trees are removed due to direct development impact and tree condition, which is regarded as a low overall impact. The proposed master landscape plan tree planting provides substantially more new trees within the application site as compensation. No trees are removed within St Anne's Park. A tree bond and site supervision by an arboriculturist will be required during the construction stage of any granted development*".

9.10.50. A high level of landscaping is also proposed to the public and communal open spaces. It is also considered that sufficient separation from the proposed development and the adjoining St. Annes Park to ensure no impact on the existing trees within the park, external to the site.

9.10.51. As such, I am satisfied the proposed tree loss will be mitigated by the proposed planting and the proposed landscaping proposal will enhance the overall site. Landscaping will be further considered in the EIAR in Section 11 below.

Permeability

- 9.10.52. The proposed development will include a network of footpaths throughout the site and connecting with Sybil Hill Road to the west and St. Anne's Park to the east. As per the submitted site layout, I am generally satisfied the proposed development provides efficient, high quality pedestrian routes through public open spaces along anticipated desire lines.
- 9.10.53. An active frontage along routes within the development is achieved with frequent entrances and openings to ensure both passive surveillance and permeability within the scheme. I also consider that quality pedestrian routes have been provided to the proposed creche, and to the various open spaces and into the adjacent St. Annes Park and out to Sybil Hill Road.
- 9.10.54. In terms of cycle facilities, it is proposed to provide ample cycle parking over and above the requirements set out in the Design Standards for New Apartments, including resident parking, visitor spaces, and spaces for the creche and nursing home. 10% of cycle parking spaces will be fitted with E-Bike charging facilities.
- 9.10.55. All internal and external bicycle parking will remain in the ownership of the management company. Bicycle stores are located in close proximity to each block, and residents will have access only to the bicycle parking store assigned to their block (external spaces will be available to all users and visitors).
- 9.10.56. It appears that the proposed development has been developed specifically to avoid a car dominated environment and to optimise pedestrian and cyclist links. The proposed development has been designed with pedestrians and cyclists taking precedence over other modes of transport. In this regard, footpaths are provided throughout the development with regular pedestrian crossings along anticipated desire lines. Pedestrian and cycle only routes are provided between blocks, where vehicular access is restricted.

Proposed pedestrian bridge:

- 9.10.57. The existing pedestrian bridge at the proposed surface water outfall to the Naniken River is derelict, and as part of the proposed works the bridge will be replaced, which will reinstate pedestrian access at this part of the site. A new headwall is to be constructed beneath the bridge to serve as the surface water outfall for the site.

9.10.58. The proposed new bridge will incorporate natural stone masonry and traditional stone balusters. I recommend if the Coimisiún were minded to grant permission a condition could be attached to agree final design details of the proposed replacement pedestrian bridge, including details pertaining to surface water arrangements, with the Council prior to the commencement of development.

Compliance with DMURS

9.10.59. The applicant has submitted a DMURS Statement of Compliance and considers that the development has been specifically designed to meet the objectives of DMURS. A Quality Audit has been undertaken to identify any specific issues with the design, and the issues identified have been remedied accordingly. The multidisciplinary design team considers that the proposed road and street design is consistent with the principles and guidance outlined in the Design Manual for Urban Roads and Streets (DMURS).

9.10.60. The development has been designed with a new access road from Sybil Hill Road to the site, with the new junction at Sybil Hill Road to be located at the existing entrance to the Vincentian Community Residence. This junction will be a priority-controlled junction.

9.10.61. Sightlines at the vehicular access points have been assessed in accordance with the requirements set out in the Design Manual for Urban Roads and Streets (DMURS) for a 50km/hr road. The recommendation is 45m x 2.4m, and this requirement is met at the site access.

9.10.62. Within the site, the proposed road network is generally orthogonal. Section 3.3.1 of DMURS notes that street networks that are orthogonal in nature are the most effective in terms of permeability and legibility. Various traffic calming measures are proposed, including on street parking spaces, horizontal deflections, frequent intersections and the use of shared-surface areas.

9.10.63. It is proposed to incorporate shared surfaces within the development. Shared surface streets and junctions are highly desirable where movement priorities are low and there is a high place value in promoting more liveable streets, such as on local streets within neighbourhoods and suburbs. Section 4.3.4 of DMURS states that shared surface streets and junctions are particularly effective at calming traffic, and notes that shared carriageways perform well in terms of safety.

9.10.64. The number of walkable/cyclable routes between destinations within the proposed development has been maximised. The proposed development has been designed with residential units overlooking streets and pedestrian routes. High quality landscaping and tree planting are proposed throughout the scheme which creates a definitive sense of place. Road widths of generally 5.5m throughout the development ensure that a strong sense of enclosure is achieved.

9.10.65. Junctions will be designed with raised pedestrian tables/crossings at main pedestrian desire lines, allowing pedestrians to cross at grade. All footpaths will be a minimum 1.8m in accordance with the requirements of DMURS.

Conclusion

9.10.66. Overall, I am satisfied development strategy put forward for the proposed development in terms of design, responding to the site context in particular with the adjoining protected structure Sybil Hill House and St. Anne's Park Conservation Area, public and communal open space provision, permeability and compliance with DMURS is generally acceptable and will provide for an attractive residential scheme.

9.11. Residential Standards

9.11.1. Observers query the proposed mix of units and the compliance of the proposed development with the relevant guidelines.

Compliance with Quality Housing Guidelines (2007) and the 'Sustainable Urban Housing: Design Standards for New Apartments' (2023):

9.11.2. I note that the Planning Design Standards for Apartments Guidelines for Planning Authorities were published on 08.07.2025. Section 1.1 of this document states that the guidelines only apply to planning applications submitted after the publication of the guidelines. I am therefore satisfied that these guidelines are not relevant to the current appeal. As such new apartments are required to comply with the standards outlined within the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DHPLG, 2023).

Storage and Floor Areas

9.11.3. I note the minimum requirements for both storage and floor areas for one, two and three bedroom apartments as set out in the *Apartment Guidelines*. I have examined the proposed drawings, and I am satisfied that they comply with the minimum

requirements and SPPR 3 in the *Apartment Guidelines* in relation to minimum floor areas.

- 9.11.4. Furthermore, I note that the majority of the apartments in the proposed development, exceed the minimum floor area standard by a minimum of 10% in accordance with section 3.8 in the *Apartment Guidelines*.

Mix

- 9.11.5. SPPR 1 in the *Apartment Guidelines* states that developments may include up to 50% one bedroom or studio type units (subject to no more than 20- 25% of proposed development as studios) and there shall be no minimum requirement for apartments of 3 or more bedrooms. The proposed development includes 272 no units, or 46.9% one bedroom units. I am satisfied that the development complies with SPPR1.
- 9.11.6. The Dublin City Council planners' report notes that the proposed 2bed/3P units only make up 2.6% of all units and note that this is below the 10% recommended in the guidelines. While this is acknowledged, having regard to the overall unit mix proposed and noting the number of 1 bed units proposed, I consider that the quantum of 2bed/3P units to be acceptable.

Dual Aspect

- 9.11.7. SPPR 4 in the *Apartment Guidelines* requires that in suburban locations a minimum of 50% of the units shall be dual aspect, but a reduced provision of 33% dual aspect units may be acceptable in more central and accessible locations. It also recommends that the majority of single aspect units facing south should be maximised, and that 'ideally' all 3-bed units should be dual aspect. Furthermore, the DHPLG guidelines state that north facing single aspect apartments may be considered where overlooking a significant amenity such as a public park, garden or formal space, or a water body or some other amenity feature. I have examined the proposed drawings, and submitted documentation, which indicates that 55.1% of the proposed apartments are dual aspect, with no single aspect north facing units. I am satisfied that the proposed development complies with SPPR 4.
- 9.11.8. However, I note that given the layout of the units, and the potential for overlooking, as noted below, if measures are proposed to address any overlooking concerns this may reduce the actual number of dual aspect units. Nevertheless, I am satisfied that

the overall quantum of dual aspect units within the scheme would comply with the requirements.

Floor to Ceiling Height

9.11.9. SPPR 5 in the *Apartment Guidelines* requires that the ground level apartment floor to ceiling heights shall be a minimum of 2.7m. I have examined the proposed drawings; the proposed scheme has floor to ceiling heights of 2.7m at ground floor levels with upper floor levels at 2.4m. I am satisfied that the proposed development complies with SPPR 5.

Maximum Apartments per Floor per Core

9.11.10. SPPR 6 in the *Apartment Guidelines* states that a maximum of 12 apartments per floor per core may be provided in apartment schemes. I have examined the proposed drawings, which indicate that the blocks have 8-10 apartments per core, as such I am satisfied that the proposed development complies with SPPR 6.

Private Open Space and Communal Open Space/Facilities

9.11.11. In respect to private open space, the proposed terraces and balconies meet or exceed the required standards and that the balconies have a minimum depth of 1.5 metres.

9.11.12. The privacy and residential amenity of the proposed private open space will be discussed further under residential amenity below.

9.11.13. Based on the requirements of the guidelines, the total communal open space required for the development is 3.621 sq. m. The proposed total communal open space within the scheme is 8,527.24 sq. m. and is broken down between the blocks as follows:

	Block	Required	Provided
Communal Open Spaces Proposed	Block A	375	1441.14
	Block B	402	1656.99
	Block C	710	890.28
	Block D	876	1217.62
	Block E	581	1083.59
	Block F	214	526.52
	Block G	463	1711.1
		3621	8527.24

9.11.14. Following review of the proposed site layout and the location of the proposed communal open spaces, I note that this overall figure includes some narrow circulation routes in particular adjacent to the northern site boundary.

Notwithstanding, the inclusion of the circulation routes in the overall quantum, the provision of usable communal open space exceeds the requirement of the guidelines. The communal open spaces are permeable and easily accessible throughout the scheme.

9.11.15. I also note that the proposed development directly adjoins St. Annes Park, with numerous playing pitches and open spaces within walking distance of the proposed development.

9.11.16. The Sunlight & Daylight Analysis report indicates that all communal open space will receive adequate levels of sunlight that is in compliance with the BRE guidance of over 50% of amenity space receiving two hours or more of sunlight on 21st March.

9.11.17. In respect to children's play, the Guidelines recommend for schemes of 25 or more units with two or more bedrooms that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. In a scheme that includes 100 or more apartments with two or more bedrooms, play areas (200–400 sq. metres) should be provided for older children and young teenagers. I note that the site plan indicates that play areas will be located in four areas across the scheme. It appears that the play areas are located in sunlit locations and are subject to significant passive surveillance.

9.11.18. In respect to communal facilities proposed, the proposed residential development will be supported by dedicated residential amenity spaces including gym, concierge, lounge & workspace, games rooms, screen room, flexible spaces and building management. The applicant also states that ground floor amenity spaces have associated external break out terraces/external spaces. The development also proposed a crèche facility (750 sq. m.) with provision for up to c. 82 no. spaces (serving the 308no. 2 & 3 bedroom units) located at ground floor level to Block G adjacent to the main access road within the development.

Overlooking and Privacy

9.11.19. Having regard to the layout of the residential units, I am generally satisfied that the proposed separation distances between the apartment blocks, is sufficient to ensure that no overlooking will occur.

9.11.20. The Dublin City Council planners' report, however, expressed concerns in respect to the potential for overlooking and privacy concerns between windows and/or balconies which are position at 90 degrees to one another. The planner recommends that screening, repositioned fenestration or obscure glazing should be considered by the applicant, in the event of a grant of permission for the following units:

- Block A: A02-A2- 01 - Treat northern secondary KDL window to avoid overlooking from balcony.
- Block A: A02-A1- 01 - Screening to eastern side of balcony.
- Block A: A02-A1- 02 - Screening to southern side of balcony.
- Block B: B-02-B1- 01 - Treatment to northern ope – possible high level window to ensure daylight.
- Block B: B-02-B1- 07 - Treatment to southern ope – possible high level window to ensure daylight.
- Block C: C-03-C2- 05 - Treatment to Eastern ope to KDL (avoid overlooking of balcony to C-03-C2-04).
- Block D: D02-D1- 07 - Balcony location overlooks KDL of perpendicular unit – northern screening recommended.

- Block D: D-02-D1- 07 - Balcony location overlooks KDL of perpendicular unit – northern screening recommended.
- Block E: E-02-E2- 05 - Eastern High 1.8m high screening to side of balcony to avoid overlooking of E-02-E2-04.
- Block F: F-02-F1- 03 - Southern ope to be opaque/high level to avoid overlooking to F-03- F1-04 balcony

9.11.21. Following my review of the proposed floor plans and elevations of the proposed development, I concur with the recommendation of the planner in respect to the aforementioned balconies and windows and given the need to ensure a high standard of accommodation for the intended occupiers. I recommend if the Coimisiún were minded to grant permission a condition could be attached to amendments to the units as referenced to ensure that there is no impact on residential amenity within the development.

Sunlight/Daylight

9.11.22. Section 3.2 of the Urban Development and Building Height Guidelines (2018), refers to the criteria to be considered in assessing applications at the scale of the site/building and states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light and that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 2009 (2nd edition 2011) or BS 8206-2: 2008. The Development Plan 2022-2028, the Apartment Guidelines (2023) and the Compact Settlements Guidelines (2024) refer to a more up-to-date version of the BRE 209 Guide from 2022.

9.11.23. I consider that this updated guidance provides a degree of flexibility and does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Urban Development and Building Heights Guidelines and the Development Plan. A sunlight and daylight assessment is included with the application.

9.11.24. I do not consider that the amendments required by way of condition to the balconies/fenestration within certain Blocks/apartment units, as noted above, in

respect of overlooking and privacy, would impact negatively or detract from the sunlight/daylight achieved within the scheme.

- Impact on existing buildings:

9.11.25. In designing new development, it is important to safeguard the daylight to nearby buildings. While the development will be visible from the adjoining residential dwellings (The Meadows) to the west of the site, from the adjoining school site and the adjoining St. Annes Park. In terms of the impact on the nearest dwellings the survey assessed the neighbouring dwellings that could be affected by the proposed development, namely 8 to 17 The Meadows. Having regard to the layout of the proposed development and the separation distances to the nearest residential estate and the adjoining school, I am satisfied that the development will not negatively impact the existing daylight/sunlight to the nearest residential dwelling nor on the adjoining school site, in terms of negatively impacting on existing outdoor recreation spaces. I note the submitted Daylight / Sunlight Analysis states (section 5.9) that *“All neighbouring amenity spaces were determined to be fully compliant with BRE Best Practice Guidance, retaining at least 95% of their sunlit areas at a minimum, and thus deemed to be appealing useful external spaces in accordance with the methodology, which requires a minimum 80% retention of existing sunlit area, as well as maintaining that at least 50% of the garden can receive sunlight as assessed within the methodology”*.

- Within the scheme:

9.11.26. With respect to the proposed units, I note that the submitted Daylight / Sunlight Analysis indicates that Internal daylight analysis, has been undertaken for all Residential Units, assessing both Kitchen/ Living/ Dining (KLD) and bedroom spaces for Spatial Daylight Autonomy (SDA) - a climate-based means of assessing natural light performance accounting for both direct (sunlit) and diffuse light. The new BRE BR 209, 2022 edition prescribes analysis utilising Median Daylight Factor or Spatial Daylight Autonomy. The analysis determined a very high compliance rate of 99.8% of rooms achieved prescribed SDA targets, with only three rooms throughout the development being deemed non - compliant. A full Average Daylight Factor (ADF) assessment has also been provided in Appendix C.

- 9.11.27. The BRE BR 209, 2022 edition prescribes analysis utilising Median Daylight Factor or Spatial Daylight Autonomy. Compensatory measures have been provided for the current assessment metrics, SDA, as included in the IN2 Sunlight & Daylight Analysis Report and not the superseded ADF metric.
- 9.11.28. The apartment guidelines advise that *"Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to a design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include 30 securing comprehensive urban regeneration and or an effective urban design and streetscape solution"*, and the report identifies these alternative, compensatory solutions.
- 9.11.29. The report also includes the results for exposure to sunlight – a new metric defined in BR 209 2022 edition, for assessing sunlight availability. The guide notes that *"Where groups of dwellings are planned, site layout design should aim to maximise the number of dwellings with a main living room that meets the ... recommendations."* The proposed development achieves a high level of compliance for Exposure to Sunlight, with 98% of units achieving compliance, and with 40% of apartments predicted to enjoy a "High" degree of Exposure to Sunlight and a further 33% being in the "Medium" category, in accordance with the BR 209/ EN.17037 classification.
- 9.11.30. The extent of compliance for daylight and sunlight metrics was achieved through undertaking an iterative design process, in both reducing massing so as to not impact on neighbouring dwellings, through to reconfiguring facades and apartment layouts to maximise internal daylight availability. In particular, design modifications to Block C were introduced in response to Dublin City Council LRD Opinion and Appendix A of the IN2 Report details how these were implemented to maximise compliance.
- 9.11.31. On balance, I am satisfied that the Sunlight and Daylight Analysis demonstrates that the proposed development will have sufficient levels of daylight and sunlight, with minimal impact on the existing neighbouring environment.

9.11.32. The scheme has a variety of public and communal amenity spaces. The submitted Daylight / Sunlight Analysis indicates that all of the communal amenity space exceeds the BRE recommendation and will ensure the appropriate use of these spaces in terms of the residential amenity of the residents of the scheme overall.

Conclusion:

9.11.33. Overall, I am satisfied that the proposed development will provide a good standard of amenity for future residents. The issues raised by in the Dublin City Council planners' report in relation to overlooking from within the scheme as noted in the foregoing could be adequately addressed by way of condition in the event of a grant of permission.

9.12. Impact on Adjoining Amenities

9.12.1. I acknowledge that any redevelopment of this site could potentially impact on the adjoining residential and visual amenity of the surrounding area. Some observations express concern in respect of the impact of the development on adjoining residential amenity.

Residential Amenity

9.12.2. While I note that the proposed development site is located to the east of an established residential development (i.e., The Meadows) and to the rear of Nos. 8 – 17 The Meadows, the proposed development is well set back from the nearest adjoining site boundaries to the west. Proposed Block A & B to the west of the site will have a separation distance of c. 20.2 metres – 29 metres to the western boundary, (adjoining the Meadows) and will have a separation distance of between 29.2 metres – 34.4 metres to opposing first floor level windows to the dwellings at the Meadows. Given this arrangement the proposed development will not detract from adjoining residential amenity by means of overbearing or overlooking.

9.12.3. There is an existing school site located to the south and west of the subject site, having regard to the location of the proposed development relative to the school, I do not envisage any negative impact in this regard. I note that the existing St. Annes Park located to the north and east of the site at a separation distance of 2 metres – 55 metres (to the north) and 59 metres – 80 meters (to the east).

Visual Amenity

- 9.12.4. Following site visit, I noted that existing mature trees and vegetation currently provide a barrier between the application site and the properties in The Meadows. As part of the proposed works 33 no. trees will be removed within the application site, which are primarily located along the western boundary with The Meadows and along the access route from Sybil Hill Road.
- 9.12.5. The Landscape Design Statement indicates that 714 no. new trees will be planted to compensate for these losses, however, the additional tree planting will be provided along the western boundary with The Meadows shall include a mix of street trees, woodland planting and feature trees (e.g. *Quercus robur*, *Platanus x hispanica*, *Betula utilis* Multistem, *Sorbus aria*, *Liriodendron tulipifera*, *Pinus sylvestris*). Noting the proposed planting and the separation distances from the proposed development to the rear of The Meadows, I do not consider that the development will appear visually obtruse or detract from the visual amenity of the existing dwellings at The Meadows.

Conclusion

- 9.12.6. Having regard to the design and layout of the proposed development and the separation distances to the nearest residential dwelling at The Meadows, I am satisfied that the proposed development will not detract from adjoining residential or visual amenity.

9.13. Traffic, Access, and Parking

- 9.13.1. Several third party observations relate to increased traffic and the resultant traffic congestion on Sybill Hill Road as a result of the proposed development.

Traffic and Access:

- 9.13.2. The proposed development will be accessed via the existing vehicular onto Sybill Road to the north of St. Paul's College and will the widening and realignment of this entrance to facilitate footpaths and on-road cycle lands. The proposal also includes a pedestrian/cycle access to the south-east.
- 9.13.3. In terms of the internal layout the proposed development will provide pedestrian pathways on both sides of the road, separated by a grass link. All footpaths are in accordance with DMURS as noted in my assessment above.

- 9.13.4. The applicant has submitted a Traffic Impact Statement in support of the development. Traffic counts were undertaken in 2021 at 5 different locations. While I note that the assessment was carried out 4 years ago, I am satisfied that the assessment presents an adequate account of traffic volumes for the area to assess the proposed development. The traffic generation potential of the proposed development has been estimated using TRANSYT and PICADY software. It is estimated that the total vehicle movements generated by the proposed apartment development will be 26 arrivals and 72 departures in the AM peak (two-way total of 98). The total number of vehicle movements in the PM peak hour will be 48 arrivals and 32 departures (two-way total of 80). It is estimated that the total vehicle movements generated by the proposed nursing home development will be 9 arrivals and 14 departures in the AM peak (two-way total of 23). The total number of vehicle movements in the PM peak hour will be 9 arrivals and 14 departures (two-way total of 23). I am satisfied with the accuracy and traffic generation figures presented for the scale of the proposed development. I also note that the Traffic Impact Assessment considers that the crèche is envisaged to serve residents of the proposed development and not many trips are expected to be generated from this during the peak hours. I would generally concur with this assertion.
- 9.13.5. As part of the junction analysis the following scenarios were modelled – 2021 Survey Year, 2026 Opening Year, 2031 Opening Year + 5 Years and 2041 Opening Year + 15 Years. Each year was modelled with and without development. Junction analysis is set out for 6 junctions, namely Junction 1: Sybil Hill Road (R808) / Howth Road (R105). - Junction 2: Sybil Hill Road (R808) / St. Pauls Access Road - Junction 3: Sybil Hill Road (R808) / Vernon Avenue. - Junction 4: Vernon Avenue (R808) / Seafield Road W / Seafield Road E. - Junction 5: Vernon Avenue (R808) / Clontarf Road (R807). - Junction 6: Sybil Hill Road (R808) / Sybil House Road (Site Access Road).
- 9.13.6. The Traffic Impact Assessment has confirmed that the overall impact of the proposed development on the transportation infrastructure in the local area will be minimal, and that the existing road network has sufficient capacity to cater for the proposed development without the need for road upgrade works. I am satisfied that the proposed access arrangements could safely and adequately accommodate traffic levels as a result of the proposed development.

9.13.7. Several third party observations relate to impacts from increased traffic movements and congestion resulting from the proposed development.

9.13.8. While I acknowledge that there will be a greater volume of traffic as a result of the development, I am satisfied that the proposed access arrangements are acceptable with respect to traffic and pedestrian safety.

Parking:

9.13.9. In terms of car parking provision 471 no. spaces are proposed for the residential element of the proposal. Basement and podium level parking is proposed to serve the residential units. The proposed residential parking minimises provision at a rate of 0.8 spaces per residential unit.

9.13.10. The subject site is located in Zone 2, as per Map J of the Dublin City Development Plan, 2022 – 2028. Table 2: Maximum Car Parking Standards for Various Land Uses Appendix 5 of the Development Plan, 2022 – 2028 states that for apartment/duplex units that 1 space per dwelling is required within Zone 2. However, as noted above the subject site is located in parking zone 2, which occurs alongside key public transport corridors. The Plan states that a relaxation of maximum car parking standards will be considered in Zone 1 and Zone 2 for any site located within a highly accessible location may be acceptable subject to a case and is based on specific criteria including *“locational suitability and advantages of the site, proximity to High Frequency Public Transport services (10 minutes’ walk), walking and cycling accessibility/permeability and any improvement to same, the range of services and sources of employment available within walking distance of the development, availability of shared mobility, impact on the amenities of surrounding properties or areas including overspill parking, impact on traffic safety including obstruction of other road users, and the robustness of Mobility Management Plan to support the development”*.

9.13.11. The applicant considers that given the location of the scheme in a highly accessible location to the city centre and adjacent to the DART line, the reduced car parking is considered appropriate in ensuring a sustainable urban development form. The submitted Traffic and Transportation Assessment Plan and Mobility Management Plan Report reinforces this.

9.13.12. There are 41 no. car parking spaces to serve the nursing home and 8 no. car parking spaces provided for the creche facility. Table 2: Maximum Car Parking Standards for Various Land Uses Appendix 5 of the Development Plan, 2022 – 2028 states that for nursing home facility in Zone 2 that 1 space per 2 residents is required and for creche 1 space per 100 sq. m. In this regard a maximum of 50 no. parking spaces are required for the proposed nursing home facility and 7.5 spaces for the proposed creche. While the proposed parking to serve the nursing home facility is slightly below the required 50 no. spaces as per the Plan, the site is located in a highly accessible location in terms of public transport. As such, the proposed parking provision for the nursing home is acceptable. The parking provision for the creche is acceptable.

9.13.13. The proposal also includes EV parking spaces and results in an overall provision of 520 spaces (471 no. residential, 41no. nursing home and 8no. crèche).

9.13.14. The proposal also includes a total of 1,574 no. bicycle parking spaces for the development. Bicycle parking is located in secure facilities in the basement and are located in the landscaped open space areas in the scheme, are easily accessible and acceptable.

9.13.15. I also note that the Transportation Planning Division's report (dated 17/10/2022), which indicated broad satisfaction with the proposed development, subject to further information in relation to the use of St. Pauls College entrance and to provide information in relation to the management of such an access during peak morning drop-off and collection times for the school, the pedestrian priority of such an entrance and the overall changes to the traffic management of the school as a result of the new entrance and several standard conditions (11 no.) were also included. I recommend if the Coimisiún were minded to grant permission a condition could be attached to address the issue(s) raised by the Transportation Department.

Conclusion:

9.13.16. While I acknowledge that there will be a greater volume of traffic as a result of the development, I am satisfied that the proposed access arrangements are acceptable with respect to traffic and pedestrian safety. I am also satisfied that the proposed internal layout and car parking provision to be acceptable and suitable to

accommodate the proposed development noting its location close to public transport in particular.

9.14. Drainage and Site Services

- 9.14.1. Concerns have been raised in the observations in respect to drainage and the impact of the proposed development on the Naniken River and the adjoining sites.

Water Supply and Foul Drainage

- 9.14.2. The existing 1,350mm diameter North Dublin Drainage Scheme Trunk Sewer discharges in an easterly direction immediately south of the site, before traversing the south-eastern corner of the site. There are existing sewers in the Meadows development at the north-west of the site, connecting to an existing 225mm sewer in Howth Road. There is no foul water sewer in Sybil Hill Road at the site entrance.
- 9.14.3. It is proposed to drain wastewater from the site by gravity to the existing 1,350mm wastewater sewer at the south-eastern corner of the site. As this is the low point of the site, this proposal allows for the drainage to discharge by gravity without resulting in excessive invert depths. The existing invert level of the sewer at the proposed connection point is 17.196m OD Malin. The proposed invert level of the new 225mm diameter sewer is 18.321m OD Malin. Refer to the accompanying Drainage Layout drawing no. 21-083-P200. Any internal drainage within basement areas will generally drain by gravity via slung drainage to be strapped to the underside of the ground floor slab within a dedicated service zone and by gravity below ground to its outfall location in all other areas. The basements will not generate any foul water, and no pumping is proposed.
- 9.14.4. I note that a Basement Impact Assessment (BIA) did not accompany the planning application, however the impact of the proposed basements has been assessed as part of the planning application and in particular as part of the Environmental Impact Assessment, which accompanies the planning application. In this regard, I am satisfied that the applicant has considered the impact and extent of basement works proposed. I recommend if the Coimisiún were minded to grant permission a condition could be attached in this regard.
- 9.14.5. A Pre-Connection Enquiry Form application (PCEA) was submitted to Irish Water, and a Confirmation of Feasibility (CoF) of available service was received from Uisce

Eireann (dated 9th December 2021 - Ref. CDS20004359) noting that the connection to the 1,350mm sewer at the south of the development is feasible without infrastructure upgrade by Uisce Eireann. I recommend if the Coimisiún were minded to grant permission a condition could be attached in respect to agreements for water supply and wastewater prior to the commencement of development on site.

Surface water

- 9.14.6. The existing topography of the site falls generally from west to east, with a high point at the west of the site and a low point at the south-eastern corner of the site and the north-eastern corner of the site.
- 9.14.7. It is proposed to drain surface water through the site via a series of sewers, ultimately discharging to the Naniken River via a new sewer and headwall to be constructed to the north-east of the site. The existing pedestrian bridge at the proposed surface water outfall to the Naniken River is derelict, and as such it is proposed to replace the bridge as part of the works, with the new headwall to be constructed beneath the bridge. The proposed new bridge will incorporate natural stone masonry and traditional stone balusters.
- 9.14.8. The proposed development will be designed to incorporate best drainage practice. It is proposed to incorporate a Storm Water Management Plan through the use of various SuDS techniques including green roof to the proposed blocks, including approximately 4,325 m² of extensive green roof and 4,070 m² of intensive green roof. It is also proposed to introduce blue roofing beneath the areas of green roof.
- 9.14.9. 225mm diameter filter drains, consisting of perforated pipes surrounded in filter stone will be installed around the perimeter of each proposed block. It is also proposed to introduce permeable paving at private paved areas and roadside parking bays throughout the development.
- 9.14.10. In relation to site control, significant tree planting is proposed with more than 700 no. new trees proposed, including some roadside tree pits. Surface water runoff from the roads will drain to the tree pits. Several rain gardens are also proposed throughout the site to act as infiltration points for the surface water.
- 9.14.11. Policy SI21: Managing Surface Water Flood Risk of the Development Plan, requires “To minimise flood risk arising from pluvial (surface water) flooding in the

City by promoting the use of natural or nature-based flood risk management measures as a priority, by requiring the use of sustainable drainage systems (SuDS) to minimise and limit the extent of hard surfacing and paving, and requiring the use of sustainable drainage techniques, where appropriate, for new development or for extensions to existing developments, in order to reduce the potential impact of existing and predicted flooding risk and to deliver wider environmental and biodiversity benefits, and climate adaption”.

9.14.12. Moreover Policy SI22 requires require the use of Sustainable Drainage Systems (SuDS) in all new developments, where appropriate. Associated Policy Objectives of the Plan also include SI23: Green Blue Roofs, and S124: Control of Paving of Private Driveways /Vehicular Entrances/ Grasses Areas.

9.14.13. I also note 9.5.4 Surface Water Management and Sustainable Drainage Systems (SuDS) of the Development Plan, which provides guidance in respect to SuDS and surface water run off and drainage proposals in this regard.

9.14.14. I also note the report received from An Coimisiún Pleanála’s Ecologist (Appendix A), which considered that no adverse effects arising from construction-related surface water discharges would arise from the proposed development.

Conclusion:

9.14.15. I am satisfied with the proposed water supply and foul drainage proposals for the site as noted above. Moreover, the use of SuDS is promoted throughout the Dublin City Development Plan, 2022-2028 e.g., Policy SI22 and its associated objectives as referenced above. I note that the Environmental Services Department, in relation to surface water, has no objection subject to conditions. I am satisfied that SuDS has been appropriately taken into consideration in the layout and design of the proposed development and would not materially contravene the Development Plan.

9.15. Flood Risk

9.15.1. A number of observations have expressed concerns in relation to flooding at the site.

9.15.2. The planning application is accompanied by a Site Specific Flood Risk Assessment (SSFRA). The assessment notes that the site is located in Flood Zone C, as it is outside the 1-in-1,000-year flood zone for both tidal and fluvial flooding and as such no justification test is required for the proposed development.

9.15.3. The subject site was analysed for risks from tidal flooding from the Irish Sea, fluvial flooding from the Naniken River and the Santry River including pluvial flooding, ground water and failures of mechanical systems. All various sources have been reviewed as per Table 7 – Summary of the Flood Risks from the Various Components, of the submitted Flood Risk Assessment, and the risk of tidal and fluvial flooding is extremely low. With respect to pluvial, combination fluvial and pluvial event, ground water and human/mechanical error, as a result of proposed mitigation measures, the residual risk of flooding from any source is low.

Conclusion:

9.15.4. The report from the Environmental Services Department has no objection to the proposed development subject to conditions. I am generally satisfied that the with the details of the SFRA, and subject to condition the development will not result in a flood risk. I also reference the EIAR assessment in Section 11 of this report in this regard.

9.16. Social Infrastructure

9.16.1. Several concerns were raised in third party observations in respect to the proposed nursing home facility in particular the requirements with Health Information and Quality Authority (HIQA) requirements.

9.16.2. As noted in the development description the proposed development provides a 100 bed nursing home with ancillary amenity and service areas and staff facilities, which is located to the south of the site, as part of Block G. The proposed nursing home consists of a 4-storey building arranged around a courtyard garden, which also forms part of the wider Block G. 41 no car parking spaces are proposed to serve the nursing home, located at podium and surface level.

9.16.3. A creche facility of 750 sq. m. is also proposed which includes an external play facility (583 sqm.), associated car parking (8 no spaces at surface level), also located within proposed Block G.

9.16.4. Chapter 5, Quality Housing and Sustainable Neighbourhoods, 'Healthcare', states that "The Council will also seek to facilitate healthcare authorities in the provision, consolidation, co-location and enhancement of hospitals/ healthcare facilities and in the development of accessible community-based healthcare in residential areas

including nursing homes and elder-care homes which provide for intermediate care”. Moreover, guidance regarding nursing homes/assisted living is set out in Section 15.13.7 of the Development Plan. It is stated that *“there is a continuing and growing need for nursing homes and in particular, due to the aging population. Such facilities should be integrated wherever possible into the established residential areas of the city. Such facilities should be located in established neighbourhoods / residential areas well served by community infrastructure, and amenities. Future residents should expect reasonable access to local services”*.

9.16.5. The current Development Plan, also states that the following factors should be considered when determining applications for nursing home facilities,

- Compliance with standards as laid down in the Statutory Instrument No. 293 of 2016, Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2016.
- Compliance with the Health Information and Quality Authority (HIQA) National Standards for Residential Care Settings for Older People in Ireland (July 2016), and any successor document.
- The effect on the amenities of adjoining properties.
- Adequacy of off-street parking.
- Suitable private open space.
- The design and scale of the facility proposed: the scale must be appropriate to the area.
- Proximity of high quality public transport links and provision of good footpath links.

9.16.6. In this regard the proposed facility is located to the south of the site and is appropriately positioned within the site and is of an appropriate scale relative to the overall scheme. The site is located proximate to high capacity public transport (Killester and Harmonstown Dart stations – c. 420 metres) and is served by generous open space and directly adjoins St. Annes Park. In terms of amenity, a large breakout space is provided on the corner of the block with a small terrace, and a roof terrace is provided to the east with views towards St Anne’s Park. In respect to staff

and support within the facility, a staff and nursing room provided at every level. As noted above, parking is proposed to serve the nursing home facility.

9.16.7. While raised as an issue in the observation's, compliance with HIQA requirements, this is regulated under separate legislation.

9.16.8. However, having regard to the Z9 zoning objective pertaining to these lands, nursing home is not a use permissible or open for consideration under this land use zoning objective, and therefore would contravene the zoning objective as noted above.

9.16.9. In respect of the proposed childcare facility the Development Plan acknowledges that "provision of good quality and fit-for-purpose neighbourhood-based and local childcare services are central to providing for sustainable communities", and references the government's Childcare Facilities: Guidelines for Planning Authorities (2001) and Circular on Childcare Facilities (2016) provide a policy framework to guide local authorities on the provision of childcare facilities in suitable locations including residential areas, employment nodes, large educational establishments, district and neighbourhood centres and in locations convenient to public transport networks. This guidance also recommends the provision of one childcare facility per 75 no. residential units with a pro-rata increase for residential developments in excess of this size threshold.

9.16.10. Section 15.8.4 of the Development Plan provides guidance in respect to childcare facilities, having regard to the aforementioned government guidance, and Section 15.8.4.1 provides guidance in respect to the design criteria for childcare facilities including private outdoor play space, with the internal design, layout and size of the childcare facility in accordance with the standards set out in the Childcare Facilities, Guidelines for Planning Authorities 2001. Safe and appropriate vehicular access, and pedestrian and cycle movements should also be accommodated.

9.16.11. I am generally satisfied with the proposed principal layout, location, scale, and design of the proposed creche and its location within the scheme.

9.17. Other Matters

9.17.1. It is considered that there is no community gain from the development, however the proposed development provides open space, playgrounds, mini pitches for use of both residents of the scheme and the public, subject to taking in charge agreements

with the Council. The development would also provide a high quality residential scheme at this location, a nursing home and creche facility, which would benefit the local area, subject to the lands being appropriately zoned for development.

- 9.17.2. Other observers note that the NIS and other documents submitted are based on proprietary standards which were not made available and should be made available to allow for public comment. I am satisfied that the documentation including maps, drawings, and reports submitted has enabled the Coimisiún to carry a complete assessment and as noted above.
- 9.17.3. Reference is made to public consultation. I am satisfied that consultation has been carried out in accordance with the legislation.
- 9.17.4. The observers also note a CPO associated with these lands; however, this does not for part of the instant appeal and is a matter for the local authority.
- 9.17.5. Reference is made to the lodgement of the appeal, in particular Ref 315179 that was deemed invalid and that the correct procedures were taken regarding the lodgement of the second appeal and the availability of documents. I am satisfied that An Coimisiún Pleanála considered the appeal in accordance with the legislation.
- 9.17.6. Reference is made to the use of the site for land speculation and profit for the applicant and land value, I do not consider that the Coimisiún is in a position to draw any conclusions in relation to the matters raised.

9.18. Material Contravention

- 9.18.1. As noted in the foregoing assessment, the issue of material contravention arises in this case in respect of the development proposed on primarily lands zoned objective 'Z9', with the proposed development also subject to Objective CUO25, and in respect to Biodiversity, specifically Policy GI9, Policy GI10 and Policy GI13 of the Dublin City Development Plan, 2022 – 2028.
- 9.18.2. Therefore, one or more of the criteria as set out in Section 37(2)(b) of the Planning and Development Act 2000, as amended (hereafter referred to as 'the Act'), must be met in the event that An Coimisiún Pleanála was minded to grant permission in this instance. Section 37(2)(a) and (b) of the Act state the following:

(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes

materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

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

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

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

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

9.18.3. I have set out the zoning objective ‘Z9’ and Objectives CUO25, GI9, GI10 and GI13 for the benefit of the Coimisiún:

Land-Use Zoning Objective Z9: “To preserve, provide and improve recreational amenity, open space and ecosystem services.

Z9 lands are multi-functional and central to healthy place-making, providing for amenity open space together with a range of ecosystem services. They include all amenity, open space and park lands, which can be divided into three broad categories of green infrastructure as follows: public open space; private open space; and sports facilities.

The provision of public open space is essential to the development of a strategic green infrastructure network. The chapters detailing the policies and objectives for landscape, biodiversity, open space and recreation, and their respective standards, should be consulted to inform any proposed development (see Chapter 10: Green Infrastructure and Recreation, and Chapter 15: Development Standards).

The role of 'Z9' lands in providing ecosystem services, such as improved biodiversity and ecological connectivity, nature-based surface water management, flood attenuation, river corridor restoration and climatic resilience, is also increasingly being recognised.

Generally, the only new development allowed in these areas, other than the amenity/recreational uses, are those associated with the open space use. These uses will be considered on the basis that they would not be detrimental to Z9 zoned lands.

In certain specific and exceptional circumstances, where it has been demonstrated to the satisfaction of the planning authority, some limited degree of residential or commercial development may be permitted on 'Z9' land subject to compliance with the criteria below:

- Where it is demonstrated that such a development would be essential in order to ensure the long term retention, enhancement and consolidation of a sporting facility on the site.
- Any such residential/commercial development must be subordinate in scale and demonstrate that the primary sporting land-use on the site is not materially eroded, reduced, or fragmented.
- In all cases, the applicant shall submit a statement, as part of a legal agreement under the Planning Acts, demonstrating how the sports facility will be retained and enhanced on site.
- In proposals for any residential/commercial development, the applicant must demonstrate that the future anticipated needs of the existing use, including extensions or additional facilities, would not be compromised.
- In all cases the applicant shall be the sports club owner or have a letter of consent from the owner".

Objective CUO25:

'SDRAs and large Scale Developments All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area* must provide at a minimum for 5% community, arts and culture spaces including exhibition, performance, and artist workspaces predominantly internal floorspace as part of their

development at the design stage. The option of relocating a portion (no more than half of this figure) of this to a site immediately adjacent to the area can be accommodated where it is demonstrated to be the better outcome and that it can be a contribution to an existing project in the immediate vicinity. The balance of space between cultural and community use can be decided at application stage, from an evidence base/audit of the area. Such spaces must be designed to meet the identified need. *Such developments shall incorporate both cultural/arts and community uses individually or in combination unless there is an evidence base to justify the 5% going to one sector.'

Policy GI9 European Union Natura 2000 Sites:

"To conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites designated, or proposed to be designated, under the EU Birds and Habitats Directives, as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (European / Natura 2000 sites)".

Policy GI10 Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas:

"To adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), the Fisheries Acts 1959 (as amended) and the Flora (Protection) Order 2022 S.I No. 235 of 2022, wherever they occur within Dublin City, or have been identified as supporting the favourable conservation condition of any European sites".

Policy GI13 Areas of Ecological Importance for Protected Species:

"To ensure the protection, conservation and enhancement of all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives, including those identified as supporting the favourable conservation condition of any European sites, in accordance with development standards set out in this plan".

9.18.4. As the Development Plan states residential, including nursing home is not a permissible use or open for consideration use on lands zoned 'Z9'. Additionally, I do not consider that the extent of residential and nursing home development proposed

under this appeal to be of a limited degree and as noted in the forgoing assessment does not comply with the required criteria, which results in a material contravention of the Development Plan.

- 9.18.5. Moreover, in respect to Objective CUO25, the gross floor area of this development is 71,207 sq. m (10. (c) of the application form), and therefore a minimum total of 3,560 sq. m of floor area would be required to comply with this objective. No community, art and cultural space have been provided by the applicant in this development and the failure to demonstrate compliance with this objective would result in a material contravention of the plan.
- 9.18.6. Policies GI9, GI10 and GI13 all relate to the conservation, protection, restoration and enhancement of European Sites and all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives. As identified in the report received from the Ecologist the applicant has not adequately demonstrated that the proposed development would not impact on the protected Brent Geese and therefore would materially contravene Policies GI9, GI10 and GI13 for the protection of European Sites.
- 9.18.7. In accordance with Article 73A(1)(a) of the Planning and Development Regulations, 2001 as amended, the applicant was requested to provide further information to clarify how the proposed development complies with the criteria set out under the zoning objective for the subject site as per the Dublin City Development Plan, 2022 – 2028, and any other relevant provisions of the Development Plan.
- 9.18.8. The applicant's response states that the LRD Application was lodged with Dublin City Council, determined by Dublin City Council and ultimately appealed to An Coimisiún Pleanála (An Bord Pleanála at the time) the area of the site on which residential development is proposed was zoned 'Z15 – Institutional & Community Uses' which facilitated the development of residential accommodation and as such was compliant with the legislative provisions of Large Scale Residential Development and with the provisions of the Dublin City Development Plan.
- 9.18.9. I note that a number of observations, in particular the responses to the Bird Watch Ireland submission, under Section 131, raise the issue of material contravention of the zoning objective and the impact on the protected Brent Geese.

9.18.10. It is clear that the stated zoning, policy and objective of the Plan are not complied with, and as such the proposed development would materially contravene the Dublin City Development Plan, 2022-2028. I have also considered the applicants further information response; however, I do not recommend that the Coimisiún invoke the provisions of Section 37(2)(b) for the following reasons, assessed under the relevant part of this section of the Act:

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

The provision of housing whilst of local and county importance, is not considered to be of strategic or national importance in this context, and I am of the opinion that Section 37(2)(b)(i) does not apply. The site has not been identified as one of strategic importance nor has it been designated as a Strategic Development Zone (SDZ). Additionally, the first party appellant did not provide any further information in this regard.

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

I am satisfied that the objectives are clearly stated, accordingly Land-Use Zoning Objective Z9: To preserve, provide and improve recreational amenity, open space and ecosystem services, Objective CUO25 with a clear intention to provide for community, arts and culture and artist workspaces for all developments in excess of 10,000 sq. m in large scale developments, Policy GI9 to conserve, manage, protect and restore the favourable conservation condition of all qualifying interest/special conservation interests of all European sites, Policy GI10 to adequately protect flora and fauna (under the EU Habitats and Birds Directives), the Wildlife Acts 1976 (as amended), and Policy GI13 to ensure the protection, conservation and enhancement of all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives.

I am satisfied that the objectives do not conflict with other objectives within the Development Plan and Section 37(2)(b)(ii) does not apply. Additionally, the first party appellant did not provide any further information in this regard.

(iii) ***Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines***

under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

Whilst the RSES seeks the provision of 7,500 units per annum within the metropolitan area (5.7 Housing Delivery), there is no specific reference to the provision of housing on this site having a strategic importance. Section 28 guidance supports the provision of residential development, nothing the Apartment Guidelines, Building Height Guidelines and the Compact Settlement Guidelines. I also note the National Planning Framework, in particular NPO 7, NPO 8 and NPO 43 which highlights the delivery of home nationally, with half in Dublin and its existing suburbs to prioritise new homes in sustainable locations, lands must be zoned for the provision of such uses and it is clear from the Core Strategy that the future provision of housing in the city is not dependant on development on 'Z9' lands.

Considering these points, Section 37(2)(b)(iii) does not therefore apply.

Additionally, the first party appellant did not provide any further information in this regard.

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

The development, as reported, would be appropriate having regard to the character of the area, however this section of the act only applies to development granted since the adoption of the relevant Development Plan. No development has been permitted on adjoining lands since the adoption of the current Dublin City Development Plan, 2022 – 2028. Section 37(2)(b)(iv) does not therefore apply.

Additionally, the first party appellant did not provide any further information in this regard.

- 9.18.11. Having considered all the information pertaining to this case, and the provisions of the Development Plan, I do not consider that any one or more of the criteria set out under Section 37(2)(b) of the Act are met, and I therefore do not consider that there are grounds for the Coimisiún to grant permission in accordance

with Section 37(2)(a) when the refusal is on the grounds of it being a material contravention of the Development Plan.

10.0 Water Framework Directive (WDF)

10.1. Introduction:

- 10.1.1. The Naniken River is located to the north of the site, which is directly linked to the Santry River i.e. Santry_020, which is a recorded waterbody on the EPA catchments database.
- 10.1.2. The proposed development comprises of the construction 580 no. residential units (apartments), 100 bed nursing home, childcare facility and associated site works on lands to the east of St. Paul's College, Sybil Hill Road, Raheny, Dublin 5.
- 10.1.3. I have assessed the residential development to the east of St. Paul's College, Sybil Hill Road, Raheny and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.
- 10.1.4. I have undertaken a WFD Impact Assessment Stage 1: Screening and which is included in Appendix B after my report. This assessment considered the impact of the development on the:
- Santry River
 - Groundwater
- 10.1.5. The impact from the development was considered in terms of the construction and operational phases. Through the use of best practice and implement of a CEMP at the construction phase and through the use of SuDS during the operation phase, all potential impacts can be screened out.

10.2. Conclusion:

- 10.2.1. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a

temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 EIA Screening

11.1. Statutory Provisions

11.1.1. This section sets out the EIA of the proposed project and should be read in conjunction with both the planning assessment and appropriate assessment sections of this report. The proposed development provides for 580 no. residential units (apartments), a childcare facility, and a 100-bed nursing home with ancillary amenity and associated site works on development site with an area of 6.4ha, on an overall site area of 6.7ha. located at Lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5.

11.1.2. An Environmental Impact Assessment Report (EIAR) has been prepared because the cumulative size of the proposed development would breach the Schedule 5 Part 2 Paragraph 10 (b)(iv) threshold of the Planning & Development Regulations, 2001 (as amended), which is urban development involving an area greater than 10 hectares in a built-up area.

11.2. EIA Structure

11.2.1. Section 11 of this report comprises my EIA of the proposed development in accordance with the Planning & Development Act, 2000 (as amended) and the associated Planning & Development Regulations, 2001 (as amended), which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU). Section 171 of the Planning & Development Act, 2000 (as amended) defines EIA as:

11.2.2. (a) consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and,

11.2.3. (b) includes an examination, analysis, and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the

proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

11.2.4. Article 94 of the Planning & Development Regulations, 2001 (as amended) and associated Schedule 6 set out requirements on the contents of an EIAR.

11.2.5. This EIA section of the report is therefore divided into various sections. The first section (Part 1) includes the introduction, and methodology assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations, 2001 (as amended). The second section (Part 2) provides a project description and description of alternatives. The third section (Part 3) references the planning and policy context, with the remainder of the report providing an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- Population and human health,
- Biodiversity,
- Land and Soil,
- Water (hydrology and hydrogeology),
- Air quality and climate,
- Noise and Vibration,
- Landscape/Townscape and Visual Assessment
- Archaeology, Architectural and Cultural Heritage,
- Material Assets (Traffic, Waste and Utilities).

11.2.6. The EIA section also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Coimisiún's decision, should it agree with the recommendation made. It should be noted that reasoned conclusion refers to significant effects which remain after mitigation. Therefore, while I outline the main significant direct, indirect, and cumulative effects at the conclusion of my assessment of each environmental factor, only those effects that are not or cannot be appropriately mitigated are incorporated into my reasoned conclusion in subsection 12.22.

11.3. Issues Raised in Respect of EIA

- 11.3.1. Dublin City Council expressed concerns in their assessment in respect to the content of the submitted EIAR. Issues related to the lack of information on the environmental effects of the project, to enable an adequately informed determination to be made. Moreover, there remains significant concern, including those of a cumulative nature, that the proposed mitigation measures are not satisfactory to ensure protection of the badgers and bats identified within the subject site, which are species protected under the Wildlife Acts (1976-2021) and EU Habitats Directive (92/43/EEC).
- 11.3.2. Thirty six (36 no.) third-party observations have been received by the Coimisiún on foot of the first party appeal. Any issues raised in third-party submissions, planning authority reports, and prescribed body submissions are considered later in this report under each relevant environmental parameter.

11.4. Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations

- 11.4.1. In the table below, I assess the compliance of the submitted EIAR with the requirements of article 94 and schedule 6 of the Planning & Development Regulations, 2001 (as amended).

Table 12.1 – Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations

Article 94(a) Information to be contained in an EIAR (Schedule 6, paragraph 1)
A description of the proposed development comprising information on the site, design, size, and other relevant features of the proposed development, including the additional information referred to under section 94(b).
A description of the proposed development is contained in Chapter 2 (Project Description & Description of Alternatives) of the EIAR. Chapter subsections include Introduction and Terms of Reference, Site Location and Description, Site History / Background, Project Overview, Statutory Planning Context, Description of Alternatives and the Existence of the Project. To facilitate this new access road it is proposed to demolish an existing pre-fab building. I am satisfied that the development description provided is adequate to enable a decision.

A description of the likely significant effects on the environment of the proposed development, including the additional information referred to under section 94(b).
An assessment of the likely significant direct, indirect, and cumulative effects of the development is carried out for each of the technical chapters of the EIAR. I am satisfied that the assessment of significant effects is comprehensive and sufficiently robust to enable a decision on the project.
A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent, or reduce and, if possible, offset likely significant adverse effects on the environment of the development, including the additional information referred to under section 94(b).
Mitigation is addressed in each of the EIAR technical chapters. Chapter 15 (Mitigation and Monitoring Measures) sets out a summary of the range of methods described within the individual chapters which are proposed as mitigation and for monitoring. Relevant supporting appendices include Appendix A Drawings Appendix, B Social Infrastructure Report and Childcare Needs Assessment, Appendix C Amplitude Acoustics (Letter of Confirmation), Appendix D Habitat Map, Appendix E Badger Assessment Report, Appendix F Amphibian Report, Appendix G Bat Activity Maps and Bat Survey Metadata, Appendix H Naniken Freshwater Survey Report, Appendix I Site Investigation Report, Appendix J Surface Water Sampling Laboratory Reports, Appendix K Computational Fluid Dynamics (CFD) Model, Appendix L Flood Risk Assessment, Appendix M GoCar Letter of Intent, Appendix N TRIC Rates, Appendix O Public Transport Assessment, Appendix P Mechanical and Electrical Utilities Report, and Appendix Q: Verified Views Report. I am satisfied that proposed mitigation measures comprise standard good practices and site-specific measures that are capable of offsetting significant adverse effects identified in the EIAR.
A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment, including the additional information referred to under section 94(b).
Subsections 2.7 (Description of Alternatives) provides an overview of the alternatives considered. An alternative location was not examined because the site was zoned under the then applicable Dublin City Development Plan, 2016 -2022, to accommodate the uses proposed. A do-nothing alternative was not considered attractive as would result in a continual decline of the population of the area. A failure to deliver the Proposed Development would result in a growing need for

additional residential units within the Dublin Metropolitan Area not being met, with implications for use of greenfield lands more remote from the city centre and from established services in the transport, education, social and commercial sectors.

In terms of alternative uses, it is considered that the site of the Proposed Development is located in close proximity to the village cores of both Raheny and Clontarf, which host a range of social infrastructure, in addition to the high-quality public transport provided by both DART and city bus routes. In light of these nearby uses, the Site's zoning, and current demand for high quality residential units, other land uses on site would not be considered appropriate alternatives or would not be in accordance with the planning policy context pertaining to the lands. The Permissible and Open for Consideration Uses for Z15 zoned lands are listed in Figure 2-4 (DCDP 2016-2022).

Alternative layouts are outlined that were considered before the current layout was progressed and reasons for choosing this option are set out.

I am satisfied that reasonable alternatives were considered, the main reasons have been set out for opting for the layout proposed, and potential impacts on the environment have been taken into account.

Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2)

A description of the baseline environment and likely evolution in the absence of the development.

Each of the environmental aspects as listed in the EIAR are examined in terms of the existing or baseline environment, identification of potential construction and operational stage impacts and where necessary proposed mitigation measures are identified and the likely evolution of the environment in the absence of the proposed development is described, with particular reference to 'do nothing' scenarios. I am satisfied with the descriptions of same.

A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved.

The relevant methodology employed in preparing the EIAR, including desk-based assessment, ecological field studies, consultations, impact assessment etc. is set out in Section 4.2 and the relevant individual chapters.

Each relevant chapter of the EIAR references difficulties encountered when compiling that chapter. It is noted that no significant difficulties, such as technical deficiencies or lack of knowledge, were encountered in compiling any of the specified information contained and any specific difficulties encountered are outlined in the relevant technical chapter.

A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.

Chapter 13 (Risk Management) identifies and assesses the likelihood and potential significant adverse impacts on the environment arising from the vulnerability of the proposed development to risks of major accidents and/or disasters. It considers whether the proposed development is likely to cause accidents and/or disasters and its vulnerability to them. I am satisfied this issue has been adequately addressed in the EIAR.

Article 94 (c) A summary of the information in non-technical language.

The EIAR submitted with the application comprises Volume I (Non-Technical Summary), Volume II (Main Report), and Volume III (Appendices (in seventeen parts)). I am satisfied that the Non-Technical Summary is concise, suitably comprehensive, and would be easily understood by members of the public.

Article 94 (d) Sources used for the description and the assessments used in the report

Each chapter provides a list of documents and information used to inform the chapter assessment. I consider the sources relied upon are generally appropriate and sufficient in this regard.

Article 94 (e) A list of the experts who contributed to the preparation of the report

A list of the various experts who contributed to the EIAR, their specialist topic(s)/input, and their qualifications are set out in table 1-3 (EIAR Project Team) of the EIAR. I am satisfied that the EIAR demonstrates the competence of the individuals who prepared each chapter of the EIAR.

Consultations

- 11.4.2. The application has been submitted in accordance with the requirements of the Planning and Development Act, 2000 (as amended), and the Planning and Development Regulations, 2001 (as amended), in respect of public notices. Submissions have been received from statutory bodies and third parties and are considered in this report, in advance of decision making.

11.4.3. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

Compliance:

11.4.4. While I note the time lapse since the survey works were undertaken, I would note the site has remained largely untouched in the intervening period and no significant development has taken place in or around the site. Therefore, I am satisfied that the survey work carried out as part of the EIAR is acceptable. I am satisfied there is sufficient information on file to allow the application to be determined and that documentation submitted by the applicant, provided information which is reasonable and sufficient to allow a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment.

11.4.5. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the developer is sufficient to comply with article 94 of the Planning & Development Regulations, 2001 (as amended).

Assessment of the Likely Significant Direct and Indirect effects:

11.4.6. This section of the report sets out an assessment of the likely environmental effects of the proposed development under the environmental factors as set out in Section 171A of the Planning and Development Act 2000. It includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these effects.

Assessment of EIA:

11.5. Population and Human Health

Issues Raised

11.5.1. The submissions from the third observations raise concerns about traffic congestion, the social importance of St. Anne's Park, the loss of the playing pitches will impact on health of children and younger adults, in particular.

Examination, analysis and evaluation of the EIAR

11.5.2. Chapter 4 of the EIAR deals with Population and Human Health and outlines a detailed description of the existing environment and context. Section 4.2 outlines the study methodology, and the likely impact of the proposed development is assessed in relation to:

- Population;
- Socio Economic impacts;
- Tourism and Amenity;
- Air quality;
- Water;
- Noise; and
- Traffic.

11.5.3. This chapter focuses on the socio-economic impacts and is focused in particular on relevant issues such as residential amenity, economic activity, tourism and population levels. One of the principal concerns in any Proposed Development is that the local population experiences no reduction in the quality of life as a result of the development on either a permanent or temporary basis.

11.5.4. Section 4.5.2 sets out that the operational stage will result in a further increase in the population of the wider area and a change in the demographic profile in the area. After completion of the Proposed Development, the changing demographic profile is likely to ensure a balanced age profile within the local area. It is considered that the proposed development will be imperceptible in significance in terms of changing age profile and long-term in duration. The proposed development will provide 580 no. residential accommodation units which will provide an enhanced choice of tenure in the area, affording greater flexibility to those who may be seeking to rent an apartment in the area or looking to purchase a dwelling. This will have a long-term positive impact on population due to the provision of a wide range of dwelling unit types and will cater for a wide cohort of persons.

11.5.5. While I acknowledge that the development will result in the loss of existing playing pitches, the site is currently in private ownership. The proposal will provide mini-

pitches for public use, to be taken in charge by the local authority. I also note the extent of playing pitches and open spaces within the overall adjoining St. Annes Park. Therefore, I concur that the Proposed Development will be a positive effect for the local area. It will also provide a significant positive impact to the overall economy of the local area through indirect socioeconomic benefits. With regard to human health, the development has the potential to provide health improvements due to the creation of additional employment.

11.5.6. Section 4.5.1 outlines construction impacts, mitigation and monitoring measures.

The Construction Phase of the Proposed Development will potentially cause some additional noise, mobility of heavy vehicles, dust and the arrival and departure of construction workers into the area. The impacts of the construction phase will be short term and will only last for the duration of the construction works. Construction Phase mitigation measures will be put in place, and no significant impacts have been identified in terms of population and human health. The construction stage measures are based on the CMP provisions including a dust minimisation, noise/vibration control, water protection, traffic management, and a monitoring regime.

11.5.7. The EIAR predicts that there will be positive residual impacts in the creation of employment, accommodation, childcare and nursing home care which will be a positive impact for the local area and the overall economy.

11.5.8. The EIAR also considers the potential cumulative impacts of other projects in the area. Subject to the implementation of the appropriate best practice measures, no significant cumulative impacts are predicted.

11.5.9. The operational phase is not predicted to generate cumulative human health impacts and positive impacts are predicted in relation to townscape character and the delivery of a residential development and other services/amenities such as open space and playgrounds.

Assessment: Direct, Indirect, and Cumulative Effects

11.5.10. I have acknowledged the identified impacts and the associated mitigation measures, as well as the potential for interactive impacts with other factors as discussed in section 14.3 of this EIA. I also acknowledge the potential impacts identified in Chapter 9 (Noise and Vibration), Chapter 7 (Hydrology), Chapter 6 (Land and Soil), Chapter 8 (Air Quality and Climate), Chapter 12 (Material Assets – Traffic

and Waste and Utilities) and Chapter 10 (Landscape and Visual) and the potential interaction with population and human health. I consider that the predicted impacts and the associated mitigation measures are adequate to prevent any unacceptable impacts.

- 11.5.11. The concerns raised in submissions about traffic congestion and safety have been addressed in Section 9.13 of this report, and I am satisfied that there will be no unacceptable impacts.

Conclusion: Direct, Indirect, and Cumulative Effects

- 11.5.12. While the net impact of the proposed development is expected to be positive (in that its completion will create a high volume of high quality housing) the provision of a creche and nursing home, it likely that negative impacts will also arise as a result of the proposal. I consider that the main significant direct, indirect, and cumulative effects on Population and Human Health are negative predicted impacts are commensurate with the nature and scale of the proposed development and are predominantly short-term impacts associated with the proposed construction works (such as noise, dust), and traffic, and will be mitigated as follows:

- Construction-related disturbance including noise/vibration, dust, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan and a traffic management plan.
- Positive socioeconomic effects at operational stage through the availability of additional employment, accommodation, childcare and nursing home care and amenities.

11.6. Biodiversity

Issues Raised

- 11.6.1. The third parties set out that the development will impact result in loss of habitat (flora and fauna) and will have a negative impact on local biodiversity. Concerns has been raised about birds, in particular the Brent Geese, badgers and bats on site. Concerns were also raised in respect to the Nankien River and flood mitigation, which could have negative implications for the biodiversity of the stream. I note that flooding is addressed in Section 9.15 of this report.

Examination, analysis and evaluation of the EIAR

- 11.6.2. Chapter 5 of the EIAR deals with Biodiversity. It highlights that the potential impact on European sites is set out in the accompanying AA Screening Report, and I have addressed this in Section 9.4 of my report and Appendix A.
- 11.6.3. A suite of ecological surveys have been carried out at the Site of the Proposed Development to inform this assessment; conducted between 2015 and 2022. Surveys for 2018, 2019, 2020, 2021 and 2022 were undertaken by Enviroguide Consulting (EG), the authors of this report. Surveys carried out from 2015 to 2017 were undertaken by Scott Cawley (SC) Ltd. in respect to a previous strategic housing development application at the Site (Planning Reference: 300559-18). These surveys include habitat, flora and invasive plant surveys; mammal surveys; bat activity and emergence surveys; breeding bird surveys; winter waterfowl and shorebird surveys; an amphibian survey and a freshwater biological assessment of the Naniken River. A badger assessment has also been submitted.
- 11.6.4. I note the timeline of surveys carried out ranges from 2015-2022, and this has been raised in the observations. Based on the documentation submitted, my site inspection and the lack of development immediate to the site in the intervening period, I am satisfied that the surveys submitted are acceptable to allow for an adequate assessment of the impacts.
- 11.6.5. The third party observations also express concerns in respect of conflicts of opinion in the surveys carried out, concerns as regards in-depth wildlife surveys. It is also considered that the survey work and analysis by the consultants for this application show the impacts of the elimination of this habitat, despite this site being the top site for Brent Geese in Dublin, according to the analysis in previous applications. I am satisfied that the surveys carried out are comprehensive, in line with best practice and allow for a full assessment of both the Appropriate Assessment and Environmental Impact Assessment.
- 11.6.6. The EIAR establishes the potential zone of influence (ZOI) at a radius of 5km from the proposed Project.

Designated Sites

11.6.7. An Appropriate Assessment Screening Report (AA) and Natura Impact Assessment (NIS) have been prepared as part of the planning application for the Proposed Development. The AA Screening has identified the potential for significant effects on North Dublin Bay SAC (000206), North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015). I refer the Coimisiún to Section 9.4 and Appendix A of this report.

Habitats and Flora

11.6.8. No protected flora was recorded at the Site, and it is not expected that any will be impacted by the Proposed Development. No high-impact invasive alien plant species were recorded at the Site. Several lesser impact non-native species were recorded.

11.6.9. The Proposed Development will result in the loss of some largely non-native ornamental treeline (WL2) habitat along the proposed access road to the Site. Collectively this will represent a negative, slight, permanent impact to treelines at a local scale.

11.6.10. The Proposed Development will result in the loss of scattered trees and parkland (WD5) habitat in the north-west of the Site in the form of some mature trees, most of which are noted by the project arborist as being of poor condition, category U trees; recommended for felling regardless of the development of the Site. A section of scrub (WS1) habitat in the northwestern corner of the Site will also be lost as it stands within the building footprint of Block B. Their loss solely as habitat features represents a negative, slight, permanent impact at a local scale; based on their limited presence onsite and their abundance and widespread nature in the surrounding St. Anne's Park.

11.6.11. The proposed landscaping of the Site will offset the loss of the trees to be removed as part of the Proposed Development and it is considered that this will have a positive, significant, permanent effect on habitat provision at the Site; through the replacement of the existing rank grassland field and sections of scrub, with a more diverse habitat mosaic including a high degree of native and non-native tree planting and diverse understorey planting.

11.6.12. The Arboriculture Report completed by The Tree File Consulting Arborists, details the tree protection measures that will be implemented in order to protect trees that are to be retained as part of the Proposed Development.

11.6.13. Whilst I note the loss of some trees and hedgerow, in the context of the comprehensive development on the site, I do not consider the proposed losses to be significant and combined with the landscaping measures proposed a part of the development, I am satisfied that this element of the development is acceptable, and mitigation is appropriate.

Terrestrial Fauna (excluding bats):

11.6.14. Badger - Two badger setts; a main active breeding sett and an associated annexe sett were discovered in December 2021, in the north-western corner of the Site. A large earthen mound, covered in mature elder and dense bramble scrub is present in this corner of the Site, running east-west; likely a result of previous clearance of the lands in the past. Several established mammal trails were noted leading into this scrub from the Site lands, and evidence of mammal scuffle marks and digging were present. On the northern side of this mound (midway along) three large burrow entrances were noted in close proximity to each other, with large spoil heaps outside with discarded bedding observed. Badger prints were observed in the wet earth at these entrances.

11.6.15. These large entrances were confirmed by the badger specialist Brian Keeley during July 2022 surveys to represent a badger main sett (due to the size and nature of the spoil heaps present, discarded bedding etc.). Trail camera footage (under licence from NPWS) recorded the presence of 5 badgers utilising the main sett; two adults and three weaned cubs, confirming it as a breeding sett for 2022.

11.6.16. The Proposed Development works will result in the loss of the setts due to the spatial constraints of the Site and the proposed layout of the development; the loss of the main sett will represent a negative, significant, permanent impact to badger at a local scale, in the absence of mitigation or compensation.

11.6.17. The excavation of the sett in the absence of suitable surveys and exclusion of badgers could lead to death or injury of badgers and would represent a negative, profound, permanent effect at a local scale.

- 11.6.18. Noise disturbance impacts associated with the Construction Phase will constitute a negative, significant, short-term impact at a local scale in the absence of mitigation.
- 11.6.19. Badgers currently forage across the Site, and its development will result in the loss of some foraging habitat from their range (negative, slight, permanent), however, abundant similar habitats exist in St. Anne's Park Adjacent. The presence of humans within a currently unoccupied site, and the possible associated introduction of dogs, will lead to increased disturbance potential for any resident badgers. This will further reduce or even remove the ability of badgers to forage successfully within the Site going forward and at worst would lead to injury from dog attack. This will equate to a negative, moderate to significant, permanent impact in the absence of any mitigation.
- 11.6.20. The EIAR considers that the preparation of a badger management plan by a badger specialist will ensure that badgers are protected from harm during the Construction Phase and during sett exclusion and excavation. All exclusion works will be supervised by the badger specialist. An artificial main sett will be provided within the north-eastern corner of the Site as compensation for the loss of the existing main sett. The possibility of installing an artificial sett elsewhere in the park as compensation was also considered and is a viable alternative, however, the installation of the new sett within a suitable location at the Site is the preferred option.
- 11.6.21. The new sett location will be approx. 230m east of the existing main sett and linked by the existing woodland corridor present along the Site's northern and eastern boundaries. A dense section of scrub vegetation (e.g., Gorse, Brambles, Elder, Hawthorn, Blackthorn) will be planted within the designated artificial sett area; the goal being to connect the site with the woodland margin along the Site's eastern boundary and provide connectivity with the rest of the park for the badgers to forage as before, to provide shelter and protection for the sett and minimise human related disturbance from the Proposed Development; thus maximising the setts chances of being adopted. The new sett will be constructed and established before the badgers are excluded from the existing setts and they are destroyed.

- 11.6.22. As per the Badger Assessment Report prepared by Brian Keeley (2022), the Proposed Development will result in substantial changes to badger usage of the Site. The works will see a loss of two setts, comprising a breeding sett and a neighbouring annexe sett, as well as significant disruption to the badger foraging area. It is proposed that the artificial sett will provide an alternative to the main sett if adopted by the badgers and that the impact of Proposed Development would then be mitigated to a significant, short-term impact; thus, only comprising the loss of an annexe sett, foraging habitat and disruption through the removal of both setts.
- 11.6.23. The report also states that opportunities for continued foraging within St. Anne's Park will persist and the loss of feeding habitat will not be significant and will not affect the conservation status of these badgers. Badgers will be disrupted by the construction and occupancy of housing but with proper mitigation implementation should be free to forage and commute in the surrounding area and through the Site.
- 11.6.24. I note the concerns raised by observations in relation to the loss of the badger sett and the report received from the Parks and Landscape Department, which considered "the development layout proposed will result in the loss of a breeding badger sett, which is a protected species under the Wildlife Acts (1976-2021). The principle of avoidance of this loss by the appropriate setback of development has not been undertaken by the applicant, which is not satisfactory. The mitigation proposals are also not satisfactory".
- 11.6.25. The EIAR, however, did not form part of the local authority reason for refusal.
- 11.6.26. I acknowledge as stated in the EIAR that there will be substantial changes to the badger use of the site, resulting in the loss of two badger setts including the breeding sett and neighbouring sett and significant disruption to the foraging area. While it is proposed that the artificial sett may provide an alternative to the main sett, this would see a loss of an annexe sett in addition to considerable disruption through the removal of the two setts. The report also notes that the removal of the two setts may affect the potential for badgers to exploit the surrounding area to the same degree as the current situation.
- 11.6.27. The proposed mitigation measures include the construction of an artificial sett, the presence of a badger specialist on site during all works, including NPWS approval, the monitoring of heavy plant across the site which may impact on the

badgers, no illumination of the badger setts and the time of year of construction to avoid any impact. In the new sett area and its surrounding vegetation, access to this portion of the site will be restricted and discouraged through landscaping (e.g., fencing, dense planting) and signage (e.g., 'Dogs to be kept on leads to protect wildlife'). The EIAR also states that the removal of badgers from affected setts and subsequent destruction of these setts will only be conducted with NPWS permission/approval, and by experienced badger specialists. A badger sett exclusion plan and method statement will be prepared by the badger specialist and provided to the NPWS prior to commencement for their approval and no works will take place without the supervision of the Badger specialist.

- 11.6.28. In this context, I am satisfied that the development will not impact on the existing badger sett and will provide a new sett on site which is acceptable subject to appropriate mitigation.

Otter

- 11.6.29. The EIAR considers that Otter *Lutra lutra* would not utilise the Site of the Proposed Development due to the lack of suitable habitat for this species within the Site itself and its immediate surroundings.

Other Mammals

- 11.6.30. All of the mammal species returned in the NBDC search or identified within the proposed development site are of "Least" conservation concern (Nelson et al., 2019). They are widely distributed throughout Ireland.

Non-native Invasive Mammals

- 11.6.31. None identified on the proposed site.

Birds:

- 11.6.32. The EIAR states that birds are addressed in detail in the Natura Impact Statement that accompanies this application. This is further assessed in Sections 9.4 and 9.5 above and in Appendix A of this report.

- 11.6.33. In relation to breeding bird surveys identified a total of 31 species utilising the Site of the Proposed Development in between 2019 and 2021. This included one red-listed species Swift (*Apus apus*) and 7 amber-listed species; House Martin (*Delichon urbicum*), Swallow (*Hirundo rustica*), Starling (*Sturnus vulgaris*), Linnet

(Carduelis cannabina), Goldcrest (Regulus regulus), Herring Gull (Larus argentatus) and Lesser Black-backed Gull (Larus fuscus). A total of five (5) no. Special Conservation Interest (SCI) species were recorded during bird surveys of the Site of the Proposed Development and St. Paul's School pitch between 2015 and 2022; Light-bellied Brent geese (Branta bernicla hrota), Curlew (Numenius arquata), Oystercatcher (Haematopus ostralegus), Black-tailed Godwit (Limosa limosa) and Blackheaded Gull (Chroicocephalus ridibundus).

Wintering Birds:

- 11.6.34. In relation to wintering SCI species and related impacts in terms of ex-situ usage, the applicant states that these impacts are addressed in detail in the NIS submitted as part of this planning application under separate cover. I note that the NIS report concluded that *"the Proposed Development will not adversely affect the integrity of any European Sites, either alone or in combination with other plans and projects, taking into account the conservation objectives of said sites. The species that were recorded in winter only related to these European Sites and are addressed in the NIS. There are no wintering species other than these that are directly related to the Site of the Proposed Development and therefore no impact on non-SCI wintering species is anticipated"*.
- 11.6.35. The EIAR further states that *"during the clearance of vegetation there is the potential for negative, significant, short-term effects to local breeding bird populations through nest destruction and mortality in the absence of any pre-clearance checks for nests. A pre-felling nest survey will be conducted by an ecologist prior to vegetation removal. Any active nests found will be suitably protected until eggs have hatched and young have fledged, as per the instruction of the project ecologist"*.
- 11.6.36. The EIAR considers that *"construction related noise will represent a negative, slight, short-term impact at a local level in the absence of mitigation. The loss of potential nesting habitat in general at the Site, through the replacement of existing grassland and scrub habitats with buildings, will represent a negative, moderate, permanent impact at a local scale. It is further considered that the proposed increase in tree cover at the Site will represent a positive, moderate, permanent impact at a local scale, thus the overall impact will be a neutral impact in terms of habitat"*

loss/provision". No issues were identified during the operational phase of the development.

- 11.6.37. While the NIS is acknowledged, the applicant has failed to address the potential impact of the proposed development on the wintering bird, in particular the the loss of the previously used ex-situ inland feeding site, and the potential impact on the light belled Brent Geese, which were identified as using the development site. I consider this to be a serious omission of the EIAR.

Amphibians:

- 11.6.38. Amphibian surveys carried out in 2019 and 2022 (by Enviroguide and Amphibian specialist Rob Gandola respectively) provided no evidence of Common Frog (*Rana temporaria*) or Smooth newt (*Lissotriton vulgaris*) or suitable breeding habitat for these species, at the Site of the Proposed Development. No impacts to these species are envisaged as part of the Proposed Development. The Site of the Proposed Development supports no areas of standing water nor other wetland habitats i.e., no suitable breeding habitat, and no amphibians were recorded or would be expected at the Site according to Mr Gandola's report, which concludes that the Proposed Development is unlikely to have any direct impacts on common frogs or smooth newts.

European Eel

- 11.6.39. European Eel (*Anguilla anguilla*) has been recorded in the 'Duck Pond' downstream of the Site of the Proposed Development. The Naniken River forms a connection with 'Duck Pond' prior to its outflow into Dublin Bay and as such a temporary hydrological connection exists between the Construction Phase of the Proposed Development and this pond.
- 11.6.40. There is the potential for construction related contaminants, such as cementitious materials, sediment and oils, to enter the river during works, which will entail amendments to the riverbank to install a new surface water outflow. In a worst-case scenario and in the absence of mitigation measures, this could lead to a potential negative, significant, short-term impact at a local scale to European Eel, should they be present in the 'Duck Pond' at the time of the works and should such pollutants reach the pond. Mitigation measures to negate this impact will include the presence of an Ecological Clerk of Works (ECoW) during any works on the Naniken

itself, the installation of temporary construction surface water management infrastructure on-site e.g., settlement ponds, and the usage of sediment control measures e.g., silt fencing etc., as appropriate. In the absence of mitigation, there is the potential for contaminants from the Site's operation to enter the Naniken River and reach the pond in question. Such contaminated waters would likely include soapy run-off from future residents washing their cars, and hydrocarbon pollutants collected on vehicular roads within the Proposed Development. Due to the intermittent nature of activities such as private car washing, any potential impact linked with surface water run-off containing soap is likely to be limited and somewhat dependent on rainfall levels at the Site. Potential impacts in the absence of mitigation are therefore assessed in a precautionary manner as negative, slight, permanent as the impact source will exist as long as the development exists.

Naniken River

- 11.6.41. Flooding has been raised in the observations. A suite of Sustainable Drainage Systems (SuDS) have been incorporated into the project design; to manage and treat Operational Phase surface water generated at the Site. These measures will ensure that the quality of water leaving the Site and entering the Naniken River will be such that it will not cause pollution related impacts downstream. Even in the absence of these measures, significant impacts to European Eel are not considered likely due to the intermittent nature of the pollution source and the dilution potential within the receiving waterbodies (Naniken River and Duck Pond) during high rainfall events.

Bats

- 11.6.42. Bats were recorded foraging and commuting along the wooded margins of the Site. Several trees with bat roost potential exist at the Site, with a few mature trees marked for removal in the north-west of the Site. Should bats be present roosting in these trees during their felling, then there is the potential for negative, significant, short-term impacts through the injury/mortality of roosting bats, in the absence of mitigation measures. This will be addressed by carrying out pre-felling bat surveys of such trees by a bat specialist and subsequent supervised felling where deemed necessary. Any activities requiring potential disturbance to bats will be carried out under NPWS guidance and where appropriate supervision.

- 11.6.43. The loss of potential roost trees will be compensated by the provision of at least 3+ no. 2 F Schwegler General Purpose woodcrete bat boxes or similar at the Site (this number can be increased as appropriate based on the results of the pre-felling roost surveys). Temporary lighting required during the Construction Phase could illuminate previously unlit feeding areas/flyways (a negative, significant, short-term impact in the absence of mitigation).
- 11.6.44. Permanent lighting at the Site during its lifetime could also impact bats in a similar manner; a negative, significant, permanent impact at a local scale if not mitigated. Bat friendly lighting measures will be incorporated into the development design to minimise any lighting related disturbance to bats.
- 11.6.45. There will be no significant loss of foraging/commuting habitat for local bats associated with the Proposed Development; the lands are largely comprised of rank grassland, and the boundary treelines are all being retained at the Site. Therefore, there will be a negative, slight, permanent impact through some habitat loss at a local scale.
- 11.6.46. In terms of cumulative impacts, the EIAR states that it is not envisaged that the Proposed Development will have any significant cumulative impacts on habitats or fauna; due to the limited habitats being lost to the development, and the nature of the hydrological connection to downstream designated sites. The applicant also references the conclusion from the submitted NIS in respect to the impact on wintering birds. The development of the Site lands does have the potential to act in-combination with other greenfield developments in Dublin City, as they could contribute to an overall loss of ex-situ feeding sites to SCI species listed for coastal SPAs, and the EIAR does not identify the potential for any significant cumulative impacts on biodiversity in this regard.
- 11.6.47. This is assessed further in Sections 9.3 and 9.4 and Appendix A of this report.
- Assessment: Direct, Indirect, and Cumulative Effects
- 11.6.48. Based on the information submitted, in particular the lack of information provided within the EIAR, with respect to the impact of the proposed development on the wintering birds, in particular the loss of a previously used ex-situ inland feeding site, a full assessment of the significant direct, indirect and cumulative impacts has not been provided.

Conclusion: Direct, Indirect, and Cumulative Effects

11.6.49. I have considered this first party appeal, the third party observations made in relation to Biodiversity in particular the wintering birds, badgers and bats and I also note the Parks Report and the An Coimisiún Pleanála's Ecologist report in this regard. I am not satisfied that the EIAR has considered the impact of the proposed development on the wintering birds, in particular the loss of the loss of the previously used ex-situ inland feeding site and as such there is an inadequate assessment of proposed development on biodiversity. I am, therefore, not satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity.

11.7. Land and Soils

Issues Raised

11.7.1. No specific issues raised in relation to land and soils.

Examination, analysis and evaluation of the EIAR

11.7.2. Chapter 6 of the EIAR deals with land and soils (and geology) and comprises of an assessment of the potential impact the proposed development will have on the land and soils (and geology) during both the construction and operational phases. This section sets out mitigation and remedial measures and methods of monitoring while the development is operational. The site is a greenfield site. Topographic survey data indicates that the site falls generally from west to east, with a high point of approximately 25.5m OD Malin at the west of the site and a low point of approximately 21.4m OD Malin at the south-eastern corner of the site.

11.7.3. The site falls within the catchment of the Naniken River, located approximately 100m north of the site. Although it is culverted further upstream of the site, the Naniken River is visible for its entire lower course where it flows through St. Anne's Park. The river discharges via a culvert beneath the James Larkin Road (R807) to the sea between North Bull Island and the mainland.

11.7.4. The Proposed Development site lies within the Lucan Formation, which covers much of Dublin. This formation comprises dark-grey to black, fine-grained, occasionally cherty, micritic limestones that weather paler, usually to pale grey. There are rare dark coarser grained calcarenitic limestones, sometimes graded, and interbedded

dark-grey calcar. The beds are predominantly fine-grained distal turbidites in the north Dublin Basin, and the formation ranges from 300m to 800m in thickness. The National Aquifer Bedrock Map prepared by the Geological Survey of Ireland was also consulted. From this map, it was established that the entirety of the site is within the designation LI, which represents locally important moderately productive aquifer. From the GSI groundwater vulnerability map, the vulnerability of the aquifer in the vicinity of the proposed site is low.

- 11.7.5. The construction phase will require the removal of topsoil during earthworks and the construction of roads, services and buildings, in particular basements and foundations, will expose subsoil to weathering and may result in the erosion of soils during adverse weather conditions. Surface water runoff from the surface of the excavated areas may result in silt discharges to the Naniken River.
- 11.7.6. Excavations for basements, foundations, roadworks and services will result in a surplus of subsoil. Surplus subsoil will be used in fill areas where applicable. Surplus subsoil and rock that may be required to be removed from site will be deposited in approved fill areas or to an approved waste disposal facility. Surplus subsoil will be stockpiled on site, in such a manner as to avoid contamination with builders' waste materials, etc., and so as to preserve the materials for future use as clean fill.
- 11.7.7. Dust from the site and from soil spillages on the existing road network around the site may be problematic, especially during dry conditions. Accidental oil or diesel spillages from construction plant and equipment, in particular at refuelling areas, may result in oil contamination of the soils and underlying geological structures.

Topsoil & Soil

- 11.7.8. In the case of topsoil, careful planning and on-site storage can ensure that this resource is reused on-site as much as possible. Any surplus of soil not reused on site can be sold. However, topsoil is quite sensitive and can be rendered useless if not stored and cared for properly. It is therefore important that topsoil is kept completely separate from all other construction waste, as any cross-contamination of the topsoil can render it useless for reuse. It is important to ensure that topsoil is protected from all kinds of vehicle damage and kept away from site-track, delivery vehicle turning areas and site plant and vehicle storage areas. If topsoil is stored in piles of greater than two metres in height, the soil matrix (internal structure) can be

damaged beyond repair. It should also be kept as dry as possible and used as soon as possible to reduce any deterioration through lengthy storage and excess moving around the site. Records of topsoil storage, movements and transfer from site will be kept by the C&D Waste Manager.

Bedrock Geology

- 11.7.9. The bedrock beneath the Site is mapped as being underlain by the Lucan Formation described as dark-grey to black, fine grained, occasionally cherty, micritic limestone that weather paler, usually to pale grey. Bedrock was not encountered in the boreholes installed as part of the site investigation (Ground Investigations Ireland Ltd., 2015).

Groundwater

- 11.7.10. Taking account of the hydrogeological setting of the Site, the attributes are considered to be of Low to Moderate importance based on the classification of the bedrock aquifers beneath the Site as Locally Important and Moderate. It is also noted that the GSI vulnerability rating for the Site is Low.
- 11.7.11. During the Construction Phase there is potential for demolition and excavation works to impact ground water and surface water quality. Pollution of water bodies and ground water can occur from accidental spills of fuel or chemicals used during construction. Mismanaged construction waste can also enter water bodies if not disposed of or stored correctly. Any water quality impacts can negatively impact the human health of residents of the Proposed Development and surrounding dwellings. However, chapter 7 of the EIAR has concluded there will be no significant impact on the receiving groundwater and surface water environment.

Contaminated Land

- 11.7.12. As the site is largely undeveloped contaminated soil is not expected to be encountered. Any unidentified contaminated soils or other contaminated materials encountered during the works, will be managed in accordance with relevant guidelines including EPA 'Guidance on the Management of Contaminated Land and Groundwater at EPA Licensed Sites' (EPA, 2013) and guidance and standards current at the time of construction works.

- 11.7.13. The predicted impact at construction phase is the removal of topsoil during earthworks and the construction of roads, services and buildings, in particular basements and foundations, will expose subsoil to weathering and may result in the erosion of soils during adverse weather conditions. Surface water runoff from the surface of the excavated areas may result in silt discharges to the Naniken River. Excavations for basements, foundations, roadworks and services will result in a surplus of subsoil. Surplus subsoil will be used in fill areas where applicable. Dust from the site and from soil spillages on the existing road network around the site may be problematic, especially during dry conditions. Accidental oil or diesel spillages from construction plant and equipment, in particular at refuelling areas, may result in oil contamination of the soils and underlying geological structures.
- 11.7.14. During the Operational Phase of the Proposed Development, it is not envisaged that there will be any ongoing impacts on the underlying soil as a result of the Proposed Development. Any hydro-geological impacts are temporary and associated with the construction of the Proposed Development.
- 11.7.15. A Construction Environmental Management Plan (CEMP) and Construction and Demolition Waste Management Plan (CDWMP) will be implemented by the contractor to ensure, site specific procedures and mitigation measures to monitor and control environmental impacts throughout the Construction Phase of the project and ensure that construction activities do not adversely impact the environment. The CEMP and CDWMP will take cognisance of the measures outlined in the EIAR and the Preliminary CDWMP (Waterman Moylan, 2022) and CEMP (Enviroguide Consulting, 2022) submitted under separate cover with the planning application for the Proposed Development.
- 11.7.16. The implementation of the construction phase mitigation measures highlighted in the EIAR will ensure that the soils geology and hydrogeological environment is not adversely impacted during normal and/ or emergency conditions during the operational phase.
- 11.7.17. The construction stage mitigation measures include protected storage of stockpiled material; management of ground water during excavation; measures employed to prevent spillages from concrete delivery trucks and associated works; and provision of a designated fuel transfer area.

11.7.18. During the Operational Phase of the Proposed Development, it is not envisaged that there will be any ongoing impacts on the underlying soil as a result of the Proposed Development. Any hydro-geological impacts are temporary and associated with the construction of the Proposed Development.

Assessment: Direct, Indirect, and Cumulative Effects

11.7.19. In relation to land as a resource, I note that the principle of the proposed development is not acceptable as it does not comply with the zoning objective pertaining to the lands as identified in the County Development Plan, as referenced in Section 9.3 of this report.

11.7.20. Notwithstanding, I would accept that the loss of soil and geology is an inevitable aspect of such planned urban development, and I am satisfied that appropriate mitigation measures have been incorporated to prevent any unacceptable impacts. Suitable measures will protect against the potential for dust/dirt pollution and nuisance; groundwater flooding and/or contamination; and soil contamination associated with construction fuels and other pollutants.

Conclusion: Direct, Indirect, and Cumulative Effects

11.7.21. I consider that the main significant direct, indirect, and cumulative effects on Land, Soil, and Geology are, and will be mitigated as follows:

- The loss of land, soil, and geology which would be acceptable given the proposed delivery of appropriate development and improved amenities in accordance with the proper planning and sustainable development of the area.
- Construction stage impacts relating to dust/dirt pollution, groundwater interference, and soil contamination, which would be mitigated by the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management Plan and other measures proposed in the EIAR.

11.8. **Water (Hydrology and Hydrogeology)**

Issues Raised

- 11.8.1. Flooding was raised as a concern by several third parties in addition to water capacity, water services and increased flood risk. I note that flooding is addressed in Section 9.15 of this report.

Examination, analysis and evaluation of the EIAR

- 11.8.2. Chapter 7 of the EIAR assesses the hydrological (surface water) and hydrogeological (groundwater) environment for the proposed development site.
- 11.8.3. In relation to the methodology, a phased approach was adopted for this EIAR in accordance with Environmental Protection Agency (EPA) and Institute of Geologists of Ireland (IGI) guidelines. As part of Element 1, an initial Assessment and Impact Determination stage was carried out by Enviroguide Consulting to establish the project location, type and scale of the Proposed Development, the baseline conditions, and the type of hydrological and hydrogeological environment, to establish the activities associated with the Proposed Development and to undertake an initial assessment and impact determination.
- 11.8.4. As part of Element 2, Direct and Indirect Site Investigation and Studies stage was not carried out specifically for the EIAR as it was deemed that there was adequate valid information from the site investigations and assessments previously completed for the Site that were reviewed during Element 1. This site investigation information is considered valid for this assessment as there has been no material changes in the receiving environments or in the nature of the Proposed Development which would require an undated assessment to be carried out.
- 11.8.5. Element 3 included an Evaluation of Mitigation Measures, Residual Impacts and Final Impact Assessment were based on the outcome of the information gathered in Element and Element 2. Mitigation measures to address all identified adverse impacts that were identified in Element 1 of the assessment were considered in relation to the Construction and Phase and Operational Phase of the Proposed Development. These mitigation measures were then considered in the impact assessment to identify any residual impacts.
- 11.8.6. Element 4 included the Completion of the Hydrology and Hydrogeology sections of the EIAR in this Chapter which includes all the associated figures and documents.

- 11.8.7. In terms of topography the site generally falls from west to east, with a high point of approximately 25.5m OD Malin at the west of the site and a low point of approximately 21.4m OD Malin at the south-eastern corner of the site and 21.7m OD Malin at the north-eastern corner of the site. As noted above the bedrock beneath the Site is mapped as being underlain by the Lucan Formation described as dark-grey to black, fine grained, occasionally cherty, micritic limestone that weather paler, usually to pale grey and bedrock was not encountered in the boreholes installed as part of the site investigation.
- 11.8.8. In terms of groundwater based on the measured groundwater levels, groundwater flow direction is inferred to be to the east towards Dublin Bay which is consistent with the flow for the Dublin GWB.
- 11.8.9. A Site-Specific Flood Risk Assessment Report (SSFRA) has been produced for the Proposed Development Site (Waterman Moylan, 2022a). The SSFRA concludes that the likelihood of tidal flooding is “extremely low”, and no mitigation is required. Similarly, there is no mitigation required for fluvial flooding as the likelihood of its occurrence is also identified as “extremely low”.
- 11.8.10. All works during the Construction Phase of the Proposed Development will be undertaken in accordance with a detailed methodologies incorporated in the Construction Management Plan (CMP), Construction Environmental Management Plan (CEMP) and Construction Demolition Waste Management Plan (CDWMP) that will be prepared by the contractor in accordance with industry best practice standards including CIRIA - C532. The CEMP will include detailed measures to protect the receiving groundwater, surface water bodies, in this case the Naniken Stream and the associated coastal waterbody quality and associated ecological receptors.
- 11.8.11. The CEMP will outline measures for the control and treatment of water encountered during excavations at the Proposed Development and a methodology outlining the treatment of water prior to discharge from the Site. There is no requirement for large-scale dewatering of groundwater during the Construction Phase. There will be a requirement for localised dewatering during the construction of basements and other substructures. There will be no unauthorised discharges to sewers or drains during the Construction Phase avoiding any discharge into the

Naniken Stream. Management of surface runoff from instream works will be undertaken by the contractor to ensure that there is no runoff from the Site to the Naniken Stream.

- 11.8.12. Emergency response procedures are outlined in the CEMP for the unlikely event of spillages of fuels or other chemicals and materials used during construction works. There will be no bulk storage of fuels, and any required chemicals will be stored in accordance with EPA standards. There is no flood risk identified for the Proposed Development or elsewhere and the proposed surface water drainage design takes account of climate change. There will be no risk to any receiving water body as a result of the Proposed Development.

Assessment: Direct, Indirect, and Cumulative Effects

- 11.8.13. I have considered the construction stage mitigation measures, and I am satisfied that they are suitably designed to address the potential risk of pollutant releases to the groundwater and surface water network. At operational stage, I am satisfied that there will be no significant discharge to groundwater and that the surface water discharge to the existing network will be designed in accordance with best practice requirements to satisfactorily address potential impacts, including flooding.

- 11.8.14. Wastewater will be connected to the Uisce Eireann (UE) network and will discharge to the existing network at Ringsend Waste Water treatment Plant (WWTP) for treatment prior to discharge; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards. Treatment Plant (WWTP) treatment Plant for treatment prior to discharge; the Ringsend WWTP is required to operate under EPA licence and meet environmental standards. As per Uisce Eireann website (reviewed 21/10/2025) there is spare capacity available with a WWTP Project Planned/underway, this upgrade will ensure water in the Lower Liffey Valley meets EPA standards. I note that UE has confirmed a pre-connection to the system is feasible. I refer the Coimisiún to section 9.14.5 of this report.

Conclusion: Direct, Indirect, and Cumulative Effects

- 11.8.15. I consider that the main significant direct, indirect, and cumulative effects on Water are, and will be mitigated as follows:

- Construction stage impacts on groundwater and surface water quality, which will be mitigated by standard good practice construction stage measures included in the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management Plan.
- Operational stage surface water discharges, which will be mitigated by the implementation of suitably designed Sustainable Urban Drainage System (SuDS) measures.

11.9. Air Quality and Climate

Issues Raised

- 11.9.1. The issue of the Government declaring a climate crises has been raised as a concern by several third parties.

Examination, analysis and evaluation of the EIAR

- 11.9.2. Chapter 8 of the EIAR assesses air quality and climate impacts. The methodology is set out in section 8.2. The air quality assessment examined using EPA monitoring data. Air quality impacts from the Proposed Development were then determined by a qualitative assessment of the nature and scale of dust generating activities associated with the construction phase of the project in accordance with relevant guidance (Transport Infrastructure Ireland (TII) 2011 Appendix 8; Institute of Air Quality Management (IAQM) 2014). Operational Phase traffic impact assessment involved air dispersion modelling using the UK Design Manual for Roads and Bridges Screening Model (DMRB, UK Highways Agency 2007) (Version 1.03c), the NO_x to NO₂ Conversion Spreadsheet (UK Department for Environment, Food and Rural Affairs, 2017), and following all relevant guidance (TII, 2011; HA, 2007; EPA; UK DEFRA; IAQM).
- 11.9.3. In terms of air monitoring and assessment, the proposed development site in Sybill Hill Road, Raheny is within Zone A (EPA, 2020). The assessment carried out for the purposes of this Chapter confirmed that that existing ambient air quality in the vicinity of the Site is characteristic of a suburban location with the primary source of air emissions such as particulate matter, NO₂, and hydrocarbons being traffic and domestic fuel burning. Based on the EPA monitoring data and taking account of the

Site's environs and surrounding land-use, along with changes in vehicular and construction activity, a conservative estimate of current background NO₂ concentrations in the vicinity of the Site is 18 ug/m³.

- 11.9.4. The primary sources of dust identified during the Construction Phase of the Proposed Development include soil excavation works, demolition, bulk material transportation, loading and unloading, stockpiling materials, cutting and filling, and vehicular movements (HGVs and on-site machinery).
- 11.9.5. Sensitive receptors within 50-100m of the Proposed Development have been identified as a school and a residential housing estate which are located to the west of the site. In the absence of mitigation there is the potential for significant, negative, short-term impacts to nearby sensitive receptors as a result of dust emissions from the proposed development. There is also the potential for traffic emissions to impact air quality in the short-term over the construction phase. It can therefore be determined that the construction stage traffic will have an imperceptible, neutral and short-term impact on air quality.
- 11.9.6. The EIAR states that according to Transport Infrastructure Ireland guidelines (TII, 2011), it is difficult to accurately quantify dust emissions arising from construction activities, and therefore, it is not possible to easily predict changes to dust soiling rates or particulate matter (PM₁₀) concentrations. TII recommend a semi-quantitative approach to determine the likelihood of significant impact in this instance. This should also be combined with an assessment of the proposed mitigation measures. In order to account for a worst-case scenario, the Proposed Development can be considered moderate in scale due to the size of the Site and the duration of construction activities. Therefore, it can be assumed that there is potential for significant dust soiling 50m from the Site. There are a number of high-sensitivity receptors (residential dwellings) located within 50m of the Site boundary; these are situated to the south of the Proposed Development Site. Therefore, in the absence of mitigation, it is considered that there is potential for dust impacts to occur at these locations. Appropriate mitigation measures have been recommended and will be implemented at the Site in order to minimise the risk of dust emissions arising during the Construction Phase, provided such measures are adhered to, it is not considered that significant air quality impacts will occur.

- 11.9.7. Construction vehicles and machinery during this phase will temporarily and intermittently generate exhaust fumes and consequently potential emissions of volatile organic compounds, nitrogen oxides, sulphur oxides, and particulate matter (dust). Dust emissions associated with vehicular movements are largely due to the resuspension of particulate materials from ground disturbance. According to the Institute of Air Quality Management (IAQM, 2014), experience from the assessment of exhaust emissions from on-site machinery and Site traffic suggests that they are unlikely to make a significant impact on local air quality, and in the vast majority of cases they will not need to be quantitatively assessed. Air pollutants may increase marginally due to construction-related traffic and machinery from the Proposed Development; however, any such increase is not considered significant and will be well within relevant ambient air quality standards.
- 11.9.8. According to TII (2011), the significance of impacts due to vehicle emissions during the Construction Phase will be dependent on the number of additional vehicle movements, the proportion of HGVs and the proximity of sensitive receptors to Site access routes. If construction traffic would lead to a significant change ($> 10\%$) in Annual Average Daily Traffic (AADT) flows near to sensitive receptors, then concentrations of nitrogen dioxide, PM₁₀ and PM_{2.5} should be predicted in line with the methodology as outlined within TII guidance. Construction traffic is expected to result in a significant change ($> 10\%$) in AADT flows near to sensitive receptors. Therefore, concentrations of NO₂ and PM₁₀ have been predicted in the Opening Year (2023). The air dispersion modelling concluded that the Proposed Development is likely to result in a long-term increase in traffic on the roads surrounding the Proposed Development Site; however, this increase in traffic has been determined to have an overall insignificant impact in terms of local air quality. Furthermore, the increase in traffic has been determined as marginal with regard to climatic impacts. Therefore, no adverse residual impacts are anticipated from the proposed scheme in the context of air quality and climate.
- 11.9.9. There is the potential for combustion emissions from onsite machinery and traffic derived pollutants of Carbon Dioxide (CO₂) and Nitrous Oxide (N₂O) to be emitted during the Construction Phase of the development. However, due to the size and duration of the Construction Phase, and the mitigation measures proposed, the effect on national greenhouse gas (GHG) emissions will be insignificant in terms of

Ireland's obligations under the Kyoto Protocol and therefore will have no considerable impact on climate. Overall, climatic impacts are considered to be short-term and imperceptible.

- 11.9.10. All construction phase monitoring will be carried out in line with the Construction Environmental Management Plan (CEMP) for the Site. Due to the negligible impact on air quality and climate from the Operational Phase of the Proposed Development, no specific monitoring is recommended during this stage.
- 11.9.11. B-Fluid Limited carried out the Wind Microclimate Study for the Proposed Development. This assessment concluded that under the assumed wind conditions typically occurring within Dublin for the past 30 years, the development is designed to be a high-quality environment for the scope of use intended for each area/building (i.e., comfortable and pleasant for potential pedestrians).
- 11.9.12. In terms of cumulative impacts, the EIAR outlines that the cumulative effects on the air quality and climate of the current Proposed Development and other permitted or existing developments have been considered, in particular through the generation of air pollutants and GHG emissions.
- 11.9.13. As negative climatic impacts associated with the Construction and Operational Phases of the Proposed Development are negligible, no mitigation measures are proposed. Best practice measures will be implemented to minimise exhaust emissions from construction and operational vehicles and machinery by avoidance of engines running unnecessarily, as idle engines will not be permitted for excessive periods. Furthermore, all proposals for development will seek to achieve the greatest standards of sustainable construction and design and will have regard to sustainable building design criteria.
- 11.9.14. An Energy Analysis Report has been prepared by IN2 Engineering Design Partnership on behalf of Raheny 3 Limited Partnership for the Proposed Development (August 2022). This report outlines the current building regulations framework and the requirement to achieve Nearly Zero-Energy Buildings (NZEB) standard for all new developments. The report describes how the NZEB standard is demonstrated using SEAI approved Dwelling Energy Assessment Procedure (DEAP) software.

Assessment: Direct, Indirect, and Cumulative Effects

11.9.15. I would accept that the main air impacts will be restricted to construction-related dust and that this is unlikely to be significant when the proposed Construction Environmental Management Plan (CEMP) for the Site and other mitigation measures are implemented. I would also accept that traffic-related emissions at the construction and operational stages are unlikely to be significant; that the building design strategy will avoid any significant effects on air or on the climate; and that there would be no unacceptable climate-related risk to the site or adjoining lands.

Conclusion: Direct, Indirect, and Cumulative Effects

11.9.16. I consider that the main significant direct, indirect, and cumulative effects on Air and Climate are, and will be mitigated as follows:

- Construction stage dust emissions, which will be mitigated by a Dust Management Plan and standard good practice construction stage measures outlined in the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management Plan.

11.10. **Noise and Vibration**

Issues Raised

11.10.1. No specific issues were raised in respect to noise or vibration.

Examination, analysis and evaluation of the EIAR

11.10.2. Chapter 9 of the EIAR deals with noise. The methodology for assessment is described. There is no published statutory Irish guidance relating to the maximum permissible noise level that may be generated during the construction phase of a project. Given the suburban context, a limit value of 70dB LAeq,T for construction is considered to be reasonable. This limit value is in agreement with those set by Transport Infrastructure Ireland (TII) for construction projects. The 2004 TII document “Guidelines for the Treatment of Noise and Vibration in National Road Schemes” outlines the following construction noise limit values, as outlined in Table 4-2 of the EIAR.

Table 4-2: Construction Noise Limits (Source: TII, 2004)

Days and Times	L _{Aeq}	L _A max
Monday to Friday (07:00 to 19:00 hours)	70	80
Monday to Friday (07:00 to 20:00 hours)	60*	75*
Saturdays (08:00 to 16:30 hours)	65	75
Sundays & Bank Holidays (08:00 to 16:30 hours)	60*	65*

11.10.3. An environmental noise survey has been conducted at the site in order to quantify the existing noise environment. I refer the Coimisiún to section 9.4 of the EIAR.

11.10.4. The construction programme will create typical construction activity related noise on site. During the construction phase of the proposed development, a variety of items of plant will be in use, such as excavators, rock breakers, lifting equipment, dumper trucks, compressors, and generators.

11.10.5. In respect of construction noise, three NSLs have been identified in relation to the Proposed Development Site, NSL 1 is St. Paul's school campus, NSL 2 are residential dwellings which are located within the Meadows' estate (there are approximately 29 houses in the estate) and NSL 3 is the Sacred Heart Residence. The boundary of the closest NSL to the proposed construction activities is located at a distance of 40m from the activities and is identified as NSL 2 as per Figure 9-3. The closest NSL to the proposed demolition activities is located at a distance of 20m from the activities and is identified as NSL 1. The remainder of construction works will take place across the site at varying distances.

11.10.6. It is set out that for site clearance, building construction works and landscaping works (excavators, loaders, dozers, concreting works, mobile cranes, generators), noise source levels are quoted in the range of 65 to 90dB L_{Aeq} at distances of 10m within BS 5228-1 (Table 9.8). For the purposes of the assessment, I have assumed that standard good practice measures for the control of noise from construction sites will be implemented. The calculations also assume that the equipment will operate for 50% of the working time. Tables 9.8 and 9.9 of the EIAR summarises the result of this assessment as follows:

Table 9-8: Equipment associated with proposed construction activities

Plant Item	Ref	dB(A) @10m	dB(A) @-40m	dB(A) @100m	dB(A) @150m	dB(A) @200m	dB(A) @250m
Loading Shovel	BS 5228-1	76.5	64.5	56.5	53	50.5	48.5
Excavator	BS 5228-1	75	63	55	51.5	49	47
Mobile Crane	BS 5228-1	70	58	50	46.5	44	42
Generator	BS 5228-1	65	53	45	41.5	39	37
Dozer	BS 5228-1	81	69	61	57.5	55	53

Table 9-9: Equipment associated with proposed demolition activities

Plant Item	Ref	dB(A) @10m	dB(A) @-20m	dB(A) @70m	dB(A) @100m	dB(A) @200m	dB(A) @250m
Breaker	BS 5228-1	90	84	73.1	70	64	62
Crusher	BS 5228-1	86	80	69.1	66	60	58
Excavator	BS 5228-1	75	69	58.1	55	49	47

11.10.7. The result show that a significant impact may temporarily occur when works are on-going at the boundaries to the dwellings bounding the site, this is when works will be at 10m distance to the noise sensitive receptors. However, the vast majority of the construction works will take place at distances from the receptors where no significant impacts are predicted, for instance at distances of 20m and greater there are no significant impacts predicted with the exception of the breaking and crushing phase, which will be limited to a temporary period.

11.10.8. In relation to construction vibration, the only significant source of vibration is expected to be during construction phase. British Standard BS 5228-2:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites – Vibration, recommends that, for soundly constructed residential property and similar structures that are generally in good repair, a threshold for minor or cosmetic (i.e. non-structural) damage should be taken as a peak component particle velocity (in frequency range of predominant pulse) of 15mm/s at 4Hz increasing to 20mm/s at 15Hz and 50mm/s at 40Hz and above. The standard also notes that below 12.5 mm/s PPV the risk of damage tends to zero. Vibration levels at the

closest neighbouring buildings are expected to be orders of magnitude below the limits set out in Table 9.7 to avoid any cosmetic damage to buildings. Vibration levels are also expected to be below a level that would cause disturbance to building occupants. The impacts are predicted to be short-term, negative and not significant.

11.10.9. In relation to construction traffic, there is potential for an increase in noise and dust due to the additional construction traffic, due to onsite plant and equipment. There is potential for construction traffic to have a slight effect on the surrounding environment. However, the duration of this impact will be short-term (i.e., one to seven years), and is not significant.

11.10.10. During the operational phase of the development, the key sources of noise will relate to vehicular traffic, building and mechanical services plant and nursing home and creche noise.

11.10.11. The residential aspect of the development is not expected to generate any significant noise sources over and above those which form part of the existing environment at neighbouring residential areas (estate vehicle movements, children playing etc.) and hence no significant impact are expected from this area of the development site. The main potential noise impact associated with the Proposed Development is considered therefore to relate to the generation of additional traffic to and from the site as a result of the Proposed Development.

11.10.12. A Traffic Impact Assessment relating to the proposed development has been prepared. This section should be read in conjunction Chapter 12.1 of the EIAR. For the purposes of assessing potential noise impact, it is the relative increase in noise level associated with traffic movements on existing roads and junctions with and without the development was considered. Traffic flow data has been assessed for the opening year and the opening year +15.

11.10.13. A desk-based assessment was carried out to determine the need for a noise and vibration impact assessment. The Design Manual for Roads and Bridges (DMRB) was used for this assessment; this Standard provides guidance on the assessment of impacts that road projects may have on levels of noise and vibration. The following threshold from the Design Manual for Roads and Bridges (DMRB) has been imposed to qualify for an assessment of noise from traffic, Volume 11 Section 3 Part 7 (HD 213/11 – Revision 1) (The Highways Agency et al., 2011) states that

“changes in traffic volume on existing roads or new routes may cause either of the threshold values for noise to be exceeded. A change in noise level of 1dB LA10, 18h is equivalent to a 25% increase or a 20% decrease in traffic flow, assuming other factors remain unchanged and a change in noise level of 3dB LA10, 18h is equivalent to a 100% increase or a 50% decrease in traffic flow”. No traffic routes are predicted to experience increases of more than 25% in total traffic flows during the Operational Phase and therefore no detailed assessment is required as per the DMRB Guidelines. Chapter 12 of the EIAR includes a detailed traffic assessment report.

11.10.14. A summary of the baseline two-way flows and the two-way flow expected to be generated by the Proposed Development in the local area are presented below in Table 12-17 for junction 1, Table 12-18 for junction 2, Table 12-19 for junction 3, Table 12-20 for junction 4, Table 12- 21 for junction 5.

The impact of noise from operational traffic will be unnoticeable and will not have a negative impact.

11.10.15. In relation to building services plant, potential noise impacts also relate to operational plant serving the apartment buildings such as heat pumps. Once operational, there are no vibration sources associated with the development site.

11.10.16. The nursing home and crèche are set back approximately 45 metres from the boundary with St. Annes Park. The proposal includes playing pitches along the eastern and southern sides of the site, and this will provide a separation of more than 70 metres between the park and the nursing home/crèche in block G and the apartments in block F. The eastern end of block E would be at a distance of more than 55 metres from the eastern boundary with the park. The predicted increase in noise levels associated with creche playground noise breakout in the vicinity of the proposed development is of long-term, not significant impact.

11.10.17. Assuming the above developed mitigation measures are properly incorporated into the development design, the magnitude of noise impact would be considered both minimal and minimised as far as practicable.

Assessment: Direct, Indirect, and Cumulative Effects

11.10.18. The cumulative impact has been considered in the context of other housing developments in the area (Section 9.6.4 of EIAR) at the time this application was made. In this scenario the distance from the Proposed Development to the off-site developments, the EIARs, EIA Screening Reports, management plans and other assessment reports associated with the aforementioned off-site projects contain details of mitigation measures required to ensure no likely significant or adverse environmental impacts arise as a result of the associated developments and as a result of this, will ensure there will be no significant noise and vibration impacts as a result of the Proposed Development. Due to the implementation of good construction practices at the Site of the Proposed Development and these offsite permitted developments, it is not anticipated that significant cumulative impacts will occur.

11.10.19. I have considered the construction stage mitigation measures, and I am satisfied that they are suitably designed to address the noise and vibration potential. I am satisfied that the proposed mitigation measures are acceptable and through suitable conditions impacts would be avoided, managed and mitigated. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise or vibration.

Conclusion: Direct, Indirect, and Cumulative Effects

11.10.20. I consider that the main significant direct, indirect, and cumulative effects on Noise and Vibration are, and will be mitigated as follows:

- Construction stage, noise monitoring will be undertaken at the nearest sensitive locations to ensure construction noise limits outlined in Tables 9.8 and 9.9 are not exceeded and noise control audits are conducted at regular intervals throughout the construction programme in conjunction with noise monitoring. This will be mitigated by standard good practice construction stage measures including a condition requiring a Construction & Environmental Management Plan.
- Operational stage - There is no monitoring recommended for the operational phase of the development as impacts to noise and vibration are predicted to be imperceptible.

11.11. Landscape/Townscape and Visual Assessment

Issues Raised

11.11.1. The submissions from third parties raise concerns about the negative impact of the proposed development on the landscape and the visual impact of the proposed development in particular given its location adjacent to St. Annes Park, Conservation Area. I note that the visual impact of the proposed development is also assessed in Sections 9.8, 9.10 and 9.12 of this report.

Examination, analysis and evaluation of the EIAR

11.11.2. Chapter 10 assesses the potential effects on the landscape/townscape and visual impact. The methodology for assessment is described and included a desktop study to establish an appropriate study area and relevant landscape and visual designations in the Dublin City Development Plan 2016-2022, as well as the draft Dublin City Development Plan 2022-2028, fieldwork in the form of three site visits throughout 2021 to study the receiving environment, an assessment of the significance of the landscape impact of the Proposed Development as a function of landscape sensitivity weighed against the magnitude of the landscape impact, and assessment of the significance of the visual impact of the Proposed Development as a function of visual receptor sensitivity weighed against the magnitude of the visual impact.

11.11.3. In terms of landscape aspect, it was noted that the site is largely a greenfield site of an open verdant character, it is also a manmade, modified landscape, like that of its vicinity/hinterland. Indeed, the site is not publicly accessible, nor does it provide any public open space, but is, instead, securely fenced off from the public. Crucially the site is not and was not part of St. Anne's Park, but adjacent to it behind a tall treeline: a factor that is reflected in the site's zoning, which is consistent with that across the developed northern half of Sibyl Hill, and at stark odds to all of St. Anne's Park.

11.11.4. In addition, there are no conservation or scenic designation associated with the site or its surrounds. The historic core of St. Anne's Park remains almost 400m distance from the site, with the most 'iconic' features of the park mostly being more than 800m from the site, which has a lower degree of visual amenity and visual sensitivity. Consequently, the sensitivity of the receiving townscape setting was considered to be Medium-low.

- 11.11.5. In terms of Construction Phase impacts, the context of such activity is within a suburban, residential setting where the construction of multi-storey buildings has been long established. As it is mostly a greenfield site, there is a minimal degree of demolition associated with the proposed works; namely, with the estimated loss of approx. 36 no. mostly non-native trees. It was consequently deemed that the magnitude of Construction Phase landscape/townscape impacts to be Medium. Thus, overall significance of Construction Phase landscape/townscape impacts was considered to be Moderate and the quality of effect deemed to be Negative.
- 11.11.6. In terms of operational stage impacts, the most notable will result from the permanent 7 no. blocks that mostly range in height from 4 to 7 storeys. While this will be a distinct vertical imprint into what had been mostly a grassy, greenfield site, it also represents a broader compatibility with the townscape fabric and character along the northern end of Sibyl Hill.
- 11.11.7. In terms of the development's likely impact on the character of the adjacent St. Anne's Park, while the proposal represents a distinct change of land use (i.e., from chiefly sporting pitches, like those in adjacent areas of the park, to chiefly residential, like those adjoining the park), the presence of existing tall mature treelines to all sides of the site adjoining the park is likely to maintain the disconnect the Park has had from this cordoned off private property. It is acknowledged that the completion of construction will mark an escalation and intensification of that fabric within the study area, while being attuned to and compatible with it. Owing to the sizeable net gain of the proposed trees, planting and landscaping, upon establishment the site will bear a considerably stronger sylvan character than it does at present.
- 11.11.8. The Proposed Development will provide c. 31.15% public open space on this site of 6.7ha: a stark transition to the 0% public open space the site currently provides. Consequently, the magnitude of operational stage landscape/townscape impacts is considered to be Medium-Low, resulting in a Moderate-slight overall operational stage significance of townscape impact, while the quality of effect was deemed to be Neutral-negative.
- 11.11.9. A series of 21 viewpoints have been prepared to assess the visual amenity impact of the proposed development (including proposed landscaping) from a variety

of locations in the wider landscape, as per the submitted Photomontages, A3 document prepared by Digital Dimensions. In addition, Sections 10.5.2.2 and the associated tables within this section the EIAR consider an assessment of the viewpoints.

11.11.10. At local level the proposed residential development will constitute a significant intervention in the local setting replacing the existing vacant fields with a large residential development. However, in most cases the impact on local views is significantly mitigated by the retention of existing trees, which surround the site and the proposed planting. Immediate to the site, particularly from St. Anne's Park entrance, the adjoining school and residential developments to the east, the visual change will be significant.

11.11.11. However, I consider that this change can be ameliorated by the quality of the building design, the presence of the existing mature trees and the proposed landscaping. Numerous concerns have been raised in the third party observations regarding the negative impact of the proposed development on the setting and conservation status of the adjoining St. Anne's Park. I acknowledge that a development of this scale will change the visual impact of the area however, I consider that the impact of the development will be significantly minimised by the separation distances from the park and the planting to the site boundaries.

11.11.12. The lines and the height of the buildings shall be visually reduced through the retention of existing trees and hedgerows, and the proposed use additional planting within the scheme.

11.11.13. The EIAR states the magnitude of operational stage landscape/townscape impacts is considered to be Medium-Low.

11.11.14. During the construction of the development, visual impacts, will be subject to continual and decisive visual change through the approx. 18-month construction period, which will be short-term.

11.11.15. In terms of the potential cumulative impact upon the landscape character of the receiving environment, the proposed construction of 7 no. permanent blocks ranging in height from 4 to 7 storeys will represent a clear escalation of built intensity within 200m of the site, as well as a distinct vertical imprint into what had been mostly a grassy, greenfield site. In that regard, the site's development will be broadly

consistent with the northern end of Sybil Hill, where two such multi-storey developments are located, as well as the St. Paul's College campus aligning the site. In terms of the potential cumulative visual impact the magnitude of cumulative effects is deemed to be Low. Thus, significant cumulative impacts are not considered to occur.

Assessment: Direct, Indirect, and Cumulative Effects

11.11.16. I have considered all of the written observations made in relation to landscape and visual impact and the impact on the adjoining St. Anne's Park and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From a landscape and visual impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. I am, therefore, satisfied that the proposed development would have an acceptable direct, indirect, and cumulative effects on the landscape and on visual impact.

Conclusion: Direct, Indirect, and Cumulative Effects

11.11.17. I consider that the main significant direct, indirect, and cumulative effects on Landscape are, and will be mitigated as follows:

- Changes to the landscape character associated with the development of this greenfield site, which will be mitigated by the design and layout of the proposed development, including the retention of existing vegetation and the provision of additional landscaping and open spaces through suitable conditions.

11.12. **Archaeology, Architectural and Cultural Heritage**

Issues Raised

11.12.1. No specific concerns raised in respect of archaeology, architectural or cultural heritage. However, I do note the concerns in respect to the adjoining Landscape Conservation Area, which have been noted in the forgoing assessment in respect to landscape.

Examination, analysis and evaluation of the EIAR

- 11.12.2. Chapter 11 of the submitted EIAR addresses archaeology, architectural and cultural heritage. There are no archaeological sites located within the development area.
- 11.12.3. A full assessment of the archaeological, architectural, and cultural heritage baseline has been carried out, which has included desk top survey and archaeological testing. This provides for the assessment of potential impacts on sites, areas, and structures of significance.
- 11.12.4. The works recorded two RMP sites are marked as being located within a 1km radius of the Proposed Development by the online RMP mapping. The nearest accurately listed RMP site is the Church and graveyard (DU019- 010001, -010002) which is located 0.83km west of the Proposed Development, whilst the mapped location of the Casino Marino (DU019-037) 0.81km west of the Proposed Development is actually erroneous on the online Heritage Mapping and RMP databases, as the Casino Marino is actually DU018-144, which is in reality located 1km to the west of the Proposed Development.
- 11.12.5. Archaeological testing was undertaken, which identified three sites/areas of archaeological potential (AAP1, AAP2 and AAP3) as being present within the red line boundary of the Proposed Development site's footprint and those will therefore be subject to a direct impact during the construction phase of the Proposed Development. As a mitigation of those impacts it is recommended that a programme of linear archaeological test trenching take place.
- 11.12.6. There are no Protected Structures or buildings listed on the National Inventory of Architectural Heritage (NIAH) on site and no part of the site lies within or adjacent to an architectural conservation area. The only site of architectural heritage in close proximity to the Proposed Development, which is listed by the Record of Protected Structures (RPS), is Sybil Hill House (RPS Ref. No. 7910). Sybil Hill House is also the only site in close proximity to the Proposed Development listed by the National Inventory of Architectural Heritage (NIAH Reg. No. 50030086).

Assessment: Direct, Indirect, and Cumulative Effects

- 11.12.7. Section 11.5 relates to the Likely Significant Effects of the proposed development. Three elements of relevance to the Architectural heritage of the Proposed Development site were identified as a result of this assessment, but there

will be no direct impact to any of these during the construction phase of the Proposed Development and only slight to moderate indirect impacts on their setting.

Conclusion: Direct, Indirect, and Cumulative Effects

11.12.8. From an environmental viewpoint, I am satisfied that Cultural Heritage – Archaeology and Built Heritage has been appropriately addressed in terms of the application and subject to a condition requiring an archaeologist supervise all ground works associated with the development, I am satisfied that no significant adverse direct, indirect or cumulative effects are likely to arise.

11.12.9. I also note that the site is not located within the boundary of a Protected Structure or an Architectural Conservation Area and as such the proposal does not contravene the Plan in this instance.

11.13. **Material Assets (Traffic)**

Issues

11.13.1. The submissions from third parties raise concerns about traffic congestion and safety on the road network in particular along Sybill Hill Road and the public transport in the vicinity of the site. I note that traffic, access and parking is addressed in Section 9.13 of this report.

Examination, analysis and evaluation of the EIAR

11.13.2. Chapter 12 of the EIAR considers Material Assets with Section 12.1. considering Traffic and the impact in terms of vehicular, pedestrian and cycle access during the construction and operational phases of the proposed development. This should be read in conjunction with the applicant's TTA (as previously discussed in section 9.13 of this report).

11.13.3. A Construction Management Plan (CMP) will be prepared by the appointed contractor in order to minimise the potential impact of the construction phase of the Proposed Development on the safety and amenity of other users of the public road. The CMP will consider the following aspects:

- Dust and dirt control measures.
- Noise assessment and control measures
- Routes to be used by vehicles

- Working hours of the site
- Details of construction traffic forecasts
- Time when vehicle movements and deliveries will be made to the site
- Facilities for loading and unloading
- Facilities for parking cars and other vehicles
- Signage at site access.

11.13.4. A Preliminary Construction, Demolition & Waste Management Plan has been included and includes preliminary mitigation measures.

11.13.5. Construction Access and Phasing: The construction programme takes place over an 18 month period split over two stages.

- Stage I: Site demolition, clearance and preparation work for the construction.
- Stage II: Site development and construction.

11.13.6. The development includes all associated site works and infrastructure which includes roads, utilities, foul and surface water drainage.

11.13.7. Stage I is expected to take 3 months with the remaining Stage II taking 15 months.

11.13.8. In terms of construction activity, the most active stage for construction traffic movements will be the excavation works. The expected traffic movements during the construction/excavation period will vary significantly from month to month depending on the activities in progress. A 10-hour day between 08h00 and 18h00, conservatively assuming removal trucks will operate Monday – Friday only.

11.13.9. Construction Traffic Generation is based on the predicted construction programme, an average of 119 truck arrivals and 119 truck departures per working day during the busiest 3 month period. Overall, the expected HGV movements during the construction stage are predicted to vary from 100 to 130 departures per day with a peak rate of 25 truck arrivals and 25 truck departures per hour in the AM/PM peak hours. These movements represent some 1% of the existing traffic flow of the 2000 – 2300 vehicles per hour each way at the junction of Howth Road and Sybil Hill Road. In addition, there will be traffic generated from construction staff and

deliveries of construction materials and equipment. The likely impact of the construction works will be short-term in nature and less the operational phase impact and will be subject to a Construction Traffic Management Plan.

11.13.10. The development will also be served by several tall tower cranes.

11.13.11. In terms of construction traffic routing, the proposed construction 'haul' route will be via the primary road network between the subject lands and the M50 or M1 as part of the route, the chosen haul routes do not extend past the M50 or M1 interchange. Arrivals and departures to the site are to be carried out in as few vehicle movements as possible in order to minimise potential impacts on the road network.

11.13.12. The construction traffic vehicle types will consist of the following two principal categories. (i) Private vehicles and (ii) Excavation plant and dumper trucks involved in site development works and material delivery vehicles.

11.13.13. In terms of construction traffic impact, construction activities will be managed in accordance with the final CTMP. The Outline CTMP will shape the final plan and is subject to change/revision. At operational stage, the proposed development will use the existing site access to Sybil Hill House access road. This is to the north of the St. Pauls College entrance. There will be an additional pedestrian site access point to the south-west of the development connect to Sybil Hill Road via a pathway. These routes provide for pedestrians, cyclists and motorists.

11.13.14. The proposed development will generate a number of trips by various modes of travel including vehicular, pedestrian, cycle and public transport. These trips may have an impact on the surrounding road network.

11.13.15. The Proposed Development as part of the subject application will comprise of a total of 580 no. Apartments, 100 no. unit Nursing Home (4500 sqm) and a creche. The creche is envisaged to serve residents of the Proposed Development and not many trips are expected to be generated from this during the peak hours. The AM and PM peak hour trip generation to/from the Proposed Development, estimated after the trip rates is shown in Table 12-6 of the EIAR.

11.13.16. The creche has a dropdown zone along Sybil Hill near the junction and includes both children from within the development and local children from outside

the development. These trips will be included in the overall trip rate generated by the development. However, the junction is well under capacity, and the potential impact would be considered imperceptible.

- 11.13.17. The resultant total trips generated by the proposed development, has been illustrated in Table 12.3 of the EIAR.
- 11.13.18. The total vehicle movements generated by the proposed development will be total of 119 trips in the AM peak hour period (34 inbound and 85 outbound) and a total of 103 trips in the PM peak hour period (57 inbound and 46 outbound).
- 11.13.19. All sites were assessed for the estimated opening year of 2025 and future design years of 2030 (Opening Year + 5 Years) and 2040 (Opening Year + 15 Years). The background traffic growth factors used to factor up the baseline traffic movements are in accordance with 'Table 6.1: Link-Based Growth Rates: Metropolitan Area Annual Growth Rates' within the TII Publications – Project Appraisal Guidelines for National Roads Unit 5.3 – Travel Demand Projections (May 2019). The forecast traffic on the surrounding road network in 2040 is presented in Figure 12-14 of the EIAR. This was obtained by factoring up the baseline traffic shown earlier in this section and adding the traffic movements from the Proposed Development.
- 11.13.20. Junction capacity analyses have been undertaken at the site access junction and at the key junctions at which existing flow data had been obtained. These tests have been carried out using industry standard and approved software for the existing junctions with no development and the assumed year of opening of the development, namely 2025, and for a 5-year design horizon, namely 2040 with development flows added.
- 11.13.21. The analysis of the road network surrounding the Proposed Development has shown that the existing and proposed junctions will operate within satisfactory capacities for the future assessed 2040 + development with acceptable DOS%/RFC and queue lengths. Whilst the surrounding road network can cater for the Proposed Development, the increase in traffic over the baseline condition will result in a not significant impact on the surrounding roads network.
- 11.13.22. In respect of Public Transport, the proposed development is situated adjacent to suitable infrastructure and transport services for travel by sustainable modes. The

Proposed Development is also served by the Harmonstown Dart Station and Killester Dart Station. This provides access to several areas in North and South Dublin. It is approximately 800m (c. 10-minutes walking) from the Proposed Development to Harmonstown Dart Station and 950m (c. 12-minutes walking or c. 4-minutes cycling) to Killester Dart Station. The Proposed Development is served by four bus stops with the local area. The nearest bus stops are to the north of the development on R105 Howth Road. Bus Stop 709 serves buses traveling away from the City Centre and serves the bus routes 6, H1, H2, H3 while Bus Stop 606 serves buses travelling towards the City Centre and serves the bus routes 6, H1, H2, H3. Bus Stop 709 is approximately 400m (c. 5-minute walk) away from the Proposed Development entrance and Bus Stop 606 is 450m (c. 6-minute walk) away. There two bus stops near the Proposed Development on Vernon Avenue these are the Bus Stop 7607 and Bus Stop 1651, and both stops serve the 104 Bus route in opposite directions. Bus Stop 709 is approximately 400m (c. 5-minute walk) away from the Proposed Development entrance and Bus Stop 606 is 450m (c. 6-minute) away.

- 11.13.23. It is proposed that residents will be made aware of potential alternatives including information on walking, cycle routes and public transport. Residents will be encouraged to avail of these facilities for travel to and from work. Provision of this information would be made during the sales process and will be included in the new homeowner's pack upon the sale of each unit, as this represents the best opportunity to make residents aware and to secure travel behaviour change. It is anticipated that this measure may help to reduce the level of traffic at the Proposed Development, thus providing mitigation against any traffic and transport effects of the development. A Travel Plan has been included with the application.

Walking and Cycling Infrastructure

- 11.13.24. The site is well located to provide non-car access for residents and visitors of the Proposed Development with good local walk-in access from the local catchment. There are pathways along Sybil Hill Road separated by the road with a grass verge. Surrounding the Proposed Development are several areas of cycle lanes. These cycle lanes are along Howth Road to the North of the development. It is a combination of Bus Lane and Cycle Lane (within Bus Lane). This cycle lane continues into the city centre and north towards Howth. Secure bicycle parking facilities will be provided for residents at designated areas within the apartment

blocks. For visitors and Crèche users, a number of bicycle parking will be provided through the site at the surface level.

- 11.13.25. Connections between the internal layout and the external pedestrian and cycle networks form part of the overall access strategy for the site, by footpath connections within and adjacent to the development with the adjoining Sybill Hill Road and St. Annes Park.

Assessment: Direct, Indirect, and Cumulative Effects

- 11.13.26. Provided the mitigation measures and management procedures outlined in the Construction Management Plan are incorporated during the Construction Phase, the residual impact upon the local receiving environment is predicted to be short-term (i.e., one to seven years) in the nature and slight in terms of effect. Through the implementation of preliminary mitigation measures it is anticipated that the effect of traffic during the construction phase will have a slight effect on the surrounding road network for short-term period. These are preliminary measures and a detail CMP and CTMP will be provided the Contractor before construction proceeds

- 11.13.27. In terms of the operational phase, Provided the Travel Plan and above mitigations are implemented correctly the target model split should be reached and reduce the potential impacts and avoid the “worst case” scenario.

Conclusion: Direct, Indirect, and Cumulative Effects

- 11.13.28. The cumulative impact has been considered in the context of other strategic housing developments in the area at the time this application was made. The vehicle trips associated with this committed development were retrieved from the Traffic and Transport Assessment submitted as part of the development’s planning application. These vehicle trips were included in the subject development’s Traffic Model in order to assess the impact of the development on the surrounding network in addition to the subject development’s impact. Primary vehicular access to the development will be via Sybill Hill Road, adjacent to St. Paul’s school. Permeability will also be provided throughout the site.

- 11.13.29. I consider that the main significant direct, indirect, and cumulative effects on Traffic and Transport will be mitigated as follows:

- The Construction Management Plan (a preliminary Construction, Demolition and Waste Management Plan accompanies the application) and the associated Traffic Management Plan (TMP) for the development will incorporate a range of integrated control measures and associated management initiatives with the objective of mitigating the impact of the proposed developments on-site construction activities.
- A Travel Plan has been prepared for both residents and visitors to the site to encourage sustainable travel practices for all journeys to and from the proposed development. Successful implementation of the Travel Plan measures included will reduce the vehicular trip generation from the proposed development.
- A number of walking and cycling connection points are proposed within the development. These connection points will provide access for pedestrians and cyclists to/from the proposed development.
- In line with the Development Plan, i.e., DCC Draft Development Plan 2022 – 2028, a current and target mode share has been included for the whole DCC Area, as referenced in the EIAR. The proposed development will differ from the DCC Target split due to the location of the development. The proposed development target split proposed is as follows: • Walking: 15% • Cycling: 25% • Public Transport (bus, rail, LUAS): 40% • Private Vehicles (Car, taxi, goods, motorcycles): 20%. This modal split heavily encourages cycling as the Proposed Development is close to Dublin city centre and with the introduction of the GDA Cycle Network Plan commuting by bicycle will be significantly easier.
- There is ongoing significant investment in bicycle, bus and train infrastructure, with ongoing increase in uptake of these modes. During the operational phase, it is not anticipated that there is likely to be a significant effect on the surrounding roads as a result of the proposed development. I am satisfied that the traffic generated by the proposed scheme would not have a significant negative impact on the capacity of the surrounding network which in my opinion is within the norm of a busy suburban environment.

- Mobility Management has been provided for in the development master planning, and the development will be dominated by sustainable transport modes. The capacities of the existing vehicular, public transport and pedestrian / cycle networks have been assessed and have been found to be more than capable of accommodating the additional movements associated with the proposed development.

11.13.30. I have considered all of the third party observations made in relation to Traffic and Transportation. I note the reports of the planning authority raised no objection in principle. I am satisfied that the identified impacts would be avoided, managed, and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of Roads and Traffic.

11.14. Material Assets (Utilities and Waste)

Issues Raised

11.14.1. No specific issues raised in respect to utilities and waste.

Examination, analysis and evaluation of the EIAR

11.14.2. Chapter 12 of the EIAR considers Material Assets with Section 12.2. considering Wate and Utilities including Electricity Supply, Gas Supply, Information and Communications Technology, Surface Water Drainage Infrastructure, Water Supply and Demand, Wastewater Management, and Waste Management.

Electricity Supply

11.14.3. Construction related activities will require temporary connection to the local electrical supply network for lighting and construction actives. Connecting a new multi-unit housing development to the electricity distribution system must be carried out in accordance with ESB Networks' specifications. A temporary suspension of the network locally to facilitate the connection works may be required during the construction Phase, and an additional temporary suspension will also occur when power is provided to the site of the Proposed Development. These temporary suspensions will be controlled by ESB Networks as the statutory undertaker and in accordance with standard protocols.

11.14.4. The potential impact from the Construction Phase of the Proposed Development on the local electrical supply network is likely to be negative, slight, and short-term.

11.14.5. In terms of the Operational Phase of the Proposed Development on the electricity supply network is likely to be to increase demand to the existing supply. The impact from the Operational Phase on the electricity supply network is likely to be neutral, long term and not significant.

Gas Supply

11.14.6. Connecting a new multi-unit housing development to the gas network system must be carried out in accordance with Gas Networks Ireland's specifications. The developer must employ the services of a registered mechanical installer or plumber and select and register with a natural gas supplier. The potential impact from the Construction Phase of the Proposed Development on the local gas supply network is likely to be negative, slight, and short-term.

11.14.7. During the Operational Phase there will be an increase in the gas demand on existing resources. The natural gas supply to support the Proposed Development has been discussed with utility provider, Gas Networks Ireland (GNI). GNI have confirmed that there is adequate pressure in the gas network and have raised no concerns about providing natural gas to the Proposed Development. The impact of the Operational Phase on the gas supply network is likely be neutral, long term and not significant

Information and Communications Technology

11.14.8. In terms of mobile telecommunication for transmission and reception, the closest mobile/ICT communications mast (Vodafone, Three and Meteor) is located in Saint Anne's Park near the Health Centre on Vernon Avenue, Clontarf, Dublin 3, approximately 400m southwest of the Site of the Proposed Development. Additionally, high-speed broadband is available at St. Pauls College, St. Annes Park and Sybil Hill Road. Some local diversions may be required in the upgrade works of the controlled pedestrian crossing and new proposed ducting works. This is envisaged to be a negative, not significant and temporary impact.

- 11.14.9. The increased demand on existing telecommunications infrastructure as a result of the Proposed Development is likely to have a neutral and not significant effect in the long term.

Surface Water Drainage Infrastructure

- 11.14.10. Surface water runoff from the catchment will be restricted via a Hydro-brake or similar approved flow control device and will be limited to the calculated greenfield equivalent runoff rate of 17 litres per second (l/s) before discharging to the public network. The net runoff volume from the site will therefore remain unchanged.
- 11.14.11. The runoff from the roads and hardstanding areas will discharge contaminants, including oils and silts, to the surface water system which could result in pollution to the surface water network. At-source treatment sustainable drainage techniques will be employed to address this issue, including roadside tree pits and the installation of a petrol interceptor to remove hydrocarbons before the surface water outfall to the Nanekin River.
- 11.14.12. With the proper application of proposed mitigation measures, the overall likely effect of the surface water drainage strategy for the Proposed Development will result in a neutral, imperceptible impact on receiving surface water quality in the long-term.

Water Supply and Demand

- 11.14.13. Construction activities will result in a net increase in the water demand for the site. It is proposed to provide a new 180mm diameter connection to the existing 250mm diameter water supply main in Sybil Hill Road. Some local diversions may be required to water supplies to accommodate the construction works which may require temporary outages. Additionally, new connection works may cause water supply disruptions during the Construction Phase. These disruptions will be controlled by Irish Water (IW) and Dublin City Council (DCC) in accordance with standard protocols. All watermains will be laid strictly in accordance with IW's standard protocols, and valves, hydrants, scour and sluice valves and bulk water meters will be provided in accordance with the requirements of IW. Due to the nature of the works during the Construction Phase, the likely impacts on the local mains water supply will be negative, not significant and temporary.

11.14.14. During the Operational Phase of the Proposed Development there will be a demand for water from the public water supply. The likely impact of the increase in mains water demand will be neutral and not significant on mains water supply in the long-term.

Wastewater Management

11.14.15. A temporary connection to the existing foul water network is required to facilitate on-site works for all housing developments. It will be the Main Contractor's responsibility to apply to Irish Water for connections to the network, and all connections to the foul water network will be constructed strictly in accordance with IW's requirements. Specific measures will be taken to prevent the release of effluent from the foul water network to the Naniken River and Dublin Bay during the Construction Phase. These measures include, but are not limited to, the use of silt traps, silt fences, silt curtains, settlement ponds and filter materials. The adherence and full implementation of the appropriate mitigation measures will ensure there is no potential for pollution of watercourses to arise. The new connection works may cause disruptions to the foul water network during the Construction Phase. These disruptions will be controlled by IW and DCC in accordance with standard protocols. Due to the nature of the works during the Construction Phase, the likely effect will be negative, non-significant and temporary. It is proposed to drain wastewater from the site of the Proposed Development by gravity to the existing 1,350mm wastewater sewer at the south-eastern corner of the site.

11.14.16. The Operational Phase of the Proposed Development will result in a net increase in flows to the network and there will be a net peak foul water flow of 10.207 l/s discharging to the existing sewer, which is ultimately discharged to Ringsend Wastewater Treatment Plant (WwTP). The increase in foul water at the Ringsend WwTP as a result of the Proposed Development is considered to be insignificant in terms of the overall scale of the facility. Therefore, the impact on the foul water network as a result of the Operational Phase of the Proposed Development is considered to be neutral, not significant and long term.

Waste Management:

11.14.17. Most of the waste arising during the Construction Phase will comprise soil and stone materials associated with the excavation works required for the basement,

foundations and connections to utilities and services. There will be some demolition waste associated with the demolition of an existing prefabricated building, which has been found to contain Asbestos Containing Materials (ACM). A Construction and Demolition Waste Management Plan (CDWMP) has been prepared for the Construction Phase of the Proposed Development (Waterman Moylan, 2022), and all wastes generated on site during the Construction Phase will be dealt with as per the CDWMP.

- 11.14.18. An Operational Waste Management Plan (OWMP) has been prepared for the Proposed Development by AWN Consulting (2022). The OWMP contains full details of the types and quantities of waste that may arise at the Proposed Development. The wastes that will be generated during the Operational Phase of the Proposed Development will typically include municipal household-type wastes. There will be some additional hazardous and non-hazardous waste types generated in small quantities which will need to be managed separately including batteries, waste electrical and electronic equipment (WEEE), printer cartridges / toners, chemicals (paints, adhesives, resins, detergents, etc.) and light bulbs. Green / garden waste will also be generated from internal plants or external landscaping, and furniture and other bulky wastes may also arise from time-to-time. In addition to the typical waste materials that will be generated at the Proposed Development daily, healthcare waste will also be generated at the Nursing Home. Healthcare waste is defined as “solid or liquid waste arising from healthcare”. Waste materials generated will fall into two main categories, namely healthcare non-risk waste (i.e., non-clinical healthcare waste) and healthcare risk waste (hazardous). In the absence of mitigation, the potential impact from the Construction and Operational Phases on waste disposal has the potential to be negative and moderate in the long term

Assessment: Direct, Indirect, and Cumulative Effects

- 11.14.19. In the absence of mitigation, potential impacts associated with the construction phase of the proposed development would be expected to include potential disruption to local natural and human material assets resulting in both short-term and long-term impacts. The implementation of the mitigation measures set out in this Chapter and other Chapters of the EIAR document will ensure that there will not be any significant residual impact during the construction phase. Therefore, impacts are likely to be temporary and neutral.

11.14.20. At operational stage the proposed development will have a positive impact on the existing urban environment by creating high quality residential units to cater for the needs of a growing population and responding to a significant housing need and demand in the locality and the region, while occupying a presently underutilised site at an appropriate location for sustainable development. The proposed development is unlikely to have any significant impact on the local area and the overall impact with respect to these utilities can be described as long-term and neutral.

11.14.21. No cumulative impacts will arise that would result in significant effects on the environment.

Conclusion: Direct, Indirect, and Cumulative Effects

11.14.22. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions as follows:

11.14.23. I consider that the main significant direct, indirect, and cumulative effects on Waste and Utilities will be mitigated as follows:

- The Preparation of a Construction Management Plan by each Contractor.
- Implementation of a Construction and Demolition Waste Management Plan
- Working hours from 08:00 to 17:00 Mondays to Fridays and 08:00 to 14:00 Saturdays (and as set by DCC)
- Heavy goods vehicles arrival and departure scheduled outside core times when students are entering/leaving the St. Pauls College
- Dust and Noise Management and Minimisation Plan in operation during construction
- Appropriate management of construction traffic and waste/spoil stockpiles
- Testing of potable water networks and foul water sewers prior to connection
- Identification and protection of utilities and public services, and reinstatement of all services as soon as possible post connection.
- Waste management during the Construction Phase will be managed in accordance with the CDWMP prepared by Waterman Moylan (2022) for the

Proposed Development. Waste will be managed in compliance with the Waste Management Act 1996 (as amended) and all subordinate legislation.

11.15. I have considered all of the third party observations made in relation to surface water associated with the proposed development. I note the reports of the planning authority raised no objection in principle. I am satisfied that the identified impacts would be avoided, managed, and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of Waste and Utilities.

11.16. Risk Management

11.16.1. Chapter 13 addresses risk management and screens against potential risks which the proposed development might encounter and/or impose on the nearby environment during its Construction and Operational Phase.

Examination, analysis and evaluation of the EIAR

11.16.2. The EIAR considers an assessment of the vulnerability of the site of the proposed development to risks of major accidents and/or disasters was completed as per Table 13.2 Major Accidents and/or Disasters Reviewed including civil, transportation, natural, and technological events.

11.16.3. The assessment reviewed:

- The vulnerability of the project to major accidents or disasters.
- The potential for the project to cause risks to human health, cultural heritage, and/or the environment, resulting from that identified vulnerability.

11.16.4. The methodology used included phase 1 assessment, phase 2 screening and phase 3 mitigation and evaluation.

11.16.5. The assessment included a Consolidated List of National Hazards to identify a preliminary list of potential major accident and disasters. Receptors covered by legislation were not included within the assessment e.g., construction workers.

11.16.6. The screening phase included a list screened and major events such as volcanoes were not included given the unlikely event of one occurring. Elements

already addressed as a key part of the design e.g., risks of building collapse, are not repeated.

- 11.16.7. As part of phase 3, the event that mitigation measures included did not mitigate against the risk, then, the potential impacts on receptors are identified in the relevant chapter. Table 13-3 lists the major accidents and/or disasters reviewed.

Assessment: Direct, Indirect, and Cumulative Effects

- 11.16.8. Having regard to the foregoing assessment, I am satisfied that the vulnerability of the Proposed Development to major accidents and/or disasters is not considered significant; and the potential for the project to cause risks to human health, cultural heritage, and the environment, is not considered significant.

Conclusion: Direct, Indirect, and Cumulative Effects

- 11.16.9. I am satisfied that the potential for risks associated with the proposed development has been adequately considered and identified. I consider that, subject to the proposed mitigation measures and the recommended conditions of any permission, there would be no significant direct, indirect, or cumulative interactive effects as a result of the proposed development.

11.17. Interactions

- 11.17.1. Chapter 14 addresses interactions and highlights those interactions which are considered to potentially be of a significant nature.

- 11.17.2. The interactions are summarised in the following table as presented in the EIAR:

11.18. Table 14.1 of the EIAR – Table 14.1 Interactions between Factors:

- 11.19. In addition, the EIAR presents a table of the principal interactions between the environmental specialists and the design team, which is summarised in Table 14-2 to Table 14.10 of the report.

Table 14-1: Interactions between Factors

Interaction	4. Population and Human Health	5. Biodiversity	6. Land and Soil	7. Hydrology and Hydrogeology	8. Air Quality and Climate	9. Noise and Vibration	10. Landscape and Visual Amenity	11. Archaeology, Architecture and Cultural Heritage	12.1 Material Assets (Traffic)	12.2 Material Assets (Waste & Utilities)
Population and Human Health										
Biodiversity										
Land and Soil										
Hydrology and Hydrogeology										
Air Quality and Climate										
Noise & Vibration										
Landscape & Visual Amenity										
Archaeology, Architectural and Cultural Heritage										
Material Assets (Traffic)										
Material Assets (Waste & Utilities)										

	No Interaction
	Interaction
	N/A

11.19.1. Overall, the interactions between the proposed development and the various environmental factors are generally considered to be not significant or negative but short-term in duration. Mitigation measures are proposed throughout this EIA Report to minimise any potentially negative impacts.

Examination, analysis and evaluation of the EIAR

11.19.2. The EIAR considers that most inter-relationships are neutral in impact when the mitigation measures proposed are incorporated into the operation of the Proposed Development in line with the Waste Facility Permit for the site. The potential for interactions is summarised in table ref. 14.1 above, with a detailed description of the interactions within Tables 14-2 to 14-10.

Assessment: Direct, Indirect, and Cumulative Effects

11.19.3. Having regard to the foregoing assessment, I am satisfied that the potential for any significant adverse impact has been appropriately mitigated through the measures identified in each Chapter of the EIAR. I consider that the EIAR has adequately identified the potential for interactive impacts with other environmental

factors. I am satisfied that the proposed mitigation measures will similarly ensure that there will be no unacceptable interactive impacts.

Conclusion: Direct, Indirect, and Cumulative Effects

11.19.4. I am satisfied that the potential for interactive impacts has been adequately considered and identified. I consider that, subject to the proposed mitigation measures and the recommended conditions of any permission, there would be no significant direct, indirect, or cumulative interactive effects as a result of the proposed development.

11.20. Cumulative Impacts

11.20.1. While I note that each individual chapter provides an assessment of the cumulative impact of the development, this assessment does not include the potential impact of the proposed development on biodiversity, in particular the wintering birds. The EIAR is deficient in this regard.

11.20.2. The proposed development could occur in tandem with the development of other sites that are zoned in the area, this has been referenced in Table 12-31 of the EIAR. It is noted that of the developments that have been permitted in the vicinity of the site (detailed in Table 12-29). While this is noted, based on the information submitted, in particular the lack of information provided within the EIAR, in respect to the impact of the proposed works on biodiversity and the subsequent adverse environmental impact, I cannot conclude on the cumulation of effects from the planned and permitted development and that currently proposed in this application.

11.20.3. The Coimisiún will also note that the fundamental fact remains that the subject site is located on lands which are not zoned for residential development as highlighted in Section 9.3 of this report.

11.21. Schedule of Mitigation Measures

11.21.1. Each individual chapter provides a summary of the recommended mitigation measures.

11.22. Reasoned Conclusion on the Significant Effects

11.22.1. Having regard to the examination of the environmental information contained above, and in particular to the EIAR and the submissions from the Planning Authority, prescribed bodies and observers in the course of the application, it is

considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

Population and Human Health:

- Construction-related disturbance including noise/vibration, dust, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan and a traffic management plan.

Biodiversity:

- There is insufficient information in the EIAR to fully assess the potential impacts of the development, in particular the impact on the wintering birds, specifically the loss of a previously used ex-situ inland feeding site for LBBG as a result of the proposed development. There is an inadequate assessment of potential impacts on the wintering birds arising from the proposed works. Adverse impacts in terms of biodiversity can, therefore, not be eliminated.

Land and Soil:

- Loss of land, soil, and geology, which would be replaced by appropriate development and improved amenities in accordance with the proper planning and sustainable development of the area.
- The loss of land, soil, and geology which would be acceptable given the proposed delivery of appropriate development and improved amenities in accordance with the proper planning and sustainable development of the area.
- Construction stage impacts relating to dust/dirt pollution, groundwater interference, and soil contamination, which would be mitigated by the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management Plan and other measures proposed in the EIAR.

Water (Hydrology and Hydrogeology):

- Construction stage impacts on groundwater and surface water quality, which will be mitigated by standard good practice construction stage measures included in the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management

Plan. Operational stage surface water discharges, which will be mitigated by the implementation of suitably designed Sustainable Urban Drainage System (SuDS) measures.

Air Quality and Climate:

- Construction stage dust emissions, which will be mitigated by a Dust Management Plan and standard good practice construction stage measures outlined in the Outline Construction Management Plan and will be developed further by the contractor into a Construction and Environment Management Plan.

Noise and Vibration:

- Construction stage, noise will be mitigated by standard good practice construction stage measures including a condition requiring a Construction & Environmental Management Plan. Operational stage.
- There is no monitoring recommended for the operational phase of the development as impacts to noise and vibration are predicted to be imperceptible

Landscape/Townscape and Visual Assessment:

- Changes to the landscape character associated with the development of this greenfield site adjacent to St. Annes Park, which will be mitigated by the design, layout and separation distances to the park, in particular from the entrance off Sybhill Hill Road, of the proposed development, including the retention of existing planting which surrounds the site, and the provision of additional landscaping and open spaces through suitable conditions.

Archaeological, Architectural and Cultural Heritage:

- Given the location of the site within the urban area no significant adverse direct, indirect or cumulative effects are likely to arise.

Material Assets: Traffic:

- Impacts mitigated by The Construction Management Plan (a preliminary OCMF accompanies the application) and the associated Construction Traffic Management Plan (CTMP) for the development will incorporate a range of

integrated control measures and associated management initiatives with the objective of mitigating the impact of the proposed developments on-site construction activities.

- The Construction Management Plan (a preliminary Construction, Demolition and Waste Management Plan accompanies the application) and the associated Traffic Management Plan (TMP) for the development will incorporate a range of integrated control measures and associated management initiatives with the objective of mitigating the impact of the proposed developments on-site construction activities.
- A Travel Plan has been prepared for both residents and visitors to the site to encourage sustainable travel practices for all journeys to and from the proposed development. Successful implementation of the Travel Plan measures included will reduce the vehicular trip generation from the proposed development.
- A number of walking and cycling connection points are proposed within the development. These connection points will provide access for pedestrians and cyclists to/from the proposed development.
- There is ongoing significant investment in bicycle, bus and train infrastructure, with ongoing increase in uptake of these modes.
- Mobility Management has been provided for in the development master planning, and the development will be dominated by sustainable transport modes.

Material Assets: Waste and Utilities:

- Impacts mitigated by the Preparation of a Construction Management Plan by each Contractor.
- The implementation of a Construction and Demolition Waste Management Plan.
- Heavy goods vehicles arrival and departure scheduled outside core times when students are entering/leaving the St. Pauls College
- Dust and Noise Management and Minimisation Plan in operation during construction.

- Appropriate management of construction traffic and waste/spoil stockpiles
- Testing of potable water networks and foul water sewers prior to connection
- Identification and protection of utilities and public services, and reinstatement of all services as soon as possible post connection.
- Waste management during the Construction Phase will be managed in accordance with the CDWMP prepared by Waterman Moylan (2022) for the Proposed Development. Waste will be managed in compliance with the Waste Management Act 1996 (as amended) and all subordinate legislation.

11.23. The submitted EIAR has been considered with regard to the guidance provided in the EPA documents 'Guidelines on the Information to be Contained in Environmental Impact Assessment Reports', 2022 and 'Advice Notes for Preparing Environmental Impact Statements' (draft September 2015). The likely significant environmental effects arising as a consequence of the proposed development, in particular the impact on the wintering birds have not been satisfactorily identified, described and assessed with regard to biodiversity and cumulative impacts.

12.0 Conclusion

12.1. The application is for the construction of 580 apartments, a crèche and a 100-bed nursing home in seven blocks of 4 to 7 storeys, and associated development site works on lands to the east of Saint Paul's College, Sybil Hill Road, Raheny, Dublin 5. Thirty six observations were received.

12.2. The planners report considered that principle of the development was in compliance with zoning objective under Z15 and the accompanying criteria outlined under Section 14.8.14 of the Dublin City Development Plan, 2016-2022. There was no significant objection to the delivery of a high density residential development on part of the St. Paul's lands subject to complying with relevant planning standards and demonstration that the proposed development will not have a significant impact on biodiversity. The planner noted the significant outstanding biodiversity issues as outlined within the Parks, Biodiversity and Landscape Services report (20th October 2022) and the Department of Housing, Local Government and Heritage report (17th October 2022) and it has not been established that displacement of geese as a

result of the proposed development will not, and has not, caused significant negative impacts to Light Bellied Brent Geese.

- 12.3. The Chief Executive's Report dated 28th October 2022 recommended a refusal of permission for the proposed development, as it was considered that *"The submitted Natura Impact Statement has not demonstrated that the evidence provided supports the assertion that no impact arises to the Dublin Bay populations of protected Brent geese. Any assessment of the impacts of the proposed development on the site integrity of the Natura 2000 sites in Dublin Bay under the EU Birds and Habitats Directives cannot be made in the absence of data and the precautionary principle applies. It is considered that the proposed development would, therefore, materially contravene Policy GI23 of the Dublin City Development Plan 2016-2022 for the protection of European sites, and hence would be contrary to the proper planning and sustainable development of the area"*.
- 12.4. The Dublin City Development Plan 2016-2022 expired in 2022, and the applicable Development Plan is the Dublin City Development Plan, 2022 – 2028, which came into effect on 14th December 2022. While I have no major concerns with the overall layout and design of the proposed scheme on these lands, under the current Plan the zoning objective pertaining to the site changed from 'Z15' to 'Z9'. Accordingly, as per the provisions of this zoning objective, residential development, including nursing home of the scale as proposed is not permitted or open for consideration under this zoning objective, as such the proposed development would materially contravene the Development Plan in this regard. As per the forgoing, I consider that the proposed development materially contravenes the South Dublin County Development Plan, 2022 – 2028.
- 12.5. The proposed development also materially contravenes Objective CUO25 of the Dublin City Development Plan 2022 – 2028 for failure to provide a minimum of 5% of the floor area for community, arts and culture spaces.
- 12.6. I consider that the proposed development remains consistent with relevant updated section 28 guidance i.e., Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024 and the Sustainable Urban Housing: Design Standards for New Apartments, 2023 and the National Planning Framework.

- 12.7. The submitted EIAR has not fully assessed and considered the likely significant environmental effects arising as a consequence of the proposed development, in particular the impact on the wintering birds which have not been satisfactorily identified, described and assessed with regard to biodiversity and cumulative impacts.
- 12.8. In respect to AA, I note the report received from An Coimisiún Pleanála's Ecologist, which concluded that that adverse effects on site integrity of the North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015 cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects.
- 12.9. In this regard, I also consider that the proposed development materially contravenes the policies of the current Development Plan with respect to Biodiversity and the protection of European Sites and their protected species in particular the Brent Geese, specifically Policy GI9 European Union Natura 2000 Sites, Policy GI10 Flora and Fauna Protected under National and European Legislation Located Outside Designated Areas, and GI13 Areas of Ecological Importance for Protected Species.
- 12.10. Having considered the zoning of the site and Objective CUO25, Policy GI19, Policy GI10 and Policy GI13, in respect to the overall principle of the development and the relevant legislation under Section 37(2)(b) of the Planning and Development Act 2000 as amended, a grant of permission in material contravention of the Dublin City Development Plan 2022 – 2028 would not be justified. I consider the development does not demonstrate that it should be permitted in accordance with any or all of sections (i) to (iv) of 37(2)(b).
- 12.11. The WFD assessment concluded that the proposed development would not result in a risk of deterioration on any water body either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives.
- 12.12. Notwithstanding the foregoing, regard is had to the planning history on site and the numerous High Court Orders in respect to the decisions of An Coimisiún Pleanála, in particular. However, the fundamental concern on the appeal site is the zoning objective, which does not permit residential development and the material

contravention of several policies and objectives of the Plan. I also note that concerns remain in respect to the NIS and the impact on the European sites, in particular the Light-bellied Brent Goose. Therefore, in this context I recommend a refusal of permission.

13.0 Recommendation

- 13.1. Having regard to the above assessment, I recommend that permission be REFUSED for the proposed development based on the reasons and considerations set out below.

14.0 Reasons and Considerations

- 14.1. Having regard to the Z9 zoning of the development area of the site, the objective of which is “*To preserve, provide and improve recreational amenity, open space and ecosystem services*”, as per the Dublin City Development Plan 2022 – 2028, and the extent of residential development, i.e. 580 no. apartments and 100-bed nursing home proposed on these lands, which is not considered to be a limited degree of residential or commercial development associated with a sporting facility or other associated use, the proposed development would contravene materially the said zoning objective and therefore, would be contrary to the proper planning and sustainable development of the area.
- 14.2. Objective CUO25 of the Dublin City Development Plan 2022 – 2028 requires that large scale developments over 10,000 sq. m. must provide at a minimum for 5% community, arts and culture spaces as part of the development. The proposed development does not provide for any such floor area, even though it provides for an area in excess of 10,000 sq. m. The proposed development, therefore, would materially contravene Objective CUO25 of the Dublin City Development Plan 2022 – 2028, and therefore would be contrary to the proper planning and sustainable development of the area.
- 14.3. *Having regard to the submitted Natura Impact Statement, adverse effects on site integrity of the North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015) cannot be excluded in view of the*

conservation objectives of these sites and reasonable scientific doubt remains as to the absence of such effects in particular, adverse effects on the conservation objective of Light Belled Brent Geese (LBBG) of “Distribution” and “Population Trend” and their specific targets. Any assessment of the impacts of the proposed development on the site integrity of the above listed Natura 2000 sites cannot be ruled out without further analysis and assessment, and therefore the precautionary principle has been adopted. It is considered that the proposed development would, therefore, materially contravene Policy GI9, Policy GI10 and Policy GI13 of the Dublin City Development Plan, 2022-2022 for the protection of European sites, and hence would be contrary to the proper planning and sustainable development of the area”.

- 14.4. It is considered that the Environmental Impact Assessment Report, together with the documentation submitted with the application, does not identify or describe adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment, in particular the impact on the wintering birds which have not been satisfactorily identified, described and assessed. The Coimisiún is not satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU, particularly with regard to biodiversity and cumulative impacts.

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.

Emma Nevin
Planning Inspector

4th November 2025

Appendix A – Appropriate Assessment, Screening Report, Screening Determination and Assessment of loss of a previously used ex-situ feeding site for LBBG – Report from An Coimisiún Pleanála Ecologist – Ms. Fiona Patterson

Appendix A-A

Table 1 Appropriate Assessment - Introduction

Appropriate Assessment
St Paul's College, Sybil Hill Road, Raheny, Dublin 5 Case File: 315183-22
The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.
Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed mixed-use development at lands east of St Paul's College, Sybil Hill Road, Raheny, Dublin 5 in view of the relevant conservation objectives of the following: • North Dublin Bay SAC (000206) • South Dublin Bay SAC (000210) • North Bull Island SPA (004006) • South Dublin Bay and River Tolka Estuary SPA (004024) • Baldoyle Bay SPA (004016) • Malahide Estuary SPA (004025) • Rogerstown Estuary SPA (004015) based on scientific information provided by the applicant and considering expert opinion set out in the following observations on nature conservation: • Department of Housing, Local Government and Heritage (17 October 2022) • Birdwatch Ireland (BWI) submission to An Bord Pleanála 20th (now An Coimisiún Pleanála) December 2022. • Report by Parks Dept of DCC (6 September 2022) The information relied upon includes the following: • Natura Impact Statement prepared by applicant • Applicant appeal An Bord Pleanála (now An Coimisiún Pleanála) 29th November 2022 • Applicant response to An Coimisiún Pleanála (ACP) regarding BWI submission 29th August 2025

- Applicant response to ACP 14th October 2025
- Dublin City Council (DCC) Development Plan 2022-2028 Natura Impact Report
- Benson, L. (2009) Use of Inland feeding sites by Light-bellied Brend Geese in Dublin 2008-2009: a new conservation concern. Irish Birds 8: 563-570 (2009).
- Boland, H. and Crowe, O. (2012) Irish Wetland Bird Survey: Waterbird Status and Distribution 2001/02 – 2008/09 Birdwatch Ireland
- Burke, B., Fitzgerald, N. & Lewis, L. (2018b). Irish Wetland Bird Survey: Results of Waterbird Monitoring in Ireland in 2015/16. BirdWatch Ireland.
- Lewis, L. J., Burke, B., Fitzgerald, N., Tierney, T. D. & Kelly, S. (2019) Irish Wetland Bird Survey: Waterbird Status and Distribution 2009/10-2015/16. Irish Wildlife Manuals, No. 106. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, Ireland
- Kennedy, J., Burke, B., Fitzgerald, N., Kelly, S.B.A., Walsh, A.J. & Lewis, L.J. 2023. Irish Wetland Bird Survey: I-WeBS National and Site Trends Report 1994/95 – 2019/20. BirdWatch Ireland Waterbird Report to the National Parks and Wildlife Service. BirdWatch Ireland, Wicklow. (https://birdwatchireland.ie/app/uploads/2023/08/iwebs_trends_report.html)

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions/observations

- Department of Housing, Local Government and Heritage submission to Dublin City Council 17 October 2022
- Birdwatch Ireland (BWI) submission to An Bord Pleanála (now An Coimisiún Pleanála) 20th December 2022.
- Applicant appeal An Bord Pleanála (now An Coimisiún Pleanála) 29th November 2022
- Applicant response to An Coimisiún Pleanála (ACP) regarding BWI submission 29th August 2025
- Applicant response to ACP 14th October 2025

Tables 2 to 8 below discuss the key issues outlined in the NIS that could give rise to adverse effects having regard to the QI features likely to be affected and conservation objectives. Table 9 below presents the assessment.

Table 2 North Dublin Bay SAC (000206) – potential adverse effects and mitigation measures summary

North Dublin Bay SAC (000206)

https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf

Summary of Key issues that could give rise to adverse effects (from screening stage):

(i) *Construction-related surface water discharges*

Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)
Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain favourable conservation condition	Refer to Section 7.5 of NIS (pgs 82-86). Construction-related surface water discharges may have a negative effect on habitat quality/function.	Refer to Section 7.5.1 of the NIS. Measures include: Implementation of CEMP, management of hydrocarbons and sediment to prevent releases into Naniken River. Pollution Control.
Annual vegetation of drift lines [1210]	Restore favourable conservation condition	As above for mudflats and sandflats	As above
<i>Salicornia</i> and other annuals colonising mud and sand [1310]	Restore favourable conservation condition	As above for mudflats and sandflats	As above
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]	Maintain favourable conservation condition	As above for mudflats and sandflats	As above
Mediterranean salt meadows (<i>Juncetalia maritima</i>) [1410]	Maintain favourable conservation condition	As above for mudflats and sandflats	As above
Embryonic shifting dunes [2110]	Restore favourable conservation condition	No impact.. Refer to Section 7.5 of NIS (pgs 82-86).	None required. This habitat is restricted to areas above the high-tide line and would therefore not be impacted by any potential construction-related surface water discharges.
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]	Restore favourable conservation condition	No impact.	None required (see above for embryonic shifting dunes).
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	Restore favourable conservation condition	No impact. As above.	None required (see above for embryonic shifting dunes)

Humid dune slacks [2190]	Restore favourable conservation condition	No impact. As above.	None required (see above for embryonic shifting dunes)
<i>Petalophyllum ralfsii</i> (Petalwort) [1395]	Maintain favourable conservation condition	No impact. As above.	None required (see above for embryonic shifting dunes)
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 3 South Dublin Bay SAC (000210) - potential adverse effects and mitigation measures

South Dublin Bay SAC (000210) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) <i>Construction-related surface water discharges</i>			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)
Mudflats and sandflats not covered by seawater at low tide [1140]	Maintain favourable conservation condition	Construction-related surface water discharges may have a negative effect on habitat quality/function. Refer to Section 7.5 of NIS (pgs 82-86)	As above for North Dublin Bay SAC (000206).
Annual vegetation of drift lines [1210]	None provided in SSCO document	As above for mudflats and sandflats	As above
<i>Salicornia</i> and other annuals colonising mud and sand [1310]	None provided in SSCO document	As above for mudflats and sandflats	As above
Embryonic shifting dunes [2110]	None provided in SSCO document	As above for mudflats and sandflats	None required
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 4 North Bull Island SPA (004006) - potential adverse effects and mitigation measures

North Bull Island SPA (004006) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004006.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) <i>Loss of a previously used ex-situ inland feeding site</i> (ii) <i>Construction-related surface water discharges</i> (iii) <i>Disturbance to SCI species during construction</i>			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)
Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Curlew (<i>Numenius arquata</i>) [A160] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]	Maintain favourable conservation condition of the species which is defined by the following list of attributes and targets: Population trend: long term population trend stable or increasing Distribution: no significant decrease in the range, timing or intensity of use of areas by the species, other than that occurring from	Permanent loss of previously used ex-situ inland feeding site for Light-bellied Brent Goose, Curlew, Oystercatcher, Black-tailed Godwit, and Black-headed Gull. Permanent displacement effects on these SCI species may arise which may lead to changes in population densities of such species. Refer to Section 7.4 of NIS. Potential for displacement of above SCI species due to disturbance during construction phase. See my assessment of these potential adverse effects below in Table 10	None proposed. See my assessment below in Table 10

Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Shoveler (<i>Spatula clypeata</i>) [A857]	natural patterns of variation	No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Wetland and Waterbirds habitat [A999]	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.	Construction-related surface water discharges may have a negative effect on the wetland habitat [A999] in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilize it. This may lead to the displacement of SCI species for this SPA. Refer to Section 7.5 of NIS (pgs 82-86)	As above for North Dublin Bay SAC (000206).
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 5 South Dublin Bay and River Tolka Estuary SPA (004024) - potential adverse effects and mitigation measures

South Dublin Bay and River Tolka Estuary SPA (004024) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Loss of a previously used ex-situ inland feeding site (ii) Construction-related surface water discharges (iii) Disturbance to SCI species during construction			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)

Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Black-headed Gull (<i>Chroicocephalus ridibundus</i>)	Maintain favourable conservation condition of the species which is defined by the following list of attributes and targets: Population trend: long term population trend stable or increasing Distribution: no significant decrease in the range, timing or intensity of use of areas by the species, other than that occurring from natural patterns of variation.	Permanent loss of previously used ex-situ inland feeding site for Light-bellied Brent Goose, Oystercatcher, and Black-headed Gull. Permanent displacement effects on these SCI species may arise which may lead to changes in population densities of such species. Refer to Section 7.4 of NIS. Potential for displacement of above SCI species due to disturbance during construction phase. See my assessment of these potential adverse effects below in Table 10	None proposed. See my assessment below in Table 10
Ringed Plover (<i>Charadrius hiaticula</i>) Knot (<i>Calidris canutus</i>) Sanderling (<i>Calidris alba</i>) Dunlin (<i>Calidris alpina</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>) Redshank (<i>Tringa totanus</i>) Roseate Tern (<i>Sterna dougallii</i>) Common Tern (<i>Sterna hirundo</i>) Arctic Tern (<i>Sterna paradisaea</i>)		No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Grey Plover (<i>Pluvialis squatarola</i>)	Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species.	No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Wetland and Waterbirds habitat [A999]	Maintain the favourable conservation condition of the wetland habitat in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilise it	Construction-related surface water discharges may have a negative effect on the wetland habitat [A999] in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory	As above for North Dublin Bay SAC (000206).

		waterbirds that utilize it. This may lead to the displacement of SCI species for this SPA. Refer to Section 7.5 of NIS (pgs 82-86)	
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 6 Baldoye Bay SPA (004016) - potential adverse effects and mitigation measures

Baldoye Bay SPA (004016) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004016.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) <i>Loss of a previously used ex-situ inland feeding site</i> (ii) <i>Disturbance to SCI species during construction</i>			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)
Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)	Maintain favourable conservation condition of the species which is defined by the following list of attributes and targets: Population trend: long term population trend stable or increasing Distribution: no significant decrease in the range, timing or intensity of use of areas by the	Permanent loss of previously used ex-situ inland feeding site for Light-bellied Brent Goose. Permanent displacement effects on this SCI species may arise which may lead to changes in population densities of such species. Refer to Section 7.4 of NIS. Potential for displacement of above SCI species due to disturbance during construction phase. See my assessment of these potential adverse effects below in Table 10	None proposed. See my assessment below

Shelduck (<i>Tadorna tadorna</i>) Ringed Plover (<i>Charadrius hiaticula</i>) Golden Plover (<i>Pluvialis apricaria</i>) Grey Plover (<i>Pluvialis squatarola</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>)	species, other than that occurring from natural patterns of variation.	No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Wetland and Waterbirds habitat [A999]	Maintain the favourable conservation condition of the wetland habitat in Baldoyle Bay SPA.	No adverse effects (direct or indirect). There is a significant marine buffer between the proposed development site and this SPA. The distances between them are sufficient to exclude the possibility of significant effects (such as emissions/disturbance during all project phases)	None required
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 7 Malahide Estuary SPA (004025) - potential adverse effects and mitigation measures

Malahide Estuary SPA (004025) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004025.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) <i>Loss of a previously used ex-situ inland feeding site</i> (ii) <i>Disturbance to SCI species during construction</i>			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)
Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Black-tailed Godwit (<i>Limosa limosa</i>)	Maintain favourable conservation condition of the species which is defined by the following list of attributes and targets: Population trend: long term population trend stable or increasing Distribution: no significant decrease in the range, timing or intensity of use of areas by the species, other than that occurring from natural patterns of variation	Permanent loss of previously used ex-situ inland feeding site for Light-bellied Brent Goose, Oystercatcher and Black-tailed Godwit. Permanent displacement effects on these SCI species may arise which may lead to changes in population densities of such species. Refer to Section 7.4 of NIS. Potential for displacement of above SCI species due to disturbance during construction phase. See my assessment of these potential adverse effects below in Table 10	None proposed. See my assessment below

Great Crested Grebe (<i>Podiceps cristatus</i>) Shelduck (<i>Tadorna tadorna</i>) Pintail (<i>Anas acuta</i>) Goldeneye (<i>Bucephala clangula</i>) Red-breasted Merganser (<i>Mergus serrator</i>) Golden Plover (<i>Pluvialis apricaria</i>) Grey Plover (<i>Pluvialis squatarola</i>) Knot (<i>Calidris canutus</i>) Dunlin (<i>Calidris alpina</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>) Redshank (<i>Tringa totanus</i>)	As above	No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Wetland and Waterbirds habitat [A999]	Maintain the favourable conservation condition of the wetland habitat in Malahide Estuary SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.	No adverse effects (direct or indirect). There is a significant marine buffer between the proposed development site and this SPA. The distances between them are sufficient to exclude the possibility of significant effects (such as emissions/disturbance during all project phases)	None required
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 8 Rogerstown Estuary SPA (004015)- potential adverse effects and mitigation measures

Rogerstown Estuary SPA (004015) https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004015.pdf Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Loss of a previously used ex-situ inland feeding site (ii) Disturbance to SCI species during construction			
Qualifying Interest features likely to be affected	Conservation Objectives Summary	Potential adverse effects	Mitigation Measures (summary)

Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Black-tailed Godwit (<i>Limosa limosa</i>)	Maintain favourable conservation condition of the species which is defined by the following list of attributes and targets: Population trend: long term population trend stable or increasing Distribution: no significant decrease in the range, timing or intensity of use of areas by the species, other than that occurring from natural patterns of variation.	Permanent loss of previously used ex-situ inland feeding site for Light-bellied Brent Goose, Oystercatcher and Black-tailed Godwit. Permanent displacement effects on these SCI species may arise which may lead to changes in population densities of such species. Refer to Section 7.4 of NIS. Potential for displacement of above SCI species due to disturbance during construction phase. See my assessment of these potential adverse effects below in Table 10	None proposed. See my assessment below
Greylag Goose (<i>Anser anser</i>) Shelduck (<i>Tadorna tadorna</i>) Ringed Plover (<i>Charadrius hiaticula</i>) Grey Plover (<i>Pluvialis squatarola</i>) Knot (<i>Calidris canutus</i>) Dunlin (<i>Calidris alpina</i>) Redshank (<i>Tringa totanus</i>) Shoveler (<i>Spatula clypeata</i>)		No adverse effects (direct or indirect). The proposed development site is not an ex-situ site for these qualifying interest species.	None required
Wetland and Waterbirds habitat [A999]	Maintain the favourable conservation condition of the wetland habitat in Rogerstown SPA as a resource for the regularly occurring migratory waterbirds that utilise it	No adverse effects (direct or indirect). There is a significant marine buffer between the proposed development site and this SPA. The distances between them are sufficient to exclude the possibility of significant effects (such as emissions/disturbance during all project phases)	None required
The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.			

Table 9 Assessment

Assessment of issues that could give rise to adverse effects in view of conservation objectives:

(i) construction-related surface water discharges

There is an indirect hydrological connection via surface water discharge from the proposed development into Dublin Bay during construction and operation phases. It is proposed to drain surface water through the site via a series of sewers, ultimately discharging to the Naniken River via a new sewer and headwall. The existing pedestrian bridge at the proposed surface water outfall to the Naniken River is derelict, and as such it is proposed to replace the bridge as part of the works, with the new headwall to be constructed beneath the bridge. From the outfall point, the Naniken River flows for c. 1.4km downstream of the proposed development site and enters the “Duck Pond” in St Annes Park, prior to reaching the south lagoon of Bull Island. The lagoon forms part of North Dublin Bay SAC and North Bull Island SPA. The river then flows a further 1.9km until it passes under a wooden bridge and enters the Tolka Estuary (which forms part of the South Dublin Bay and River Tolka Estuary SPA).

Surface water runoff generated from the proposed development during operation phase will be collected and attenuated on-site via various SuDS measures as outlined in Section 4.1.2 of the applicant NIS. The SuDS measures will include green roofing, filter drains, permeable paving, tree pits, rain gardens, detention basing and underground attenuation system below with flow control device and petrol interceptor. SuDS are not relied upon by the applicant to mitigate impacts on Natura 2000 sites. Thus, the potential for likely significant effects arising from operation-related surface water discharges is deemed negligible.

The NIS states that construction-related surface water discharges may have a negative effect on habitat quality/function of the following European sites: North Dublin Bay SAC, South Dublin Bay SAC, North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA. This is due to the possibility of discharge/run-off of surface waters containing sediment, silt, oils and/or other pollutants during the construction phase into the Naniken River and ultimately into the south lagoon of North Bull Island. Refer to Table 13 of Section 7.5 of the applicant NIS (pgs 82-86). In considering the potential for significant effects from construction-related surface water discharges on the above Natura 2000 sites and considering standard controls and standards implemented during construction for a development of this nature, I consider that the proposed development is unlikely to result in impacts of such magnitude that could undermine the conservation objectives set for these sites. Notwithstanding that there is some uncertainty/ that potential for significant effects cannot be excluded for the above Natura 2000 sites due to construction related pollution risks, I consider that any such risk in the marine environment would be rapidly dispersed and diluted to non-significant levels. Dublin Bay is large with high assimilative capacity so the likelihood of anything more than a localized effect is low.

Section 7.5.1 of the Enviroguide NIS presents specific and detailed mitigation measures including implementation of a CEMP and best practice pollution control measures to prevent the release of silt and chemicals and reduce risk of accidental pollution. The CEMP will be implemented by the contractor during the construction of the proposed development. The CEMP, which is submitted as a separate document with this application, covers all potentially polluting activities and includes mitigation measures for critical elements such as storage and handling of harmful materials. All personnel working on the site will be trained in the implementation of emergency procedures. The CEMP has been formulated in consideration of standard best international practice. Specific measures to prevent the release of sediment over baseline conditions to the Naniken River (and subsequently the Tolka Estuary) and Dublin Bay

during the construction work will be implemented as the need arises. These measures include, but are not limited to, the use of silt traps, silt fences, silt curtains, settlement ponds and filter materials. Provision of exclusion zones and barriers (e.g. silt fences) between earthworks, stockpiles and temporary surfaces to prevent sediment washing into the Naniken River and/or existing drainage systems and hence the downstream receiving water environment. Weather conditions to be taken into account during construction, in particular during pouring of cementitious materials for works adjacent to Naniken River. Measures include appropriate storage of chemicals, emergency procedures and spill kits and the application of industry standard controls. See section 7.5.1 Enviroguide NIS for further details.

I am satisfied that the applicant has demonstrated satisfactorily that no significant residual effects due to construction related surface water discharges will remain post the application of the detailed and specific mitigation measures as set out in Section 7.5.1 of the NIS and there is therefore no potential for adverse effects from construction related surface water discharges on any European sites.

(iii) Disturbance to SCI species during construction

Section 7.4.1 (pg 80) of the Enviroguide NIS discusses disturbance and/or displacement to SCI species utilising adjacent sites, during the construction stage, due to disturbance from environmental nuisances such as noise, dust, and lighting. These are addressed in the Noise (Chapter 9), Air Quality (Chapter 8) and Biodiversity (Chapter 5) of the EIAR. The NIS states that provided that the mitigation measures proposed in these Chapters are implemented there will be no significant impact from the Proposed Development on these environmental sensors offsite and therefore will not have any impact on LBBG or any species utilising adjacent feeding sites. For example, Section 5.7.7 of Biodiversity (Chapter 5) of the EIAR discusses Mitigation 7: Noise Management. It states that a number of measures will be included in the final CEMP as set out in *BS 5228-1: A1:2014 Code of practice for noise and vibration control on construction and open sites – Part 1: Noise*, that will be put in place during the construction phase. These measures will ensure that the level of noise caused by the proposed works will be controlled/reduced where possible so as to minimise the potential disturbance impact on local fauna species. Section 8.6.1.1 of the Air Quality chapter details a comprehensive suite of mitigation measures to minimise dust dispersal.

I am satisfied that the applicant has demonstrated satisfactorily that no significant residual effects due to construction related disturbance on SCI species will remain post the application of the detailed and specific mitigation measures as set out in the EIAR and there is therefore no potential for adverse effects from construction related surface water discharges on any European sites.

(ii) Loss of previously used ex-situ inland feeding site to other SCI species (excluding LBBG)

Section 7.4.2 (pg 80) of the Enviroguide NIS discusses the potential impacts from the loss of the previously used ex-situ site for SCI species other than LBBG including curlew, oystercatcher, black-tailed godwit and black-headed gull. Table 3 of Section 7.1.2 (pg 43-45) presents the total counts of curlew, oystercatcher, black-tailed godwit and black-headed gull, recorded at the St Paul's sites including the site of the proposed development for the years 2015/16, 2016/17, 2018/19, 2019/20, 2020/21 and 2021/22. These results demonstrate that the numbers have reduced to very small numbers since the change in mowing management in 2018. The Enviroguide NIS submits that the infrequent usage by these species in very small insignificant numbers over

the survey periods before and after the change in mowing regime demonstrates that the loss of this ex-situ feeding site would not be significant enough to affect the status of any of these species in the nearby SPAs for which they are SCI i.e. it will not have population consequences. The ecology of these species (3 waders and one gull) mean that they have more intertidal foraging opportunities than LBBG and are therefore not as reliant on inland foraging sites. Given the above, I agree with this conclusion.

(iii) Loss of a previously used ex-situ inland feeding site for LBBG

Refer to **Appendix A-C** for details

In-combination effects

(i) construction-related surface water discharges

The Enviroguide NIS did not consider in-combination effects of construction-related surface water discharges on any European sites. (However, I note that this item was considered in the earlier Scott Cawley NIS (Section 12.2) which is appended (Appendix 1) to the Enviroguide NIS).

Nevertheless, I am satisfied that the applicant has demonstrated satisfactorily that no significant residual effects due to construction related surface water discharges will remain post the application of the detailed and specific mitigation measures as set out in Section 7.5.1 of the NIS and there is therefore no potential for in-combination effects from construction related surface water discharges.

Separately, I note that Section 7.6.2 of the Enviroguide NIS considers in-combination effects arising **from foul discharges during the operational phase**. I refer the Commission to my earlier AA screening report where I concluded that the potential for likely significant effects from treated foul discharges from Ringsend WwTP into Dublin Bay during operational phase is deemed negligible. Therefore, I have not considered this effect from the proposed development alone or in combination at AA stage.

(ii) Disturbance to SCI species during construction

The Enviroguide NIS did not consider in-combination effects of disturbance to SCI species during construction.

Nevertheless, I am satisfied that the applicant has demonstrated satisfactorily that no significant residual effects due to disturbance to SCI species during construction will remain post the application of the detailed and specific mitigation measures as set out in the relevant chapters of the EIAR and there is therefore no potential for in-combination effects from disturbance to SCI species during construction.

(iii) Loss of previously used ex-situ inland feeding site to other SCI species (excluding LBBG)

The Enviroguide NIS did not consider in-combination effects of the loss of previously used ex-situ inland feeding site to other SCI species (excluding LBBG). Nevertheless, I am satisfied that the applicant has demonstrated satisfactorily that the infrequent usage by these species in very small insignificant numbers over the survey periods before and after the change in mowing regime demonstrates that the loss of this ex-situ feeding site would not be significant enough

to affect the status of any of these species in the nearby SPAs for which they are SCI. Therefore, I am satisfied that there is no potential for in-combination effects from the loss of a previously used ex-situ feeding site to other SCI species (excluding LBBG)

(iv) Loss of a previously used ex-situ inland feeding site for LBBG

Refer to **Appendix A-C** for details

Findings and conclusions

Based on the information provided, I am satisfied that adverse effects arising from **construction-related surface water discharges** arising from the proposed development **can** be excluded for the following European sites:

- North Dublin Bay SAC (000206)
- South Dublin Bay SAC (000210)
- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)

No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent accidental pollution and ingress of silt laden surface water. I am satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented.

Based on the information provided, I am satisfied that adverse effects arising from **disturbance during construction** for the following special conservation species: **Oystercatcher (*Haematopus ostralegus*) [A130]**, **Black-tailed Godwit (*Limosa limosa*) [A156]**, **Curlew (*Numenius arquata*) [A160]**, **Black-headed Gull (*Chroicocephalus ridibundus*) [A179]** and **Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]**

can be excluded for the following European sites:

- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)

- Rogerstown Estuary SPA (004015)

No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described. I am satisfied that the mitigation measures proposed to prevent adverse effects have been assessed as effective and can be implemented.

Based on the information provided, I am satisfied that adverse effects arising from **potential loss of a previously used ex-situ site** for the following special conservation species: **Oystercatcher (*Haematopus ostralegus*) [A130]**, **Black-tailed Godwit (*Limosa limosa*) [A156]**, **Curlew (*Numenius arquata*) [A160]**, **Black-headed Gull (*Chroicocephalus ridibundus*) [A179]**

can be excluded for the following European sites:

- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Malahide Estuary SPA (004025)
- Rogerstown Estuary SPA (004015)

Based on the information provided, I am satisfied that adverse effects from the **proposed development alone, or in combination with other plans and projects** arising from potential loss of previously used ex-situ site for the following special conservation species: **Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]**

cannot be excluded for the following European sites:

- North Bull Island SPA (004006)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Baldoyle Bay SPA (004016)
- Malahide Estuary SPA (004025)
- Rogerstown Estuary SPA (004015)

The proposed development alone, or in combination with other plans and projects, **will not** adversely affect the integrity of North Dublin Bay SAC (000206) and South Dublin Bay SAC (000210) .

The proposed development alone, or in combination with other plans and projects, will adversely affect the integrity of North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015).
Reasonable scientific doubt
I am satisfied that reasonable scientific doubt remains as to the absence of adverse effects on five European sites: North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015).
Site Integrity
The proposed development will affect the attainment of the conservation objectives of • North Bull Island SPA (004006) • South Dublin Bay and River Tolka Estuary SPA (004024) • Baldoyle Bay SPA (004016) • Malahide Estuary SPA (004025) • Rogerstown Estuary SPA (004015) Adverse effects on site integrity cannot be excluded, and reasonable scientific doubt remains as to the absence of such effects.
Appropriate Assessment Conclusion: Integrity Test
(Note: to be included in the body of the inspector's report) In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015) in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required. Following an examination, analysis and evaluation of the NIS and all associated material submitted and taking into account observations of the Department of Housing, Local Government and Heritage and Birdwatch Ireland and the DCC Parks report prepared as part of the planning report for DCC , I consider that adverse effects on site integrity of the North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015 cannot be excluded in view of the conservation objectives of these sites and that reasonable scientific doubt remains as to the absence of such effects. Therefore, the precautionary principle has been adopted.

My conclusion is based on the following:

- There is reasonable scientific doubt that the proposed development alone, or in combination with other plans and projects will not affect the attainment of the conservation objective attributes of LBBG of “Distribution” and “Population Trend and their specific targets.

Appendix A-B

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics Case File: 315183-22	
Brief description of project	Mixed Use Development at lands east of St Paul's College, Sybil Hill Road, Raheny, Dublin 5
Brief description of development site characteristics and potential impact mechanisms	The proposed development site is primarily comprised of a greenfield site, with areas of hardstanding within the western area of the site created by a single storey building and private road. The proposed development site is approximately 6.6Ha and is bound to the north, east and south by St Anne's Park and to the west by residential development at The Meadows, Sybil Hill House and St Paul's College. The lands at the proposed development site were formerly managed as amenity grassland for playing pitches up until 2018, after which mowing ceased. The parklands to the east and south of the proposed development site consist of semi-natural habitat whilst the wider surrounding landscape is predominantly suburban/urban in nature. The proposed development consists of the construction of a residential and nursing home development set out in 7 no. blocks, ranging in height from 4-7 storeys to accommodate 580 no. apartments, residential tenant amenity spaces, a crèche and a 100-bed nursing home. Landscaping will include extensive communal amenity areas, and a public open space provision on the east and south of the site. Surface water runoff generated from the proposed development will be collected and attenuated on-site via various SuDS measures. It is proposed to drain surface water through the site via a series of sewers, ultimately discharging to the Naniken River via a new sewer and headwall. From the outfall point, the Naniken River flows for c. 1.4km downstream of the proposed development site and enters the "Duck Pond" in St Annes Park, prior to reaching the south lagoon of Bull Island. The lagoon forms part of North Dublin Bay SAC and North Bull Island SPA. The river then flows a further 1.9km until it passes under a wooden bridge and enters the Tolka Estuary (which forms part of the South Dublin Bay and River Tolka Estuary SPA). Foul water will connect into the existing foul sewer network which is treated at the Ringsend Wastewater Treatment Plant (WwTP) and ultimately discharged into Dublin Bay.
Screening report	Yes, prepared by Enviroguide Consulting, August 2022.
Natura Impact Statement	Yes, prepared by Enviroguide Consulting, August 2022. In 2017, Scott Cawley Ltd prepared an NIS in connection with a previous development application made by the current applicants at the same site. The Scott Cawley NIS is included as Appendix I to the Enviroguide NIS submitted in support of the present application.

Relevant submissions	Department of Housing, Local Government and Heritage submission to Dublin City Council 17 October 2022 Birdwatch Ireland (BWI) submission to An Bord Pleanála (now An Coimisiún Pleanála) 20th December 2022. Applicant's appeal An Bord Pleanála (now An Coimisiún Pleanála) 29th November 2022 Applicant's response to An Coimisiún Pleanála (ACP) regarding BWI submission 29th August 2025 Applicant's response to ACP 14th October 2025
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**Screening for Appropriate Assessment
Test for likely significant effects**

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

The European sites within the zone of influence of the proposed development site are considered below. The applicant AA Screening document initially included a preliminary screening of all European sites (16 in total) within a 15km radius of the project. I have taken into account the nature, size and location of the proposed development site, potential pathways, the sensitivities of the ecological receptors and potential for in-combination effects when considering the specific zone of influence of this proposed development. There are nine European sites that were initially examined in the applicant AA Screening document which I have not listed in the table below, as I consider they are not within the zone of influence for the following reasons:

- they have no hydrological connection to the proposed development site; or
- there is a significant marine buffer between the proposed development site and these European sites; or
- the distances between the proposed development site and these European sites are sufficient to exclude the possibility of significant effects (such as emissions/disturbance during all project phases); or
- the proposed development site does not provide significant ex-situ habitat for qualifying interest (QI)/Special Conservation Interest (SCI) species for those European sites.

The applicant AA screening document subsequently identified seven out of the 16 European sites which had a source pathway receptor linkage to the proposed development site. I have considered these seven European sites in the table below. I have also considered the North-West Irish cSPA in the table below as this site was designated (2023) after the planning application was submitted (2022) and was therefore not included in the original applicant AA Screening document.

I note the applicant AA screening document screened in six sites and screened out South Dublin Bay SAC (000210), however this site was included in the applicant NIS (Enviroguide NIS) in relation to construction related surface water discharges (See Section 6.1 (pg 35), Section 7.5 (pgs 82-83) and Section 8.2 (pg101) of Enviroguide NIS. I note that South Dublin Bay SAC (000210) was screened in the earlier 2017 Scott Cawley NIS (which is included as Appendix I to the Enviroguide NIS submitted in support of the present application). I have therefore also considered South Dublin Bay SAC (000210) in the table below.

European Site (code)	Qualifying interests Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
North Dublin Bay SAC (000206)	• Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritima</i>) [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • <i>Petalophyllum ralfsii</i> (Petalwort) [1395] Sources: NPWS (2013) Conservation Objectives: North Dublin Bay SAC 000206. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf S.I. No. 524/2019 - European Union Habitats (North Dublin Bay Special Area of Conservation 000206) Regulations 2019	1.1km (as crow flies. Greater hydrological distance)	Indirect hydrological connection via surface water discharge into Naniken River during construction and operation phases. The Naniken River flows into the south lagoon of North Bull Island and ultimately into Dublin Bay. Indirect weak hydrological connection via foul discharges from Ringsend WwTP into Dublin Bay during operational phase.	Yes
European Site (code)	Qualifying interests Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N

South Dublin Bay SAC (000210)	• 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] Sources: NPWS (2013) Conservation Objectives: South Dublin Bay SAC 000210. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf S.I. No. 525/2019 - European Union Habitats (South Dublin Bay Special Area of Conservation 000210) Regulations 2019.	3.5km (as crow flies. Greater hydrological distance)	As above for North Dublin Bay SAC: Indirect hydrological connection via surface water discharge and indirect weak hydrological connection via foul discharges.	Yes
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
North Bull Island SPA (004006)	• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]	1.1km (as crow flies. Greater hydrological distance)	Previous use of proposed development site as an ex-situ site by some qualifying interest species from nearby SPA sites. As above for North Dublin Bay SAC: Indirect hydrological connection via surface water discharge and indirect weak hydrological connection via foul discharges.	Yes

	- Shoveler (<i>Spatula clypeata</i>) [A857] - Wetland and Waterbirds [A999] Sources: NPWS (2015) Conservation Objectives: North Bull Island SPA 004006. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004006.pdf S.I. No. 211/2010 - European Communities (Conservation of Wild Birds (North Bull Island Special Protection Area 004006)) Regulations 2010.			
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
South Dublin Bay and River Tolka Estuary SPA (004024)	- Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] - Oystercatcher (<i>Haematopus ostralegus</i>) [A130] - Ringed Plover (<i>Charadrius hiaticula</i>) [A137] - Grey Plover (<i>Pluvialis squatarola</i>) [A141] - Knot (<i>Calidris canutus</i>) [A143] - Sanderling (<i>Calidris alba</i>) [A144] - Dunlin (<i>Calidris alpina</i>) [A149] - Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] - Redshank (<i>Tringa totanus</i>) [A162] - Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] - Roseate Tern (<i>Sterna dougallii</i>) [A192] - Common Tern (<i>Sterna hirundo</i>) [A193] - Arctic Tern (<i>Sterna paradisaea</i>) [A194] - Wetland and Waterbirds [A999] Sources:	1.3km (as crow flies. Greater hydrological distance)	Previous use of proposed development site as an ex-situ site by some qualifying interest species from nearby SPA sites. As above for North Dublin Bay SAC: Indirect hydrological connection via surface water discharge and indirect weak hydrological connection via foul discharges.	Yes

	NPWS (2015) Conservation Objectives: South Dublin Bay and River Tolka Estuary SPA 004024. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf S.I. No. 212/2010 - European Communities (Conservation of Wild Birds (South Dublin Bay and River Tolka Estuary Special Protection Area 004024)) Regulations 2010.			
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Baldoyle Bay SPA (004016)	• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Wetland and Waterbirds [A999] Sources: NPWS (2013) Conservation Objectives: Baldoyle Bay SPA 004016. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004016.pdf S.I. No. 275/2010 - European Communities (Conservation of Wild Birds (Baldoyle Bay Special Protection Area 004016)) Regulations 2010.	4.8km	Previous use of proposed development site as an ex-situ site by some qualifying interest species from nearby SPA sites.	Yes
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N

Malahide Estuary SPA (004025)	• Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Pintail (<i>Anas acuta</i>) [A054] • Goldeneye (<i>Bucephala clangula</i>) [A067] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Redshank (<i>Tringa totanus</i>) [A162] • Wetland and Waterbirds [A999] Sources: NPWS (2013) Conservation Objectives: Malahide Estuary SPA 004025. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004025.pdf S.I. No. 285/2011 - European Communities (Conservation of Wild Birds (Malahide Estuary Special Protection Area 004025)) Regulations 2011.	8.5km	Previous use of proposed development site as an ex-situ site by some qualifying interest species from nearby SPA sites.	Yes
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
Rogerstown Estuary SPA (004015)	• Greylag Goose (<i>Anser anser</i>) [A043] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130]	13.7km	Previous use of proposed development site as an ex-situ site by some qualifying interest	Yes

	• Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Redshank (<i>Tringa totanus</i>) [A162] • Shoveler (<i>Spatula clypeata</i>) [A857] • Wetland and Waterbirds [A999] Sources: NPWS (2013) Conservation Objectives: Rogerstown Estuary SPA 004015. Version 1. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004015.pdf S.I. No. 271/2010 - European Communities (Conservation of Wild Birds (Rogerstown Estuary Special Protection Area 004015)) Regulations 2010.		species from nearby SPA sites.	
European Site (code)	Qualifying interests/Special Conservation interests (SCI) Link to conservation objectives	Distance from proposed development (km)	Ecological connections	Consider further in screening Y/N
North West Irish Sea cSPA (004236)	• Red-throated Diver (<i>Gavia stellata</i>) [A001] • Great Northern Diver (<i>Gavia immer</i>) [A003] • Fulmar (<i>Fulmarus glacialis</i>) [A009] • Manx Shearwater (<i>Puffinus puffinus</i>) [A013] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Shag (<i>Phalacrocorax aristotelis</i>) [A018] • Common Scoter (<i>Melanitta nigra</i>) [A065] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] • Herring Gull (<i>Larus argentatus</i>) [A184]	3.98km (as crow flies. Greater hydrological distance)	Previous use of proposed development site as an ex-situ site by qualifying interest species from nearby SPA sites. As above for North Dublin Bay SAC: Indirect hydrological connection via surface water discharge and indirect	Yes

• Great Black-backed Gull (<i>Larus marinus</i>) [A187] • Kittiwake (<i>Rissa tridactyla</i>) [A188] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Guillemot (<i>Uria aalge</i>) [A199] • Razorbill (<i>Alca torda</i>) [A200] • Puffin (<i>Fratercula arctica</i>) [A204] • Little Gull (<i>Hydrocoloeus minutus</i>) [A862] • Little Tern (<i>Sternula albifrons</i>) [A885] Source: NPWS (2023) Conservation Objectives: North-west Irish Sea SPA 004236. Version 1 https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004236.pdf			weak hydrological connection via foul discharges.	
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Screening for Appropriate Assessment Test for likely significant effects
Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites The likely effects of the proposed development are primarily related to changes in water quality, disturbance and/or displacement of species and changes in population density. Refer to Section 3.5.2 of the applicant AA Screening report. Refer also to Table 2 (pg 25) of the applicant AA Screening report The project is not located within any European Site and therefore there will be no loss or alteration of habitat as a result of the proposed development. As there will be no direct habitat loss within any European Sites, no habitat fragmentation of any European Site will arise as a result of the proposed development. Refer to Section 3.5.2 of applicant AA Screening report. The effects are categorized in the table below as well as the sources of impact and likely significant effects. AA Screening matrix

Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 1: North Dublin Bay SAC (000206) See QIs listed above in Step 2.	No direct impacts. No works/emissions within SAC. Potential indirect negative impacts (temporary) on water quality in Dublin Bay via surface water discharge into Naniken River due to construction related emissions including increased sedimentation and construction related pollution. Potential negative impacts on water quality in Dublin Bay via treated foul discharges from Ringsend WwTP into Dublin Bay during operational phase.	Construction-related surface water discharges may have a negative effect on water quality of this SAC. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that such effects could be significant from the proposed development alone. Ringsend WwTP is currently undergoing a major upgrade which is substantially complete. Final completion is expected by end 2025. This will enable increasing volumes of wastewater arriving at the plant to be treated to the required standard. I am in agreement with the applicant that the potential for likely significant effects from treated foul discharges from Ringsend WwTP into Dublin Bay during operational phase is deemed negligible. Refer to the applicant AA Screening report.
	Likelihood of significant effects from proposed development (alone): Yes, via construction related surface water discharges into Dublin Bay.	
Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 2: South Dublin Bay SAC (000210) See QIs listed above in Step 2	No direct impacts. No works/emissions within SAC. Potential indirect negative impacts (temporary) on water quality in Dublin Bay via surface water discharge into Naniken River due to construction related emissions	As I noted in Step 2 above, South Dublin Bay SAC (000210) was screened out in the applicant AA Screening document. However, it has been included in the applicant Enviroguide NIS in relation to construction related surface water discharges. Construction-related surface water discharges may have a negative effect on water quality of this SAC. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that such effects could be significant from the proposed development alone.

	including increased sedimentation and construction related pollution. Potential negative impacts on water quality in Dublin Bay via treated foul discharges from Ringsend WwTP into Dublin Bay during operational phase.	As above for North Dublin Bay SAC regarding foul discharges. Negligible effects.
	Likelihood of significant effects from proposed development (alone): Yes, via construction related surface water discharges into Dublin Bay.	
Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 3: North Bull Island SPA (004006) See SCIs listed above in Step 2	No direct impacts on SPA. No works/emissions within SPA. Potential indirect negative impacts (temporary) on water quality in Dublin Bay via surface water discharge into Naniken River due to construction related emissions including increased sedimentation and construction related pollution. Loss of a previously used ex-situ inland feeding site. Disturbance due to construction related emissions Potential negative impacts on water quality in Dublin Bay via treated foul discharges from	Construction-related surface water discharges may have a negative effect on the wetland habitat [A999] in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilize it. This may lead to the displacement of SCI species for this SPA. Refer to Section 3.5.2.3 and 3.5.2.4 of the applicant AA Screening report.. Permanent loss of previously used ex-situ inland feeding site that was of importance in the past to some of the SCI species of this SPA prior to change in grassland management. This may result in permanent displacement effects on those SCI species. Potential disturbance during construction may impact on some of the SCI species of this SPA who continue to use nearby sites. Refer to Section 3.5.2.4 of Applicant AA Screening report. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that the above effects could be significant from the proposed development alone. Refer to Section 3.5.2.5 of applicant AA Screening report.

	Ringsend WwTP into Dublin Bay during operational phase.	As above for North Dublin Bay SAC regarding foul discharges. Negligible effects.
	Likelihood of significant effects from proposed development (alone): Yes, via loss of a previously used ex-situ inland feeding site, via construction related emissions (leading to disturbance of SCI species adjacent to the development site) and via construction related surface water discharges into Dublin Bay.	
Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 4: South Dublin Bay and River Tolka Estuary SPA (004024) See SCIs listed above in Step 2	No direct impacts on SPA. No works/emissions within SPA. Potential indirect negative impacts (temporary) on water quality in Dublin Bay via surface water discharge into Naniken River due to construction related emissions including increased sedimentation and construction related pollution. Loss of a previously used ex-situ inland feeding site. Disturbance due to construction related emissions Potential negative impacts on water quality in Dublin Bay via treated foul discharges from Ringsend WwTP into Dublin Bay during operational phase.	Construction-related surface water discharges may have a negative effect on the wetland habitat [A999] in South Dublin Bay and River Tolka Estuary SPA as a resource for the regularly occurring migratory waterbirds that utilize it. This may lead to the displacement of SCI species for this SPA. Refer to Section 3.5.2.3 and 3.5.2.4 of the applicant AA Screening report.. Permanent loss of previously used ex-situ inland feeding site that was of importance in the past to some of the SCI species of this SPA prior to change in grassland management. This may result in permanent displacement effects on those SCI species. Potential disturbance during construction may impact on some of the SCI species of this SPA who continue to use nearby sites. Refer to Section 3.5.2.4 of Applicant AA Screening report. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that the above effects could be significant from the proposed development alone. Refer to Section 3.5.2.5 of applicant AA Screening report. As above for North Dublin Bay SAC regarding foul discharges. Negligible effects.

	Likelihood of significant effects from proposed development (alone): Yes, via loss of a previously used ex-situ inland feeding site, via construction related emissions (leading to disturbance of SCI species adjacent to the development site) and via construction related surface water discharges into Dublin Bay.	
Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 5: Baldoye Bay SPA (004016) See SCIs listed above in Step 2	No direct impacts on SPA. No works/emissions within SPA. Loss of a previously used ex-situ inland feeding site. Disturbance due to construction related emissions	Permanent loss of previously used ex-situ inland feeding site that was of importance in the past to some of the SCI species of this SPA prior to change in grassland management. This may result in permanent displacement effects on those SCI species. Potential disturbance during construction may impact on some of the SCI species of this SPA who continue to use nearby sites. Refer to Section 3.5.2.4 of Applicant AA Screening report. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that the above effects could be significant from the proposed development alone. Refer to Section 3.5.2.5 of applicant AA Screening report
	Likelihood of significant effects from proposed development (alone): Yes, via loss of previously used ex-situ inland feeding site and via construction related emissions (leading to disturbance of SCI species adjacent to the development site).	

Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 6:	No direct impacts on SPA. No works/emissions within SPA.	Permanent loss of previously used ex-situ inland feeding site that was of importance in the past to some of the SCI species of this SPA prior to change in grassland management. This may result in permanent displacement effects on those SCI species. Potential

Malahide Estuary SPA (004025) See SCIs listed above in Step 2	Loss of a previously used ex-situ inland feeding site. Disturbance due to construction related emissions	disturbance during construction may impact on some of the SCI species of this SPA who continue to use nearby sites. Refer to Section 3.5.2.4 of Applicant AA Screening report. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that the above effects could be significant from the proposed development alone. Refer to Section 3.5.2.5 of applicant AA Screening report
	Likelihood of significant effects from proposed development (alone): Yes, via loss of previously used ex-situ inland feeding site and via construction related emissions (leading to disturbance of SCI species adjacent to the development site).	
Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 7: Rogerstown Estuary SPA (004015) See SCIs listed above in Step 2	No direct impacts on SPA. No works/emissions within SPA. Loss of a previously used ex-situ inland feeding site. Disturbance due to construction related emissions	Permanent loss of previously used ex-situ inland feeding site that was of importance in the past to some of the SCI species of this SPA prior to change in grassland management. This may result in permanent displacement effects on those SCI species. Potential disturbance during construction may impact on some of the SCI species of this SPA who continue to use nearby sites. Refer to Section 3.5.2.4 of Applicant AA Screening report. Due to there being a potential risk of disturbance and/or displacement of SCI species; there is a degree of uncertainty as to whether this could lead to changes in population densities of such species. As such, the precautionary principle has been adopted. The possibility of significant effects cannot be ruled out without further analysis and assessment. I concur with the applicant's findings that the above effects could be significant from the proposed development alone. Refer to Section 3.5.2.5 of applicant AA Screening report
	Likelihood of significant effects from proposed development (alone): Yes, via loss of previously used ex-situ inland feeding site and via construction related emissions (leading to disturbance of SCI species adjacent to the development site).	

Site name Qualifying Interests (QI)	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Site 8: North West Irish Sea cSPA (004236) See SCIs listed above in Step 2	The North-west Irish Sea cSPA is an important resource for seabirds, that is, birds that travel into marine environments to obtain food. In considering the potential for significant effects on the North-west Irish Sea candidate SPA, based on objective information, I am satisfied the proposed development would not result in impacts of such magnitude that could undermine the conservation objectives set for this site. Notwithstanding that there is some uncertainty/ that potential for significant effects cannot be excluded for other SPAs listed above (e.g. South Dublin Bay and River Tolka Estuary SPA) due to construction-related pollution risks, any such risk in the marine environment would be rapidly dispersed and diluted to non-significant levels. Site specific conservation objectives have been set for the individual species listed for the cSPA, related to the marine environment. The development would not result in impacts that could affect conservation objectives related to population trends, cause disturbance of birds in the marine environment, their spatial distribution, forage distribution and abundance or cause barriers to access to the SPA or other ecologically important sites outside the SPA. The SPA is not designated for wetland habitats.	None
Likelihood of significant effects from proposed development (alone): No.		
Further Commentary / discussion (only where necessary)		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
Based on the information provided in the Applicant AA Screening report, based on the observations/submissions and based on my review of the conservation objectives and supporting documents, I conclude that it is not possible to exclude the possibility that proposed development alone would result significant effects on the following European sites: • North Dublin Bay SAC (000206) • South Dublin Bay SAC (000210) • North Bull Island SPA (004006) • South Dublin Bay and River Tolka Estuary SPA (004024) • Baldoyle Bay SPA (004016) • Malahide Estuary SPA (004025) • Rogerstown Estuary SPA (004015)		

from effects associated with the loss of a previously known ex-situ inland feeding site and/or via construction related emissions surface water discharges into Dublin Bay and/or via construction related emissions leading to disturbance of SCI species adjacent to the development site.

An appropriate assessment is required on the basis of the possible effects of the project 'alone'.

Further in-combination assessment with other plans and projects is not required at screening stage.

Proceed to AA.

Screening Determination [insert into Inspectors Report]

Significant effects cannot be excluded

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone will give rise to significant effects on 7 European Site(s): North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006), South Dublin Bay and River Tolka Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015) in view of the sites conservation objectives.

Appropriate Assessment is required.

This determination is based on:

- Permanent loss of a previously known potential ex-situ inland feeding site previously used by Special Conservation Interest (SCI) bird species from nearby European sites.
- Potential for construction related disturbance to SCI species using lands adjacent to the proposed development site.
- Hydrological pathway from the proposed development site to some European sites and potential for construction-related surface water discharges entering into Dublin Bay.
- The qualifying interests and conservation objectives of the European sites.

Appendix A-C: Assessment of loss of a previously used ex-situ feeding site for LBBG

1. Overall conclusion of Enviroguide NIS

The Enviroguide NIS & subsequent submissions/appeal by the applicant to ACP states that:

- No Light-bellied Brent Geese (LBBG) have been recorded within the proposed development site since 2017/2018. The site has been unsuitable for LBBG for six winters.
- LBBG are not site loyal to any one inland feeding site during the winter. This implies that LBBG recorded foraging at the St Paul's sites (including the St. Paul's school pitches and the site of the proposed development) are not significantly reliant on this site and are utilising St Paul's on a random basis as part of a wider network
- LBBG so called "displaced" as a result of the loss of ex-situ feeding habitat at St Paul's would simply be so "displaced" from one available site within a larger network of suitable sites
- LBBG are capable of relocating to different inland feeding sites following the loss or alteration of an existing site.
- LBBG utilise novel, as of yet un-used sites e.g. 15 Acres in Phoenix Park in 2020/21; likely in response to disturbance at some of their usual sites due to Covid 19 driven changes in human behaviour
- LBBG in Dublin currently only utilise a proportion of the total available network of ex-situ inland feeding sites;
- The NIS has determined beyond reasonable scientific doubt, that the loss of the previously used ex-situ inland feeding habitat at the site of the proposed development will not adversely impact on the conservation objective attributes of LBBG of "Distribution" and "Population Trend".
- This is concluded based on International, National and Local Population Trends which are trending to *stable or increasing* and the scientific evidence that the birds' distribution pattern has not been adversely impacted as they relocated successfully when the proposed development site became less than optimal for their use and that there is adequate additional ex-situ feeding habitat available to them to support both current and potentially increased populations.
- There is no significant decrease in the range, timing and intensity of use of areas by LBBG, other than that occurring from natural patterns of variation.

2. Overview of Conservation Objectives in relation to Special Conservation Interest (SCI) species

The proposed development has been assessed in context of the conservation objectives' attributes "population trend" and "distribution" and their specific targets for each SCI species of the five relevant SPAs. The attributes and targets are the same for all of the SCI species (including LBBG) in this case as follows:

Attribute	Measure	Target
Population trend	Percentage change	Long term population trend is stable or increasing

Distribution	Range, timing and intensity of use of areas	No significant decrease in the range, timing and intensity of use of areas by the SCI species, other than that occurring from natural patterns of variation
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3. Overview of Light Bellied Brent Goose (LBBG) wintering season in Dublin Bay

The High Arctic East Canadian nesting population of the Light Bellied Brent Goose (LBBG) migrates almost in its entirety to Ireland to spend the non-breeding seasons of the year in Ireland. After the northern sites of Lough Foyle and Strangford Lough which many geese move through in early Autumn, Dublin Bay is the most important site for LBBG in the Republic of Ireland. LBBG occurs in internationally important numbers in Dublin Bay and is included among the Special Conservation Interest (SCI) species for both the North Bull Island SPA, South Dublin Bay and River Tolka SPA, both within Dublin Bay. It is also an SCI species for Baldoyle Bay SPA, Malahide Estuary SPA and Rogerstown Estuary SPA.

The submission from Department of Housing, Local Government and Heritage (DHLGH) (dated 17 October 2022) to Dublin City Council, notes that LBBG traditionally fed on eelgrass species *Zostera angustifolia* and *Zostera noltii* and green algae in estuaries, and when a disease led to a die off of eelgrass in the early 20th century, LBBG numbers are believed to have declined significantly as a result. With protection from shooting, the numbers of LBBG recovered in the latter part of the century, and in the late 1970s geese began to feed on young cereal crops, and agricultural and amenity grasslands in various coastal areas of Ireland including Dublin, the geese always returning to estuaries to roost on the water overnight.

The DHLGH submission goes on to state that from late August, the LBBG fed in the intertidal areas of Dublin Bay. From November on they started grazing on the inland amenity grasslands, the proportion of the geese feeding on the inland grasslands increased through the winter, with by February no more than 25% of the LBBG being recorded feeding in intertidal areas of Dublin Bay. From March onwards, the geese switched back to mainly feeding in Dublin Bay and other estuarine areas. The DHLGH submission notes that Benson¹ found feeding on inland sites any further than 3km from their roost sites on the North Bull Island lagoons was discontinued during this spring period and she considered this might be explained by better spring grass growth close to the roosting site, the need to conserve energy prior to migration or possibly other factors.

4. Historical importance of proposed development lands for Light Bellied Brent Goose (LBBG) and LBBG usage of ex-situ inland feeding sites in Dublin

The importance of the proposed development site as an ex-situ inland feeding site for LBBG, historically, is outlined in the DHLGH submission and in the 2017 Scott Cawley NIS. The Scott Cawley NIS (2017) is included as Appendix I to the Enviroguide NIS submitted in support of the present application. I note that “St Paul’s” originally consisted of playing fields associated with St Paul’s

¹ Benson, L. (2009) Use of Inland feeding sites by Light-bellied Brent Geese in Dublin 2008-2009: a new conservation concern. Irish Birds 8: 563-570 (2009).

College. It was surveyed as one site in the earlier Scott Cawley NIS (2017). Section 7 of the Enviroguide NIS notes that it was later divided into two distinct sub-sites (thereafter referred to collectively as “St Pauls”) for subsequent winter bird surveys from 2018/19 onwards as the management of the development lands changed when regular mowing ceased:

- St Pauls School Pitch – maintained as playing pitch (c. 1.4ha)
- Development lands – area of grassland occupying fenced-off area (c. 6.4ha)

The DHLGH submission notes that by the mid-1980s LBBG were being regularly reported as grazing in St Anne’s Park, a term that as then used by observers would have included St Paul’s. The DHLGH submission also notes that the St Anne’s/St Paul’s site was one of the earliest inland/terrestrial (non-estuarine) areas to be used by the geese, but subsequently they began feeding on amenity grassland in parks, football pitches and school grounds much further away from the coast. The DHLGH submission also notes that by the winter season of 2008/09 when Benson surveyed the LBBG usage of inland sites in Dublin, she identified 60 terrestrial feeding sites being used by the geese spread as far inland as Ballyfermot, Dolphins Barn and Tymon Park on the southside of the site, and Ashtown and Tolka Valley Park on the northside. The DHLGH submission notes that the St Annes/St Pauls site remained “*one of the most important terrestrial foraging areas for the geese*”, that the highest count of geese at an inland site over the 2008/09 winter period was of 1450 birds at St Anne’s Park and notes that it represented almost a third of the peak number of LBBG recorded during the I-WeBs over that 2008/09 winter².

In 2017, Scott Cawley Ltd prepared an NIS in connection with a previous application made by the current applicants for a residential development on the proposed development site (also referenced as “St Pauls”). The Scott Cawley NIS (2017) is included as Appendix I to the Enviroguide NIS submitted in support of the present application. The Scott Cawley NIS (2017) presents the results and analyses of counts of the LBBG occurring on the former St Paul’s site, in the North Bull Island SPA and other inland feeding sites used by the geese carried out by these consultants over the 2015/2016 and 2016/2017 wintering seasons. Counts of geese by the Irish Brent Goose Research Group (IBGRG) were also included in the analyses presented in the Scott Cawley NIS, as well as records of sightings of colour ringed LBBG at the former St. Paul’s site and other sites used by the geese recorded by the IBGRG and during the survey work carried out by Scott Cawley. I note that in the counts undertaken by Scott Cawley, the St Paul’s site was counted separately from St Anne’s Park.

The Scott Cawley surveys and statistical analysis demonstrated that LBBG use a network of sites (132) across Dublin and that there appears to be variation on usage of sites. The Scott Cawley NIS (pg 84) reported that factors which appear to make sites more suitable than others include distance

² Boland, H. and Crowe, O. (2012) Irish Wetland Bird Survey: Waterbird Status and Distribution 2001/02 – 2008/09 Birdwatch Ireland

to other nearby known inland feeding sites, average sward height, percentage of bare ground/grass cover. Potential disturbance impacts were also noted as a factor.

Section 7.3 (pgs 39-40) of the Scott Cawley NIS discusses the usage of St Pauls by LBBG during the 2015/16 and 2016/17 winter surveys. The results illustrate that the geese visited the site frequently and in large numbers (+401) between the months of November to March. The results also illustrate the variation in peak counts of geese within the same season and between the two seasons over the two winter survey periods.

Table 4 (pg 50) of the Scott Cawley NIS presents the peak counts (and other related information) for each surveyed known inland feeding site based on all data available including the seasons between 2012/13-2016/17. Levels of site importance were assigned based on peak counts. “Major” importance is defined as +401 geese which equates to just over 1% of the international/ flyway LBBG population. The St Pauls site was assigned “major” importance for all five seasons between 2012/13-2016/17. The St Annes site achieved major importance for four out of the five seasons between 2012/13-2016/17s. The high numbers demonstrate the historical importance of both the St Annes/St Pauls sites for LBBG up to the 2016/17 survey season.

The St Pauls site was included in the Scott Cawley NIS as one of the *eight most important ex-situ inland feeding sites* located within the existing network of known sites for the 5 seasons (2012/13-2016/17) as presented in Table 6 (pg 55) of the Scott Cawley NIS based on the consistently large numbers recorded. Section 7.4.3 (pg 53 of the Scott Cawley NIS) states that the distance between these eight most important sites and the nearest SPA (i.e. either North Bull Island SPA or Baldoyle Estuary SPA) is between 0km and 2.08km. Refer also to Table 6 (pg 55) of the Scott Cawley NIS. I note the distances from the St Pauls and St Anne Park sites to the North Bull Island SPA are 1.12km and 0km respectively. North Bull Island is a major roost site for LBBG. In the winter of 2015/16, the Ardscoil Ris site had the highest number of geese (820) whilst St Pauls had the second highest (867). In the winter of 2016/17, St Pauls had the highest number of geese (1530) whilst the Santry River/Springdale Rd site had the second highest (1017). Peak counts for St Annes were 460 and 700 respectively. See below.

	Distance to nearest SPA (km)	2016/2016 peak counts	2015/2016 peak counts
St Pauls	1.12	1530	820
Ardscoil Ris	0.78	770	867
Santry River/Springdale Rd	1.67	1017	700
St Annes Park	0	700	460

Linkages with SPAs

Section 8.1 (pgs 59-60) of the Scott Cawley NIS investigates the relationship between the North Bull SPA and inland feeding sites by LBBG. It demonstrated that the LBBG of North Bull Island SPA use a network of inland feeding sites across Dublin, including St Pauls. The data also indicated most usage of St Pauls – of the 359 ringed geese identified at the St Paul’s site, 346 (circa 96%) were also recorded in the latter SPA. Usage of St. Paul’s by LBBG identified occurring in the South Dublin Bay and River Tolka Estuary SPA Baldoyle Bay SPA, Malahide Estuary SPA and Rogerstown Estuary SPA was also recorded (Refer to Section 8.1 (pg 60) of the Scott Cawley NIS).

Reduction in usage of St Pauls and St Annes Park sites by LBBG from 2018 onwards

As noted in the DHLGH submission and in the Enviroguide NIS (Section 7 pg 40), in August 2018, the management of section of the former St. Paul's College grounds (6.4 ha) which had been purchased by the applicants and which is the subject of the present application, was altered; the mowing of this area to maintain it as an amenity grassland used for pitches ceased and the grass on it was allowed to grow up long and rank. A smaller area (1.4 ha) retained by St. Paul's College (referred to as St Pauls school pitch) continued to be maintained as amenity grassland used for sports pitches.

As noted above, the St. Paul's site had been counted as single unit in the surveys carried out by Scott Cawley, but in subsequent bird survey work undertaken by Enviroguide Consulting over the 2018/2019, 2019/2020, 2020/2021 and 2021/2022 seasons and presented in the NIS by this consultancy firm submitted in support of the present application, the development site and the retained St Pauls school pitch area were counted separately. Enviroguide Consulting in addition carried out surveys of a network of a total of 149 other inland sites in Dublin identified as feeding areas for LBBG over the November-April period in 2018/2019, 2019/2020, 2020/2021 and 2021/2022. As well as counts of geese, the code numbers of any colour ringed birds present on these sites were recorded during the survey work.

Based on the analysis of counts of numbers of LBBG occurring at the St Pauls site and other sites in Dublin and based on the re-identification of individual colour ringed geese during these counts, the Enviroguide NIS makes the case that the proposed development will not result in any adverse effects on LBBG.

Table 2 (pgs 41-42) of Section 7.1 of the Enviroguide NIS presents the results of the surveys at the St Pauls sites. It demonstrates that no LBBG were recorded at the development site in the four years 2018/19 up to 2021/22 (pgs 59-60) and that the numbers at the adjacent St Pauls school pitch area reduced from 480 in 2018/19 to 0 by 2021/22. Page 42 of Section 7.1 of the Enviroguide NIS notes that *"it is considered this is due to the change in management of the proposed development site during the 2018/19 season, which rendered this area unsuitable for feeding LBBG"*. It is clear from the results that LBBG have been displaced from the St Pauls sites since the change in mowing management in 2018. The site has been unsuitable for LBBG for six winters. The DHLGH submission suggests that unsuitability could probably be reversed with a change of their management back to amenity grassland.

Usage at the St Annes Park site was as follows: 0 in 2018/19, 180 in 2019/2020, 395 in 2020/21 and 12 in 2021/22 as presented in Table 4 of the Enviroguide NIS (pg 53). Section 7.2.3 Enviroguide NIS suggests that the low LBBG numbers at St Annes Park in 2021/22 may have been due to increased usage by people due to the Covid 19 restrictions.

5. LBBG Site loyalty and use of sites as part of a wider network

Section 7.2.1 (pg 48) of the Enviroguide NIS, states that of the 149 sites, considered to be the current network of available ex-situ inland feeding sites in Dublin where records of feeding LBBG exist, LBBG have been directly recorded at a total of 95 over the last six seasons of wintering bird surveys. The peak counts of these 95 sites are presented in Table 4 (pg 50) of the Enviroguide NIS. The Enviroguide NIS submits that an analysis of the number of sites that supported peak counts over 350 and 400 birds shows there has been little or no change in the six years surveyed and (Table 5, page 57) and that this demonstrates that birds were using a similar number of ex-situ feeding sites in

similar numbers both before and after the St Pauls sites were available to them. It also states that the actual sites being used varied between years and within individual years. It also submits that a large new ex-situ feeding resource emerged in the Phoenix Park (15 Acres), with several observations of 1000-2000 geese in 2021 and therefore this means that LBBG can utilise novel, as of yet un-used sites.

Based on the surveys carried out, the Enviroguide NIS submits that LBBG are not site loyal to any one inland feeding site during the winter, implying that LBBG recorded foraging at the St Paul's sites are not significantly reliant on this site and are utilising St Paul's on a random basis as part of a wider network. However, this does not explain why LBBG were regularly using the St Pauls site in high numbers for 5 consecutive seasons (2012/13-2016/17). From my review of the documentation, it is clear that LBBG are utilising a network of inland feeding ex-situ sites, however, this does not lessen the importance of a single individual site. Statistical analysis was not undertaken to determine if some sites (including St Pauls) are more important to LBBG than others or whether site usage is completely random. Statistical analysis could have been used on the available data to compare site usage in relation to numbers of geese recorded at different sites over the same winter season or at the same site over different seasons or in relation to the records of re-sighted colour ringed geese. Distance to SPAs or roost sites for each site was also not considered. Habitat quality, levels of disturbance recorded, use of site during tidal cycle and frequency of use could all have been analysed to compare site usage to determine whether some sites (including St Pauls) are more important to LBBG than others.

The Enviroguide NIS submits that LBBG so called "displaced" as a result of the loss of ex-situ feeding habitat at St Paul's would simply be so "displaced" from one available site within a larger network of suitable sites. It also submits that LBBG are capable of relocating to different inland feeding sites following the loss or alteration of an existing site. 64 colour-ringed LBBG identified using the St Pauls site were re-identified during the Enviroguide surveys at other inland site. The NIS therefore argues that there is little fidelity by the LBBG to a particular site. No evidence is presented in the Enviroguide NIS as to whether the usage of the North Bull Island SPA by LBBG changed after they lost their feeding grounds at the proposed development site even though the Scott Cawley analysis found that 96% of the colour ringed geese using St Pauls were also identified as occurring in this SPA. The DHLGH submission notes that whilst the Enviroguide analysis demonstrated that 64 (out of 359) of the colour ringed geese using St Pauls were recorded at other sites, no discussion is provided as to why the other colour ringed geese were not re-identified and whether the failure to re-identify them reflects sampling methodology or the mortality of individual geese as a result of the passage of time or whether it could reflect a decrease in geese numbers as a result of the loss of the feeding grounds at the proposed development site.

Based on the above, I consider that the data provided in the Enviroguide NIS is insufficient to support such a conclusion that:

- LBBG recorded foraging at the St Paul's sites were not significantly reliant on this site and were utilising St Paul's on a random basis as part of a wider network.
- LBBG so called "displaced" as a result of the loss of ex-situ feeding habitat at St Paul's would simply be so "displaced" from one available site within a larger network of suitable sites
- LBBG are capable of relocating to different inland feeding sites following the loss or alteration of an existing site.

15 Acres site in Phoenix Park

The Enviroguide NIS submits that LBBG utilise novel, as of yet un-used sites e.g. 15 Acres in Phoenix Park in 2020/21. Both the DHLGH submission and DCC Parks report suggest that the 15 Acres site in Phoenix Park do not offer as suitable grazing to the geese as is available on other sites and that they only diverted to this site due to increased disturbance arising elsewhere from Covid. On the basis of the information presented, I agree with DHLGH submission and DCC Parks report.

LBBG use of the wider network and in-combination effects

Section 7.2.2.5 of the Enviroguide discuss the usage of the network of ex-situ sites by LBBG. It submits that of the 149 known inland sites, the highest level of annual usage in the last six seasons was 90 sites (60%). It submits that at least 40% are not used in any particular year and therefore an excess area of potential feeding habitat is available to LBBG. However, this analysis assumes that all 149 sites are of equal importance, that the geese use sites on a random basis and that the sites are suitable for the geese for the entire period that inland feeding sites are used. It does not take into account variables such as disturbance by humans/dogs, site size, levels of usage by the geese in particular seasons or parts of seasons. The BWI submission states that *“the presence of a species – i.e. occupying a habitat patch for example – is different from habitat choice. Thus, the wider range of sites are utilised out of necessity rather than choice – they are functional (provide food) but they may carry disadvantages that make them sub-optimal”.....such as poor resources... poor access to resources.... And/or be more energetically costly to visit..... in this population we know that population trend is driven mostly by variation in productivity. It follows that the loss of a favoured (optimal) selected feeding areas may thus have particular negative consequences for this population”*. Therefore, I consider that the data provided in the Enviroguide NIS is insufficient to support such a conclusion that there is an excess of sites available to the geese.

The in-combination effects of loss of inland feeding sites are presented in Section 7.6.1 of the Enviroguide NIS. The planning status of Priority 1³ ex-situ sites (totalling 71) is presented in Table 14 of Section 7.6.1. Section 7.6.1 identifies 8 sites (including the proposed development) which will/have been lost. It submits that the loss of these 8 sites is not significant in respect of the overall network given that 40% of the “capacity” is unused in any given year. However, this analysis of just “numbers” of sites used in any given winter season is not scientifically robust. The analysis could have taken into account foraging resources at each site, site size, zoning, disturbance levels etc. All sites may not be suitable all of the time. I am not satisfied that in-combination effects has been assessed adequately in the NIS.

6. Population trends of Light-Bellied Brent Geese (LBBG)

Note the classification scheme to describe long-term trends is as follows:

- Greater than -1% - stable or increasing
- Between -25% and -1% - intermediate decline

³ Priority 1 sites are defined in Section 5.2.2.1 (pg 22) of the Enviroguide NIS as “sites which had records of LBBG in ≥ 3 of the six seasons and/or in internationally important numbers (i.e. greater than the 1% international population estimate of 400)”.

- Between – 50% and -25% - moderate decline
- Lower than -50% - large decline.

The target for the LBBG population trend attribute is “*long term population trend stable or increasing*”.

National and International LBBG Trends

Section 7.3.3 of the Enviroguide NIS discusses international LBBG trends whilst 7.3.2 discusses the long-term national trends that were available at the time of NIS preparation. Section 7.3.2 states that the long-term population trend (20yrs) (1994/95 – 2015/16) is increasing as follows:

“Based on the results of the Irish Wetland Bird Survey from the period 1994/95 to 2015/16, the overall trend of Light-bellied Brent Geese in Ireland is given as “increasing” (Burke et al., 2018b). The long-term mean annual change in the population of Light-Bellied Brent Geese from the period 1994/95 to 2015/16 is +4.82%. Results from the period 2011/12 to 2015/16 show a short-term mean annual change in the population of -16.52% (Burke et al., 2018b).

I have reviewed Burke et al., 2018b⁴. It notes that whilst LBBG have undergone a mean annual increase of 4.82% since 1994/95 and that numbers of LBBG are significantly higher than they were when I-WeBS began in 1994/95, dramatic increases resulting from good breeding seasons have been moderated by almost complete breeding failure every third year or so, and LBBG have undergone a short-term decline of -16.5% as a result. This point is also acknowledged in Section 7.3.2 of the NIS.

Section 7.3.2 of the NIS states the results of the Irish Wetland Bird Survey (IWeBS) (2009/10 – 2015/16) (Lewis et al., 2019⁵), showed that “historically LBBG have increased by 75.1% since the 1980’s, with a 20-year increase of 96.1%. Despite this increase, the 5 and 10-year trends are negative with a -10.2% decline over the previous 10 years and a -15.5% decline over the past 5 years up to the time of this IWeBS assessment.”

The Lewis et al (2019) report provides a single comprehensive account on the population status of wintering waterbirds and their key sites in the Republic of Ireland for the period 2009/10 – 2015/16.

Figure 8 of Section 7.3.2 of the NIS then goes on to present the updated national waterbird trends based on I-WeBS data published in Kennedy et al (2022)⁶. This provides analysis of I-WeBS data for the period 2009/10 – 2018/19 as follows:

⁴ Burke, B., Fitzgerald, N. & Lewis, L. (2018b). Irish Wetland Bird Survey: Results of Waterbird Monitoring in Ireland in 2015/16. BirdWatch Ireland.

⁵ Lewis, L. J., Burke, B., Fitzgerald, N., Tierney, T. D. & Kelly, S. (2019) Irish Wetland Bird Survey: Waterbird Status and Distribution 2009/10-2015/16. Irish Wildlife Manuals, No. 106. National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, Ireland

⁶ Kennedy, J., Burke, B., Fitzgerald, N., Kelly, S.B.A., Walsh, A.J. & Lewis, L.J. 2023. Irish Wetland Bird Survey: I-WeBS National and Site Trends Report 1994/95 – 2019/20. BirdWatch Ireland Waterbird Report to the National Parks and Wildlife Service. BirdWatch Ireland, Wicklow. (https://birdwatchireland.ie/app/uploads/2023/08/iwebs_trends_report.html)

- 23yr trend (1995/96-2018/19): +93.3%
- 12 yr trend (2006/07-2018/19): +1.2%
- 5 yr trend (2013/14-2018/19): -11.2%

I have examined Lewis et al (2019) and Kennedy et al (2022). These are the latest I-WeBs data and the national trends as presented in the NIS are correct. The latest long-term trend at a national level is “*stable or increasing*” however it is experiencing an intermediate decline (-11.2%) in the short term.

I note that the grassland management at the proposed development site did not change until after August 2018, so the loss of this ex-situ site does not influence the population trend data as presented in Lewis et al (2019). The population trend data as presented in Kennedy et al (2022) includes data up to the winter of 2018/19.

I-WeBs data for the period 2019/2020 – 2024-2025 has not yet been published.

Section 7.3.2 of the NIS notes that a record count of LBBG was recorded in 2021 by BWI of birds in Dublin Bay totalling 7300 individuals which exceeds the peak for the period 2009-2016. Section 7.3.2 of the NIS submits that this shows that there has been no reduction in population since the loss of the proposed development site. However, the BWI submission suggests that a large one-off count at a single site could occur for a variety of reasons including weather etc.

Site Level Trends

The Scott Cawley NIS found that 98% of the colour ringed geese identified on the proposed development site during their surveys were also identified as occurring in the North Bull Island SPA. Both the DCC Parks report and DHLGH submission noted that no information was presented in the NIS as to any recorded trends in population in the North Bull Island SPA, or in the adjacent South Dublin Bay and River Tolka Estuary SPA or the three north Dublin estuarine SPAs where smaller numbers of colour ringed LBBG identified by Scott Cawley as using the proposed development site were recorded.. The DCC Parks report references (Kennedy et al 2022) which show that while the long (23 yr) and medium (12 yr) term trends are positive, the short-term trend of the Dublin Bay LBBG population is for decline.

In its appeal response, the authors of the NIS do not comment on the Dublin area SPA site specific trends. They re-state that the short-term national trend of LBBG is for decline and this is recognised in Section 7.3.2 of the NIS. They also state that the “*trends cited in the NIS (7.2.3 and 7.3.3) are the most recently available published National and International Trends and are sufficiently robust to enable the determination that the loss of a single ex-situ site (the site of the Proposed Development) has not and will not have any significant impact on LBBG in view of the Conservation Objective “Population Trend” which should be stable or increasing*”.

In its response to the BWI submission (Section 1.6), the authors of the NIS state: *“Although understandably it is very difficult to extrapolate whether the loss of a single ex-situ site has impacted on the population trend of a species, it is reasonable to suggest based on the best available data at the time of the preparation of the 2022 NIS that the conservation target of “long term population trend stable or increasing” for LBBG is being achieved and is not and will not be undermined by the Development in question”*.

I have examined Kennedy et al (2022). This was first published on 3rd April 2022 prior to the publication of the applicant NIS in August 2022. This report presents national and site trends for LBBG based on the data gathered by I-WeBS between 1994/95 to 2018/19 as presented below.

The long-term trend at a site level is *“stable or increasing”* for three out of four of the greater Dublin areas. The medium-term trend at a site level is *“stable or increasing”* for two areas and declining at the other two areas. The short-term trend at a site level is *“stable or increasing”* for one area and declining at the other three areas. Baldoyle is declining overall. See below

I-WeBS Dublin Bay Trends Report 1994/95 – 2019/20 (covers North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA)

- 23yr trend (1995/96-2018/19): +230% - **increasing**
- 12 yr trend (2006/07-2018/19): +22.2% - **increasing**
- 5 yr trend (2013/14-2018/19): -7% - **declining**

I-WeBS Baldoyle Bay Trends Report 1994/95 – 2019/20

- 23yr trend (1995/96-2018/19): -23% - **declining**
- 12 yr trend (2006/07-2018/19): -51% - **declining**
- 5 yr trend (2013/14-2018/19): -32.6% - **declining**

I-WeBS Broadmeadow (Malahide) Estuary Trends Report 1994/95 – 2019/20

- 23yr trend (1995/96-2018/19): +5.8% - **increasing**
- 12 yr trend (2006/07-2018/19): -38.9% - **declining**
- 5 yr trend (2013/14-2018/19): -32.1% - **declining**

I-WeBS Rogerstown Estuary Trends Report 1994/95 – 2019/20

- 23yr trend (1995/96-2018/19): +122% - **increasing**
- 12 yr trend (2006/07-2018/19): +18.6% - **increasing**
- 5 yr trend (2013/14-2018/19): +57.3% - **increasing**

Pressures and Threats to LBBG

Both the applicant and the DCC Parks report acknowledge that there are many factors which can affect population trends including factors associated with their summer breeding grounds as well as their wintering period in Ireland. However, Lewis et al (2019) lists the *“conversion from other land uses to housing, settlement or recreational areas”* as a medium threat to LBBG ex-situ inland feeding sites in Ireland. It was assigned a medium category due to the increasing pressure on ex-situ inland

feeding sites for housing, improving economy and lack of available space and highlights the importance of the ex-situ network for LBBG. It states “*Work by Scott Cawley consultants identified 117 terrestrial inland feeding sites used by PB in Dublin Bay, over 40% of which were used by peaks of over 400 geese and 8 of which were used by 400+ geese in each of the 5 seasons examined. This network of inland feeding sites is of huge importance to the Dublin Bay flock, particularly in the latter half of the winter*”. I note PB is the code used for LBBG in this report.

Based on my review of the available data, whilst the latest long-term trend (23-year trend up to 2018/19) at a national level is “*stable or increasing*”, it is experiencing an intermediate decline in the short term (5yrs). Declines in the short-term are also being experienced at three of the four Dublin sites including at Dublin Bay (note the Scott Cawley NIS found that 98% of the colour ringed geese identified on the proposed development site during their surveys were also identified as occurring in the North Bull Island SPA). The reasons for decline are complex. I consider that it is difficult to extrapolate whether the loss of a single ex-situ site has or has not impacted on the long term or short term population trend of a species especially given that mowing management changed at the site in 2018 and only data from 2018/19 has been included in the latest population trend analysis (from Kennedy et al 2022). Whilst a one-off record count of 7300 LBBG was recorded in 2021, I don’t think that a single count at a single site is sufficient to prove that the long-term trend (measured over a 20/23yr period) from 2019/20 onwards continues to be “*stable or increasing*”. Neither does it prove that the loss of a single ex-situ has or has not impacted on population trends to date.

In the absence of any more recent I-WeBs data since 2018/19, I consider that the short-term trends of decline and future threats to LBBG (i.e. conversion of ex-situ sites to other uses) need to be taken into account in the analysis.

Based on the above, I consider that the applicant has not demonstrated beyond reasonable scientific doubt, that the loss of the previously used ex-situ site alone will not adversely impact on the conservation objective attribute of LBBG of “*population trend*” for the five SPA sites from which the geese were identified as using the development site.

7. Site Zoning and relevance for SCI species

The network of ex-situ inland feeding sites used by SCI winter bird species of SPAs and their importance as foraging areas and supporting the SCIs of the SPAs has been acknowledged by Dublin City Council (DCC) and other Dublin local authorities in their Development Plans. They have acknowledged that the loss of these ex-situ sites, individually or cumulatively, has the potential to adversely affect these bird species. Protective policies and objectives have been incorporated into the various Development Plans to protect the network of ex-situ inland feeding sites.

The planning application was submitted to DCC on 6th September 2022. The NIS is dated August 2022. The DCC Development Plan 2016-2022 (hereafter referred to as 2022 Development Plan) was in effect at that stage.

The majority of the site of the proposed development, together with the adjoining St Paul’s College and the Vincentian Order in Sybil Hill House, was zoned objective **Z15** in the 2022 Development Plan “**To protect and provide for institutional and community uses**”. Under the zoning objective, the proposed residential use was *open for consideration*. Planning permission was refused by DCC on 28th October 2022. The DCC Development Plan 2022-2028 was adopted on 2nd November 2022 and came into effect on 14th December 2022. (hereafter referred to as 2028 Development Plan). A first party appeal was lodged with An Bord Pleanála (now An Coimisiún Pleanála) on 24th November 2022.

The majority of the development site is now zoned **Z9: Amenity/Open Space Lands/Green Network** under the 2028 Development Plan). This zoning has a protective function for the network of ex-situ inland feeding sites as discussed in the accompanying Natura Impact Report (NIR) of the 2028 Development Plan. Sections 6.6, 7.2.1 and Appendix II of the NIR discuss known ex-situ wintering bird inland feeding sites and protective policies as follows:

Section 6.6 of DCC DP 2022-2028 NIR (Page 47/48)

“Publicly available data and information (Benson 2009, Scott Cawley Ltd., 2017, Enviro Guide 2019) which is based on records compiled from the Irish Brent Goose Research Group, BirdWatch Ireland and survey data collected to inform research and planning applications, confirms that there is a network of ex situ inland feeding sites used by Qualifying Interest winter bird species of Special Protection Areas. The data is primarily focused on Brent Goose but also includes data on other Special Conservation Interest winter bird species such as but not limited to Black-Headed Gull, Lapwing, Golden Plover, Oystercatcher and Curlew. This network of ex-situ inland feeding sites provides foraging habitat outside of SPA boundaries but supporting their winter bird Special Conservation Interests. This network of winter bird ex-situ inland feeding sites comprises of sites of major, high and moderate importance (after Benson 2009).

The importance of these sites is given relative to flock sizes of geese (major importance site 401+ geese; high importance site 51-400 geese; and, moderate importance site 1-50 geese, after Benson (2009)).”

Section 7.2.1 Habitat loss, fragmentation and degradation (DCC DP 2022-2028 NIR (Pg 94)

*The proposed zonings in the Plan have been examined and assessed. The majority of sites previously surveyed and identified as ex-situ inland feeding sites are proposed for the zoning category **Z9 Amenity / Open Space Lands / Green Network**. There are aspects of this zoning category which provide a protective function to these sites as they will be retained as green amenity spaces. Notwithstanding this, development such as conversion of grass sports pitches to all weather surfaces and other urban development could give rise to direct impacts as well as a range of indirect impacts such as disturbance/ displacement either through construction, lighting or recreational activities”.*

Other zonings that coincide with sites within the network of ex-situ inland feeding sites include Z1, Z6, Z10, Z12, Z14 and Z15.

For these zoning types, permissible or open for consideration uses such as building residential and other development types, could give rise to direct impacts (i.e., loss of ex-situ inland feeding sites) as well as a range of indirect impacts, such as disturbance/displacement either through construction, lighting or recreational activities. Those European sites that could be affected by habitat loss, fragmentation and degradation as a result of the Plan are identified in Appendix I by virtue of implementation of objectives contained within the Plan and proposed zonings as outlined in Appendix II”

The Applicant was requested to provide further information pertaining to the NIR and to clarify how the proposed development, complies with the protective policies and objectives (including the zoning objectives set out therein) of the 2028 Development Plan, which protect the network of ex situ inland feeding sites in order to avoid or reduce the potential for impacts on the integrity of Natura 2000 sites.

The Applicant in its response states *“As set out in our previous submission to ACP, in response to a submission made by Birdwatch Ireland, site-specific survey data records no terrestrial grazing/foraging by LBBG on the lands since winter 2018/19, confirming unsuitability has persisted for six winters. Over the same period, population/ context indicators for Dublin Bay SPAs show no observable long-term adverse effect on population trends for LBBG. We rely on the best scientific knowledge reasonably available, and we present complete, precise and definitive findings to remove any reasonable scientific doubt. On the basis of complete, precise survey and population evidence provided in the 2022 NIS, there is no reasonable scientific doubt that the development in question will not adversely affect the integrity of the relevant SPAs in view of their Conservation Objectives”*.

8. Conclusion

No LBBG have been recorded within the proposed development site since 2017/2018. The site has been unsuitable for LBBG for six winters due to the lack of regular mowing regime. The DHLGH submission suggests that unsuitability could probably be reversed with a change of their management back to amenity grassland. However, the proposed development will result in the permanent removal of this site from the ex-situ land feeding network.

Prior to the change in grassland management, the site was very important for LBBG, it was used frequently and in high numbers by LBBG for many years. There was a very strong linkage between this site and the North Bull SPA roost. Insufficient analysis has been included in the NIS to demonstrate that these LBBG associated with the North Bull SPA roost have successfully relocated to other sites since 2018. I consider that there is reasonable scientific doubt that LBBG utilise St Pauls on a random basis as part of a wider network. I agree that LBBG utilise a wide network of inland feeding sites, however I consider that the importance of the St Pauls site has not been given due consideration. I also consider that there is reasonable scientific doubt that there is a reserve of inland feeding sites for geese. The factors which influence site usage have not been adequately investigated to back up the conclusion that LBBG utilise St Pauls on a random basis as part of a wider network

Given that the proposed development site is now zoned Z9, I do not consider that the applicant has demonstrated that the loss of this ex situ inland feeding site complies with the protective policies and objectives of the 2028 Development Plan which protect the network of ex situ inland feeding sites in order to avoid or reduce the potential for impacts on the integrity of Natura 2000 sites.

I consider that there is reasonable scientific doubt that the loss of this ex-situ inland feeding site will not adversely impact on long term population trend of “stable and increasing”.

I consider that the analysis presented by the applicant in the NIS (and in subsequent submissions) fails to provide robust scientific evidence based on compelling data analysis that the loss of the previously used ex-situ inland feeding site alone, will not have an adverse impact on the conservation objective attributes of LBBG of “*population trend*” and “*distribution*” for the five SPA sites from which the geese were identified as using the development site.

Therefore, based on the precautionary principle, I am satisfied that reasonable scientific doubt remains as to the absence of adverse effects on five European sites.

I consider that the proposed development alone, or in combination with other plans and projects, will adversely affect the integrity of North Bull Island SPA (004006), South Dublin Bay and River Tolka

Estuary SPA (004024), Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and Rogerstown Estuary SPA (004015

Appendix B: WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Coimisiún Pleanála ref. no.	ABP-315183-22	Townland, address	To the east of St. Paul's College Sybil Hill Road, Dublin 5
Description of project	Construction of 580 no. residential units (apartments), 100-bed nursing home, childcare facility and associated site works.		
Brief site description, relevant to WFD Screening,	Site is cleared of all structures, however, to facilitate this new access road it is proposed to demolish an existing pre-fab building associated with St. Paul's College.		
Proposed surface water details	SuDS measures to be used in the engineering and landscaping design. The routing of surface water discharge from the site via St. Anne's Park to the Naniken River and the demolition and reconstruction of existing pedestrian river crossing in St. Anne's Park with integral surface water discharge to Naniken River.		
Proposed water supply source & available capacity	Public Water Supply and which has an Orange – 'Potential Capacity Available – LoS improvement required' rating. This means Potential Capacity Available to meet 2034 population targets.		
Proposed wastewater treatment system & available capacity, other issues	Public foul drainage system and which has a Green rating – 'Spare Capacity Available'.		

Others?		N/A				
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
e.g. lake, river, transitional and coastal waters, groundwater body, artificial (e.g. canal) or heavily modified body.	105 metres - To the north of the site	Santry River_020 (IE_EA_09S011100)	Medium Confidence	Poor Value	N/A	Surface water run-off
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						

CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Site clearance & Construction	Santry River_020 (IE_EA_09S01 1100)	Indirect impact via Potential hydrological pathway	Water Pollution	Use of Standard Construction Practice and CEMP	No	Screen out at this stage.
2.	Foul Drainage during construction phase of the development	Santry River_020 (IE_EA_09S01 1100)	Indirect impact via Potential hydrological pathway	Water Pollution	Use of Standard Construction Practice and CEMP	No	Screen out at this stage.
OPERATIONAL PHASE							
1.	Surface Water Run-off	Santry River (IE_EA_09S01 1100)	Indirect impact via Potential hydrological pathway	Water Pollution	Several SuDS features incorporated	No	Screen out at this stage.

					into development		
DECOMMISSIONING PHASE							
1.	N/A	N/A	N/A	N/A	N/A	N/A	N/A