



An
Bord
Pleanála

Inspector's Report ABP-315292-22

Development	Demolition of buildings, construction of office buildings and all associated site works. Natura Impact Statement (NIS) submitted with application.
Location	Site of Canal House and Construction House, Canal Road, Dublin 6
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4027/22
Applicant(s)	Rimor Fortis Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Manus McClafferty Joseph Kearney
Observer(s)	None
Date of Site Inspection	25 March 2024
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The subject site is located on Canal Road (R111), which forms the southern side of the Grand Canal from Charlemont Bridge on the east to LaTouche Bridge at the west.
- 1.1.2. The site is occupied by two large empty office blocks: Canal House (T-shaped, part two, part 5-storey) and Construction House (five storey). A terrace of single storey over basement derelict cottages (2-6 Dunville Terrace) and a single storey over basement empty building (referred to in the Applicants Architectural Design Statement as no. 8 Dunville Avenue). This is currently in use as a bicycle repair shop.
- 1.1.3. There are three access points to the site: off Canal Road is a wide access with steps to a central area of part hardstanding, part landscaping providing access to both buildings. Further west (adjoining Ontario Terrace), also on canal road is the main vehicular entrance point to an undercroft car park. A further vehicular access exists at the rear (south-eastern corner) from Athlumney Villas, off Ranelagh Road.
- 1.1.4. The site extends westwards in a triangular section adjoining no. 14 Ontario Terrace. The western boundary of the site adjoins Ontario Terrace, a terrace of two-storey over basement Protected Structures and also Bannaville, a terrace of 8 no. single storey over basement villa-type dwellings which are accessed off Mount Pleasant Avenue. The southern boundary of the site adjoins a cul-de-sac Athlumney Villas. This narrow residential road has terraces of two-storey dwellings, an light industrial unit (motor shop) and a mews dwelling, all accessed off Ranelagh Road. The eastern boundary of the site has Hazelwood House in the northern most corner (fronting on to Canal Road) and the rear no.s 3-7 Ranelagh Road.
- 1.1.5. Ground levels in the wider area vary, with a 4m high boundary wall on the southern boundary (Athlumney Villas) and a low boundary wall with railing facing Ontario Terrace.

2.0 Proposed Development

- 2.1.1. On the 20th May 2022, planning permission was sought for the demolition of all structures on site (Canal House, Construction House, 2-6 Dunville Terrace and a single storey café, total 5,970sq.m.) and the construction of an office development

comprising two buildings: Block A (13,510sq.m., 5-8 floors) and Block B (2021sq.m. over 5 floors), 73 no. car spaces, 254 no. cycle spaces, landscaped plaza.

2.1.2. This was revised at Further Information stage to decrease car parking to 65 no. spaces, to increase bicycle spaces to 327 no. (from 287no.)

2.1.3. Other details provided in the application form include:

- Total site area: 5,016sq.m.
- Proposed new floor area: 15,591sq.m.
- Proposed demolition: 5970sq.m.
- Proposed plot ratio: 3.21, proposed site coverage 51%

2.1.4. In addition to the required plans and drawings, the application was accompanied by the following:

- Arborist Proposal and Arboriculture Report
- Architectural Design Statement
- Planning Report
- EIS Screening Report
- Traffic and Transport Assessment
- Mobility Management Plan
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Preliminary Construction Management Plan
- Landscape Design Report
- Landscape and Visual Impact Assessment
- Noise Impact Assessment Operational Phase
- Ecological Impact Assessment
- Stage 2: Appropriate Assessment – NIS
- Architectural Heritage Impact Assessment
- Daylight and Sunlight Assessment Results

- Operational Waste Management Plan
- Photomontage Report
- Development Construction Management Plan
- Sustainability Report
- Site Utility Services Report
- Site Lighting Report
- Invasive Alien Plant Species Management Plan

3.0 **Planning Authority Decision**

3.1. **Decision**

On the 16th November 2022, the Planning Authority issued a notification of their intention to GRANT permission subject to 12 no. standard conditions.

3.2. **Planning Authority Reports**

3.2.1. **Engineering Department:** No objection to the development subject to standard conditions.

3.2.2. **EHO:** three conditions recommended if permission is granted.

3.2.3. **Transportation Planning:** Both red and blue line boundaries include land owned and controlled by Dublin City Council. Works proposed by the applicant on these lands is not acceptable. 3m Wide public footpath required along Canal Road. No part of the basement can be located below the public footpath. Details of proposed access arrangements required. Applicant required to provide access to cycle parking by ramp, cycle facilities shall be on the same level as cycle parking. Revised car parking provision of maximum 52 no. spaces required. Recommendation to request additional information.

3.2.4. **Planning Report:** Proposed redevelopment of the site accords with NSO1 and NPO11. Insufficient information regarding demolition of Dunville Terrace structures. Plot ratio and site coverage are acceptable. Notes the inclusion of lands not within the applicants control within the red line boundary. Welcomes the proposed public plazas and improvements to the public realm. Modular approach to design and separation distances to adjoining residential properties considered appropriate. Breach of development plan recommendation of 28m is considered acceptable after

assessment against SPPR3. Visual impact considered acceptable, no additional overlooking, overshadowing or impact on sunlight will arise. Clarification required on red / blue line boundary and public footpath on Canal Road required. Additional information on access for vehicle and bicycle arrangements required. Excessive car parking proposed. Construction traffic access from Athlumney Villas not acceptable. Additional information required.

3.3. Prescribed Bodies

3.3.1. None on file.

3.4. Third Party Observations

3.4.1. Submissions on the proposed development object on the following grounds:

- Inappropriate design, excessive scale, height bulk and mass, architectural treatment, out of character,
- Not in accordance with development plan, excessive plot ratio, demolition of structures not warranted,
- No need for more office space, housing needed
- Loss of privacy, impact on overlooking, overshadowing and loss of daylight and sunlight, adverse impact on residential amenity
- Impact from noise, dust, construction, traffic, security, adverse impact on residential amenity
- Excessive car parking provision, impacts on traffic, generation of traffic, construction traffic
- Lack of detail – wind analysis, photomontages, physical model, ownership, OD datum,
- Loss of trees, impacts on climate action plan,

4.0 Further Information

4.1.1. On the 19th July 2022, the Planning Authority requested the applicant to address two items of Further Information – Planning and Transportation.

4.1.2. On the 20th October 2022, the applicant responded to the request with the following:

- Appraisal and Condition Survey, Written and Photographic Inventory, details of environmental and commercial sustainability of all buildings to be demolished
- Revised Photomontage Report
- Engineering drawings of ownership boundaries
- Revised basement proposal under Canal Road, Technical Note and drawings
- Reduction in car parking provision to 65 no.
- Revised proposal for cycle parking, details of access to cycle parking,
- Alternative servicing and waste collection arrangements to minimise the use of Athlumney Villas, technical note and engineering drawings
- New traffic management arrangements, technical note and engineering drawings, omission of use of Athlumney Villas for construction traffic

4.2. **Reports on File following Further Information**

- 4.2.1. **Transportation Department:** Proposed works do not extend into areas managed by Dublin City Council. Proposed basement revision is acceptable, a 2m wide footpath shall be required. Reduction in car parking and amendments to cycle provision are acceptable. Revised proposals for servicing and waste. No objection to the proposed development subject to 12 no. conditions.
- 4.2.2. **Planning Report:** Canal and Construction House are at the end of their serviceable life. Dunville Terrace structures are completely dilapidated. Demolition justified. Re. revised photomontages, sufficient views of summer and winter are acceptable. No further issues. Notes the approval of the Transportation Department and recommends a grant of permission subject to conditions.

5.0 **Planning History**

- 5.1.1. PL29S.229961: Permission for a mixed use scheme of office and residential in two blocks with an overall height of 7-storeys was refused for the following reasons:
1. Having regard to the height, scale and bulk of the proposed development, its location partly within a conservation area and to the pattern and scale of existing development adjoining and in the immediate vicinity of the site, it is

considered that the proposed quantum of new building, notwithstanding the amendments put forward with the grounds of appeal to An Bord Pleanála, would constitute overdevelopment of the site, which would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the scale and height of the proposed development, in particular the location of Block A (as extended) in relation to the houses at numbers 3-7 Ranelagh Road (protected structures) and the scale and proximity of Block C in relation to Ontario Terrace (protected structures), it is considered that the proposed development, notwithstanding the amendments put forward with the grounds of appeal to An Bord Pleanála, would be unacceptably overbearing and obtrusive in relation to these properties and would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.
3. Having regard to the height and proximity of the podium (as submitted with the planning application) in relation to Athlumney Villas, it is considered that the proposed development would seriously injure the amenities of those properties and would, therefore, be contrary to the proper planning and sustainable development of the area.

6.0 Policy Context

6.1. Project Ireland 2040: National Planning Framework

- 6.1.1. This national policy seeks to support the future growth and success of Dublin as Irelands leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. Enabling significant population and jobs growth in the Dublin metropolitan area, together with better management of the trend towards overspill into surrounding counties.
- 6.1.2. The NPF recognises that at a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 6.1.3. Of relevance to the subject application are the following:
 - **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs

- **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- **National Policy Objective 6:** Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

6.2. **Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018**

- 6.2.1. Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.
- 6.2.2. The first of the 10 National Strategic Outcomes in the National Planning Framework that the Government is seeking to secure relates to compact urban growth. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.
- 6.2.3. While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development.
- 6.2.4. **SPPR1:** In accordance with Government policy to support increased building height in locations with good public transport accessibility, particularly town / city cores,

planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.

- 6.2.5. **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

6.3. **Regional Strategic Economic Strategy – Eastern & Midland**

- 6.3.1. The Metropolitan Area Spatial Plan (MASP) for Dublin (as set out in Chapter 5 of the RSES) calls for increased employment densities within Dublin City and suburbs and at other sustainable locations near high quality public transport nodes, near third level institutes and existing employment hubs, and for the relocation of less intensive employment uses outside the M50 ring and existing built-up areas.

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

- 6.4.1. The subject proposal was assessed by the Planning Authority under the 2016-2022 City Development Plan. The 2022-2028 Dublin City Development Plan was adopted by Dublin City Council at a Special Council Meeting on 2nd November 2022 and came into effect on the 14th December 2022.
- 6.4.2. Under the 2022-2028 plan, the subject site retains a Z6 Employment / Enterprise zoning. The stated objective for Z6 zones is “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation”.
- 6.4.3. The northern band of the subject site falls within the Grand Canal Conservation Area.
- 6.4.4. The development plan (section 14.7.6) states that the primary objective for the Z6 zone is to facilitate long-term economic development in the city. Proposals for development of these lands should create a high quality physical environment; coherent urban structure; provide the opportunity to develop sustainable employment use; and, contribute to developing the strategic green network by providing green infrastructure, landscape protection, public open space and sustainable energy solutions. Office based industry is permitted in principle.

6.4.5. Chapter 6 of the development plan provides the following policies of note:

CEE1 Dublin's Role as the National Economic Engine: It is the Policy of Dublin City Council:

(i) To promote and enhance the role of Dublin as the national economic engine and driver of economic recovery and growth, with the city centre as its core economic generator.

(ii) To promote and facilitate Dublin as a creative and innovative city that is globally competitive, internationally linked, attractive and open.

(iii) To promote an internationalisation strategy building mutually-beneficial economic and other links with key cities globally to encourage investment and tourism in Dublin.

CEE2 Positive Approach to the Economic Impact of Applications To take a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth and also to deliver high quality outcomes.

6.4.6. **CEE8 The City Centre:** To support the development a vibrant mix of office, retail, tourism related and cultural activities in the city centre and to facilitate the regeneration and development of key potential growth areas such as the Diageo lands, the St. James's Healthcare Campus and Environs and the TU Dublin campus at Grangegorman.

6.4.7. It is the Policy of Dublin City Council:

CEE12 Transition to a Low Carbon, Climate Resilient City Economy To support the transition to a low carbon, climate resilient city economy, as part of, and in tandem with, increased climate action mitigation and adaptation measures.

CEE13 Towards a Green and Circular Economy To support the growth of the 'green economy' including renewable energy, retrofitting, and electric vehicles and charging infrastructure and to support the transition towards a circular economy in line with national policy and legislation.

CEE14 Quality of Place To recognise that 'quality of place', 'clean, green and safe', is crucial to the economic success of the city, in attracting foreign and domestic investment, and in attracting and retaining key scarce talent, residents and tourists.

- 6.4.8. It is the Policy of Dublin City Council: **CEE21 Supply of Commercial Space and Redevelopment of Office Stock** (i) To promote and facilitate the supply of commercial space, where appropriate, including larger office floorplates suitable for indigenous and FDI HQ-type uses. (ii) To consolidate employment provision in the city by incentivising and facilitating the high-quality re-development of obsolete office stock in the city.
- 6.4.9. **Section 15.14.4** Large scale office schemes, in excess of 5,000 sq. m., will be required to provide for an element of high quality, public open space or contribute to the public realm of the area through landscaped features such as roof terraces, courtyard gardens and enhanced amenity at street level. For schemes less than 5,000 sq. m, a high quality environment should be provided where feasible through measures such as landscaping and public realm enhancements. Such proposals should be accompanied by a landscape design report in this regard which demonstrates how the proposals contribute to the natural and built environment. As part of the Architectural Design Statement for larger office schemes, an assessment should be provided as to how the development would impact on other buildings in close proximity.
- 6.4.10. **Appendix 3 Achieving Sustainable Compact Growth Policy for Density and Building Height in the City:** All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3.

Performance Based Criteria: Successful urban living and the creation of a compact city is all about forming urban areas where people can live, work and play. The use of urban land must be optimised in terms of sustainable densities. This however, must be balanced with the provision of an appropriate mix and range of uses; scale and integration with surrounding areas; high quality public realm and green infrastructure; appropriate pedestrian, cycle and public transport connections as well as accessibility to community facilities and social infrastructure. A 'healthy placemaking' approach (see also Chapter 5) should be taken as the key focus of all higher density proposals.

The performance criteria to be used in assessing urban schemes of enhanced density and scale is set out in table 3. In proposing urban scale and building height,

the highest standard of urban design, architectural quality and placemaking should be achieved.

6.4.11. Chapter 11 Built Heritage and Archaeology

6.5. **Natural Heritage Designations**

- 6.5.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.2km to the east of the site.
- 6.5.2. The closest pNHA is the Grand Canal which lies approximately 50m to the north of the site, while the North Dublin Bay pNHA lies approximately 3.5km to the north east.

6.6. **EIA**

- 6.6.1. The applicant has submitted an EIA Screening report. The report states that the proposed development is considered sub-threshold having regard to Class 10(b)(iv) set out in Schedule 5, Part 2 of the 2001 Regulations. The proposed development does not require a mandatory EIAR as the site area is below the threshold of 2 hectares within a business district.
- 6.6.2. The report states that in order to assist the City Council in deciding of significant effects on the environment are likely to arise, the project is described under each of the three criteria in schedule 7 of the 2001 regulations.
- 6.6.3. The report provides a description of the development, nature of associated demolition works, details of the planning history of the subject site and surrounding area, the use of natural resources, the production of waste, pollution and nuisance nuisances and the risk of accidents, risk to human health, location of the proposed development, existing and approved land use, relative abundance, quality and regenerative capacity of natural resources in the area, the absorption capacity of the natural environment and the type and characteristics of potential impact.
- 6.6.4. The topics considered and assessed in the EIA screening report are: population, human health, biodiversity, land / soil/ water/ air/ climate, material assets / cultural heritage / landscape and finally the interaction between factors and cumulative impacts. In terms of the characteristics of potential impacts, the report states that the proposed development, when considered in conjunction with the in-combination

effects of other projects or plans, is not likely to have a significant effect on the environment. The conclusion of the report is that the proposed development does not exceed any of the thresholds outlined in the Planning and Development Regulations 2001, as amended, that would trigger a mandatory requirement to prepare an EIAR.

Screening

- 6.6.5. The site is comprised of existing buildings to be demolished and is largely surrounded by residential developments. Office use has been established on the site for many years and is supported by the zoning objective. The introduction of more office development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development will not increase the risk of flooding within the site. The development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The development is served by municipal drainage and water supply. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance.
- 6.6.6. As part of the application, the applicant submitted an Ecological Impact Assessment. One of the surveys undertaken for the report was a bat survey. No bats were identified emerging from or entering any tree or derelict cottage on site. Commuting bats identified along the Grand Canal mainline to the north west of the site where there are mature trees outside the site. The heavy illumination of the site was identified as a reason for the lack of commuting and forage activity on site.
- 6.6.7. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report.
- 6.6.8. Having regard to the nature, scale, and location of the proposed development, and the environmental sensitivity of the geographical area, I do not consider that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of

which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances and having regard to the criteria in Schedule 7 of the Regulations, I conclude that the proposed sub-threshold development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case.

7.0 The Appeal

7.1.1. Two third parties have appealed the decision of the Planning Authority to grant permission.

7.2. Grounds of Appeal Manus McClafferty, 8 Ontario Terrace

- The pre-application consultations held were held and the application was assessed under the 2016-2022 development plan. The planning application refers to the location of the site as “within the Inner City area”, however the site does not meet that classification as it clearly meets the criteria of inner suburbs. Therefore an excessive height allowance has been applied. Chapter 16 provides for 16m height in Outer City areas.
- Block A is proposed at 26.6m over the adjacent ground level, 10m higher than the maximum allowed. This is a material contravention of the development plan.
- The Board will assess the appeal under the 2022-2028 development plan, under which height controls have hardened. Appendix 3 provides that outside the canal heights of 3-4 storeys are minimum, with a case-by-case basis for greater heights, based on site context and character physical and social infrastructure capacity, public transport capacity and compliance with criteria in table 3.
- The front of the site is in the Grand Canal Conservation Area.
- The photomontage from Ranelagh Bridge shows that the 200-year-old view to the Regency / Victorian terrace will be obliterated.
- The Architectural Heritage Impact Report suggested that the impact was not significant due to the 3-4 storey height adjacent to Ontario Terrace. In fact, it is 5-storey adjacent to Ontario Terrace with no graduation.

- No report from the Conservation Officer in Dublin City Council. Dublin City Council accepted the proposal from the outset, notwithstanding that it will be an over powering and overbearing presence.
- The Board is requested to refuse permission.

7.3. Ground of Appeal Joseph Kearney & Others, 8 Athlumney Villas

- Appeal should be considered with observations submitted to the Planning Authority.
- No evidence in the planning report of active consideration of the points raised in the submissions / observations.
- The priorities of the developer were placed ahead of local residents.
- The applicants Visual Assessment states that the views were chosen in consultation with the Dublin City Council planning department.
 - No comparison of the photomontages was undertaken in the planning report.
 - No critical assessment or detailed evaluation of the claims in the Visual Assessment are in the planning report.
- Despite four observers requesting additional viewpoints, the Planning Authority does not justify why it did not request any. There are no viewpoints from Athlumney Villas and Bannaville.
- The applicant has deliberately excluded evidence of the visual impact on the nearest communities. No reference is made to a site visit to these areas.
- This is contrary to the details provided in the appendix of the EPA Guidelines on the information to be contained in EIAR, 2022 and Guidelines for Planning Authorities and An Bord Pleanála on carrying out EIA August 2018.
- It is submitted that in not requesting photomontages from Athlumney Villas and Bannaville, the Planning Authority has knowingly limited the reference of its visual assessment. There is no valid justification for this decision. Therefore the reports conclusions on the likely impacts of the new development on the immediate surroundings are incomplete and unreliable.

- Section 13.3.11 of the 2016 development plan requires models of complex schemes. The size, mass, prominent location, complexity and proximity to a Conservation Area / Protected Structure are such that a model should have been requested. A substantial model of the 2008 proposal for the site is still on display in the Dublin City Council offices. The proposed development is larger and more complex than its rejected predecessor.
- The planning report “broadly surmises” that the proposals “generally comply with the relevant requirements” and finds that there will be “no undue impact on the amenity of adjacent residential properties”.
 - This is despite no data on annual probable sunlight hours were given for Athlumney or Bannaville.
 - No information on why skylights / rooflights were not included – particularly where they are the only ground level source of light.
 - Rooftop terraces, balconies and open flat rooftops used by residents in Athlumney Villas were omitted.
 - Insufficient information on which to compare direct sunlight hours between present and proposed scenarios.
 - The reflective sunlight effect on Athlumney Villas was not considered.
- The Planning Authority considers the ability of the applicant to develop the site above the impact on neighbouring properties. No evidence that the Planning Authority sought to reduce the visual impact or balance the interests of the developer and neighbours.
- The concerns of the residents regarding structural stability were not addressed by the Planning Authority. Issues raised included the age of surrounding houses (1830-40, 1900-1910), stability of boundary walls, extensions and lack of surveys. No further information was sought.
- The observers concerns regarding overlooking and proximity were not addressed. These concerns included: development across the full width of the site adjoining Athlumney Villas, additional storeys and a broad central glazed block, the effectiveness of the proposed fins in preserving privacy, loss of visual amenity and light pollution. The vertical fins will still afford oblique views.

- The rear open spaces of Athlumney Villas are the only private exterior space. The proposed development along the rear building line will cause a loss of privacy and visual amenity.
- This is compounded by the lack of datum lines and measurements between existing and proposed schemes on the application drawings. There are inconsistencies between distances shown from the proposed scheme and both Athlumney and Bannaville. It is difficult to assess equivalent distances without comparisons between existing and proposed. The Planning Authority did not address this.
- Contrary to the Planning Authority's statement that the proposed development complies with the Building Height Guidelines, it is submitted that the development can not be described as modest, exceeds the plot ratio (the applicant excluded the basement in their calculations), and is not assessed against the adjoining area but rather against developments further east along the Grand Canal corridor. There are no other significant commercial buildings within this predominantly residential area.
- Regarding the Dublin City Council planners assessment that there are sufficient separation distances, no other development has distances of 1.66m – 12m. Number 1 Grand Parade is parallel to Ranelagh Road.
- The proposed development is within an established residential community. The proposed development offers no benefit. It is questioned whether the existing development would be granted permission now.
- The Planning Authority's statement that the development offers active street frontages is rejected. Large office entrances and vacant lobby spaces do not create life or vitality. The Planning Authority have not considered the disparity between commercial and residential.
- The Planning Authority's assessment of 'good legibility' is undermined by their consideration of the development being two buildings, when it is a single structure angles in a variety of ways to maximise available floor area. the development would not improve legibility but will block light and views across and through the site. The developer will be the exclusive beneficiary.

- The route to the underground car park is not a plaza and cannot be compared to 1 Grand Parade, which has a calm and dignified public space. The Planning Authority ignored this.
- There is no public benefit from the path / cycle way beyond accessing the site. it will only be open during business hours. There are no proposals to address the blind corner onto Athlumney Villas. Shared pedestrian / cycle paths place vulnerable users at risk.
- The proposed cycle / pathway will facilitate anti-social behaviour.
- The use of a pedestrian / cycle path for refuse vehicles is not acceptable.
- The development does not comply with section 16.2 of the 2016 development plan which refers to design principal and standards.
- The Planning Authority failed to address the conservation / heritage impacts. In responding to the request to justify demolishing the buildings, the applicant did not discuss energy consumption in upgraded v new build, embodied energy or comparisons with recent refurb/ upgrades. No details of the energy performance of the existing or a refurbished building is provided.
- The applicants claims of impossibility to bring to current standards are not tested by the Planning Authority or compared to other refurbishment projects. Recent examples include no 2 Grand Parade, Miesian Plaza (former Bol headquarters), One Central Plaza (former Central Bank), and The One Office Building.
- Deliberate long-term neglect is the justification for the demolition of Dunville Terrace. The standalone Cottage has been deemed by the Applicants Surveyors to be in 'reasonable condition'. It is submitted that convenience of the redevelopment of the site is the reason for demolition.
- The lack of comment from the Conservation Office on the heritage impacts is a serious oversight, given the proximity to a Conservation Area, Protected Structures, historic houses and a prominent, scenic stretch of the Grand Canal, historic houses on site and the historic existence of the world-renowned Grubb astronomical workshop on the site.
- The planning report assessment of conservation and visual impact is inadequate and cursory. The appellant rejects the Planning Authority assessment that the

development respects the building line and height, stating that the proposal will radically alter the immediate setting of Protected Structures and will subordinate Ontario Terrace. It is submitted that the Conservation Office would have opposed the development.

- The historical significance of Bannaville is not considered in the planning report. Without photomontages, the visual impact is not considered.
- It is submitted that the planning report is dismissive of the conservation impact on Dunville Terrace, with no evidence to support statements of 'no architectural significance'. This contradicts the applicants AHA which states that the demolition of the cottages is a "loss of conservation significance on the site". the scale, form and relationship to the Canal are unique.
- The Planning Authority failed to examine the role of the early 19th century cottage – was it a lock keepers cottage? An entrance lodge to the Grubb 'Optical and Mechanical Work's' located at the rear of the site.
- The importance of Grubb is understated in the AHIA and the Planning Authority make no reference to the works or the commemorative plaque on the cottage. This is at odds with the ICOMOS charter and section 11.1.5.15 of the development plan (industrial heritage).
- The Planning Authority did not consult the Heritage Council.
- The Planning Authority has failed to apply the Guidelines for Planning Authorities and An Bord Pleanála on carrying out an EIA, which requires them to consult with authorities likely to be concerned by the project.
- The Planning Authority did not request a report from the City Archaeologist. A condition requiring an archaeological survey of the site. The applicants EIAR fails to identify the industrial and archaeological significance of the site.
- This is at odds with the conditions attached to the development at no.s 1 and 2 Grand Parade.
- The lands around Dunville Terrace have never been excavated. The purpose and date of the cottage has never been identified. Some archaeological artefacts may remain at basement level.

- The Planning Authority failed to consider the entirety of the Z6 zoning objective, which provides for a range of other uses including residential where they are subsidiary to the main employment use. The development plan does not quantify the proportions.
- The Planning Authority did not consider the existing residential use on the site, stating that SPPR3 is not relevant to the application. This is at odds with section 2.7 of the Building Heights Guidelines which requires consideration to be given to the contribution of development of new homes.
- The Planning Authority have ignored the local and national requirement for housing in a prolonged housing crises. This is contrary to policy CEE2, section 4.3 and 4.4, of the development plan which seeks to create a mix of uses.
- The planning history (PL29S.229961) identified two zonings on the site. The Planning Authority does not address how or why that was changed. Nor was the mixed-use proposal considered against the current proposal. The entire site history is ignored, including the overturning of a Dublin City Council decision to refuse permission for office development by the Minister.
- The Planning Authority failed to accurately characterise the area in terms of low-rise residential and the office development further east. The AHIA also fails to differentiate between the patterns of development.
- A mono-commercial frontage would damage the character and charm of the area, would permanently isolate Ontario terrace and would disrupt the historic pattern of Canal Road. The An Bord Pleanála inspector noted this difference in the previous report.
- No consideration of the previous (2008) refusal reasons and whether they might still apply. The 2008 scheme was reduced in height by An Bord Pleanála.
- In conclusion, the Board is requested to refuse permission.
- Appendices: Assessment of Observations, Conservation Assessment, lack of Internal Consultation, Lack of Heritage Assessment, no archaeological report,

7.4. First Party Response

- 7.4.1. The first party responded to the two third-party appeals. Both responses provide details of the proposed development, the decision of Dublin City Council, a summary

of the assessment of the development by Dublin City Council and a summary of the grounds of the third-party appeal.

7.4.2. The response to the Joseph Kearney grounds of appeal can be summarised as follows:

- The applicants Daylight and Sunlight Assessment is not deficient, it was completed by technical specialists using best practice methodology. The City Council correctly reports that the study shows that the vast majority of assessed properties will experience an imperceptible effect.
- Structural engineers were involved in the design of the development. The issues raised by the appellant would be dealt with by way of method statement after a grant of permission.
- The buildings are arranged to relate to the existing fabric. Existing separation distances were considered to reduce visual impact on neighbouring properties and are maintained in the proposed development.
- There is a degree of overlooking from existing buildings. Detailed design will assist in reducing overlooking.
- Compliance with section 16.7.2. of the development plan and section 3.2 of the Building Height Guidelines was addressed in section 6.3.1 of the planning report submitted with the application.
- The proposed development seeks to achieve higher density and height while integrating with the surrounding mixed-use environment, as anticipated by the Guidelines.
- Dublin City Council decided that the proposed development complied with SPPR3 and therefore the proposed development is not a material contravention of the development plan.
- The Board must assess the application under the 2022-2028 city development plan. The 2022-2028 city development plan mirrors the approach of the Building Height Guidelines on assessment of height. Therefore, the proposed development complies with the 2022 city development plan.

- The Architectural Design Statement does assess the viewpoint from the Grand Canal Corridor, areas to the southeast, south and southwest of the site and the Protected Structures on Ranelagh Road and Ontario Terrace.
- The graduation of height and stepping back of upper floors reduces the massing and scale of the proposal.
- Block A respects the building line of Ontario Terrace. The lower Block B is set back 9.6m from the Ontario Terrace boundary by a shared surface plaza.
- Subterranean works will not affect Ontario Terrace tree root systems.
- The Landscape and Visual Impact Assessment concluded that established residential areas will be largely unaffected. Moderate views closer to the site will be neutral.
- The proposed development will enhance the Conservation Area and comply with policy CHC4 of the 2016 development plan.
- The Architectural Heritage Impact Assessment concludes that the impact on surroundings is mitigated by distance, vegetation and architectural quality & materiality. When the development in its entirety is viewed, it will not detract from the Protected Structures or Conservation Area.
- The development plan states that the primary objective of Z6 lands is long-term economic development, with residential open for consideration. There is no basis for requiring residential development on site.
- The previous reasons for refusal (PL29S.229961) were taken into consideration.
- The proposed development was designed to optimise the orientation of the site, aspect to Grand Canal and the setting. Block B follows the line of Grand Canal and Block A is aligned with Ontario Terrace. The proposed development provides active frontage along Canal Road.
- The application included an EIAR screening statement that demonstrates that there is no requirement for EIAR. Compliance with the EPA Guidelines is not required.
- The Board is requested to grant permission.

7.4.3. The response to the grounds of the Manus McClafferty appeal can be summarised as follows:

- While the application was assessed by the Planning Authority as ‘inner city’ for section 16.7.2. of the development plan, nothing turns on this and thus is not a material contravention of the development plan.
- The proposed building height is supported by the standard under ‘Rail Hubs’ in section 16.7.2. The subject site is 500m from existing and proposed Luas, Dart, Dart underground and Metro Stations.
- The relevant building height standard is 24m for residential and commercial.
- Section 16.7.2 of the development plans allows a pre-existing height to be permitted subject to assessment of site context, design principles, and application of approach.
- Compliance with section 16.7.2. of the development plan and section 3.2 of the Building Height Guidelines was addressed in section 6.3.1 of the planning report submitted with the application.
- The proposed development seeks to achieve higher density and height while integrating with the surrounding mixed use environment, as provided for in the Guidelines.
- The Board must assess the application under the 2022-2028 city development plan. The 2022-2028 city development plan mirrors the approach of the Building Height Guidelines on assessment of height. Therefore the proposed development complies with the 2022 city development plan.
- Appendix 3 of the development plan requires proposals to demonstrate how they will assist in delivering vibrant and equitable neighbourhoods.
- Appendix 3 provides for higher densities within 500m of a bus stop or 1km of a rail stop. The criteria within Appendix 3 mirrors section 3.2 of the Building Height Guidelines, therefore an assessment against these criteria would conclude that the development accords with the development plan.
- The graduation of height and stepping back of upper floors reduces the massing and scale of the proposal. Block A respects the building line of Ontario Terrace.

The lower Block B is set back 9.6m from the Ontario Terrace boundary by a shared surface plaza.

- The Landscape and Visual Impact Assessment concluded that established residential areas will be largely unaffected. Moderate views closer to the site will be neutral.
- The Architectural Heritage Impact Assessment concludes that the impact on surroundings is mitigated by distance, vegetation and architectural quality & materiality. When the development in its entirety is viewed, including the large scale contemporary developments on the northern and southern banks of the Grand Canal, it will not detract from the Protected Structures or Conservation Area.
- The proposed development will enhance the Conservation Area and comply with policy CHC4 of the 2016 development plan.
- The Board is requested to grant permission.

7.5. Planning Authority Response

7.5.1. None on file.

7.6. Observations

7.6.1. None on file.

8.0 Assessment

8.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Demolition
- Visual Impact
- Impact on Residential Amenity
- Daylight & Sunlight

- Impact on Conservation Area / Protected Structure
- Building Height
- Appropriate Assessment

8.2. Principle of the Proposed Development

- 8.2.1. The subject site is located with the Z6 zone which has the stated objective to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.
- 8.2.2. Following the decision of the Planning Authority (16 November 2022), the 2022-2028 Dublin City Development Plan came into effect on the 14th December 2022. The change in development plan did not change the zoning objective for the site – it remains Z6 Employment / Enterprise. The plan states that it is “strategically important” to protect this land bank of employment uses in the city and that the consolidation and development of the lands will be supported to provide intensive employment and a wide range of local services.
- 8.2.3. The appellant submits that sufficient office space exists, and within a national housing crisis, the applicant should have availed of the opportunity to provide residential development under the Z6 zoning objective. While residential use was open for consideration under the 2016 development plan, it is neither a ‘permissible use’ nor an ‘open for consideration’ use in the current plan. The appellants submission regarding the housing crisis and the excess of office space in the city is noted, but the subject site is zoned for employment use. The proposed development of entirely office development is in keeping with the zoning objective of the current development plan.
- 8.2.4. To that end, the proposed development is also supported by wider goals and objectives in the 2022 development plan, such as policy CEE1, which seeks to promote and enhance the role of Dublin as the national economic engine and driver of economic recovery and growth, with the city centre as its core economic generator, policy CEE2, which requires the city council to take a positive and proactive approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth and also to deliver high quality outcome and policy CEE21 which refers to the supply of Commercial Space and Redevelopment of Office Stock and seeks to

incentivise and facilitate the high-quality re-development of obsolete office stock in the city.

- 8.2.5. All of these local policies directly flow from the wider overarching aims and objectives of the National Planning Framework - a key strategic aim of the NPF is “to support the future growth and success of Dublin as Ireland’s leading global city of scale, by better managing Dublin’s growth to ensure that more of it can be accommodated within and close to the city” and the strategic themes of the RSES which emphasises the need to increase employment in strategic locations, to provide for people-intensive employment at sustainable locations near high quality public transport nodes. The subject site is within 500m of a Luas stop and multiple bus routes.
- 8.2.6. I am satisfied that the proposed development, subject to other planning considerations is in keeping with national, regional and local planning policy and the zoning objective for the area.
- 8.2.7. Regarding the appellants submission that the EPA Guidelines on information to be contained within an EIAR were not complied with, there is no requirement for EIAR for the proposed sub-threshold development (see section 6.6 above) and therefore compliance with the EPA Guidelines is not required.

8.3. **Demolition**

- 8.3.1. The proposed development involves the demolition of Canal House (3,006sq.m.) CIF house (2550sq.m.), no.s 2-6 Dunville Terrace (288sq.m.) and the single-story detached structure (126sq.m.) referred to in the Architectural Design Statement as no. 8 Dunville Terrace, currently in use as a bicycle repair shop.
- 8.3.2. Section 15.4.3 of the development plan requires that “to minimise the waste embodied energy in existing structures the re-use of existing should always be considered as a first option in preference to demolition and new build”. This is further elaborated in section 15.7.1 which states that 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; as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures. Further, Existing building materials should be incorporated and utilised in the new design

proposals where feasible and a clear strategy for the reuse and disposal of the materials should be included.

- 8.3.3. The applicant states that the office accommodation on site was constructed in the 1980's. In the planning report submitted with the application, it is stated that the feasibility of refurbishing and reusing the existing buildings has been assessed in depth. That the conclusion of this analysis was from architectural, economic and sustainability points of view, a new purpose-built office development would be the optimum approach. The applicant submits that the development has dated badly in terms of visual amenity, energy efficiency and economic viability, that the existing buildings relate badly to the Grand Canal and to their residential neighbours.
- 8.3.4. The Planning Authority noted this submission but noted that no formal report was submitted and thus they requested the applicant to further address this in the Further Information request. In response, the applicant submitted a Draft Condition Survey Report and addressed the matter under four headings: architectural & urban design, building construction, environmental sustainability and commercial sustainability. The Planning Authority accepted this survey in the second planning report.
- 8.3.5. The appellant, however, submits that the feasibility of re-using the existing buildings was not robustly assessed, that the Planning Authority accepted the bona fides of the applicant regarding the need for demolition and new construction without robust analysis. In particular the appellant notes that the Condition Survey Report states that both Canal House and CIF House are "in fair condition in terms of structure". The dwellings on Dunville Avenue are accepted by all parties to be derelict.
- 8.3.6. The applicant makes the argument that the existing Canal House and CIF House are not visually pleasing, do not optimise the site, do not meet commercial requirements and do not meet fire safety legislation. Retrofitting the two buildings, achieving the necessary energy efficiency, fire safety and accommodation requirements would be out-weighed by the long term energy savings resulting from new builds, according to the applicant.
- 8.3.7. I understand the submission of the appellant - that two large buildings of only 40 years old are 'not fit for purpose' and would be too costly and inefficient to retro-fit is not clearly demonstrated. This strategy of essentially wiping clean a site every 40 years is entirely at odds with national and local policies on transitioning to a low carbon and climate resilient Society (NSO no. 8 of the NPF). The national

commitment to reducing GHG emissions by 40% by 2030 can not be achieved by re-building large swathes of the city every 40 years. The applicant has made arguments as to why the existing buildings are not fit for commercial purposes but has made little or no reference to the embodied carbon of the existing structures or how that can be re-used within the site. Or if such an option was considered and if it was mooted, then what were the reasons. As is required by the development plan. The plan is clear, demolition cannot be the first option, that refurbishment, extension or retrofitting must be considered and only dismissed where they “are not possible”. Not cost-efficient does not equal “not possible” and is not in keeping with the national climate objective (to reduce the extent of further global warming, pursue and achieve, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy Climate Action Act 2021).

- 8.3.8. The 2022 City Development Plan (section 3.5.2) acknowledges the role of the built environment in climate mitigation actions and requires that “proposals for substantial demolition and reconstruction works can be justified having regard to the ‘embodied carbon’ of existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures”. This section of the plan requires that sustainable building design be built into all new development in order to reduce energy demand, to increase energy efficiency and provide renewable energy on site if possible. Section 4.13 of the Architectural Design Statement states that “The construction phase will require actions including the responsible sourcing of materials that are regionally sourced and with recycled content, plus an active minimisation of construction waste”. No further details are provided.
- 8.3.9. The application was accompanied by a Development Construction Management Plan. Section 8.3.1 refers to demolition and states that the plan will “seek to support maximum recycling, reuse and recovery of waste with diversion from landfill.” , No site-specific details are provided. The Operational Waste Management Plan refers to the management of waste once the development is operational only. The ‘Project Canalside Sustainability Report’ is a standard best practice document with limited site or development specifics. As part of the Further Information response a Preliminary Construction Management Plan was submitted. Demolition is addressed in section 3.3 and is not site or development specific.

- 8.3.10. Given the extent of demolition proposed, the environmental impact arising from same and the threshold for demolition set out in the policies and objectives of the 2022 development plan, I am not satisfied that the threshold has been met in this instance. The subject site is under-utilised, the existing buildings are not what contemporary office accommodation demands but that is not a justification for the whole-scale demolition of buildings that are only 40 years old, without a comprehensive environmentally sustainable plan for their re-use (either in entirety or within the proposed development).
- 8.3.11. The Board must be satisfied that the proposed development demonstrates sustainable, climate adaptation, circular design principles for new buildings / services / site (policy CA8) and that a Climate Action Energy Statement (Policy CA10) has been submitted. No such statement was submitted with the application.

8.4. Visual Impact

- 8.4.1. The existing development on site comprises two large 1980's office blocks set back from Canal Road, behind a derelict terrace of single storey over basement cottages.
- 8.4.2. The design approach to the site is detailed in the applicants Architectural Design Statement, submitted with the application. The statement says that the final proposal is modulated on three of the boundaries to match existing buildings and to form public plazas. The smaller building to the front is Block B and follows the line of the Grand Canal. Block A, the larger and taller of the two buildings, to the rear, is aligned with Ontario Terrace. Two public plaza / open spaces are proposed, at the north-eastern and north-western corners of the site. The palette of materials for both buildings is the same, so that they read as a single building.
- 8.4.3. The relationship to the Canal and to the public arena and to the surrounding residential properties is currently less than optimum. A re-development of the site is an appropriate solution. The proposed streetscape along the Canal Road is welcomed and an improvement on the existing. The loss of historic fabric from Dunville Terrace is regrettable, notwithstanding the state of dereliction. The re-use of the structures within a larger re-development of the site is considered to be a lost opportunity.
- 8.4.4. A series of photomontages and a Landscape and Visual Impact Assessment was submitted with the application, with further photomontages submitted at Further

Information stage. The photomontages submitted with the application were criticised by the appellant for omitting the visual impact from Athlumney Villas and Bannaville. I note that in response to the request for further information, a viewpoint from the Clifton Mews cul-de-sac was included and a viewpoint from Ranelagh Road towards Athlumney Villas, amongst others.

- 8.4.5. The wide-ranging visual impact of the proposed development is evident from view no. 15, Mountpleasant Square – approx. 0.5km to the south of the site. I note viewpoint 3, from Charlemont Mall. The LVIA considers the impact to be long-term, moderate and neutral. I do not agree. The scale of the proposed development dwarfs the adjoining Protected Structures on Ontario Terrace, dominating a view and a skyline that currently is open and unobstructed. I note that the AHIA submitted with the application also considers this impact to be significant (page 17, assessment of impact of viewpoint 3). The AHIA states that the “new office development will significantly alter the relationship with Ontario Terrace as a consequence of scale”. The AHIA bases this finding on the fact that “these changes would not be consistent with an acceptable pattern of change that is already occurring or envisaged by policy”.
- 8.4.6. I consider the most significant visual impact to be at the Canal Bridge, the junction of Canal Road and Charlemont Street (view 4 in the Applicants VIA). The LVIA describes this view as “long-term, moderate and neutral”. The LVIA notes that in winter the view of the Rathmines church dome is ‘eclipsed’ but no mention of the fact that the Protected Structures on Ontario Terrace are also completely blocked. The scale of the proposed buildings appears to dwarf the corner Hazelwood House and the Protected Structure on Ranelagh Road. I do not consider this view to be neutral, I consider it to be significant. I note that the AHIA submitted with the application also considers this impact to be significant (page 17, assessment of impact of viewpoint 3). The AHIA considers this view to significantly alter the relationship with the houses on Ranelagh Road as a consequence of scale.
- 8.4.7. Further east, at the Charlemont Luas station, the impact is absorbed slightly by the development at One and Two Grand Parade, but extent of site coverage is nonetheless apparent, with the development looming large over the three-storey properties on Ranelagh Road (views 5 and 18). The LVIA describes view 5 as ‘long-term, moderate and positive’. As with view 4, I do not agree and consider the view to

be significant negative, introducing a new skyline, a new overall height that is considerably higher than the prevailing height.

- 8.4.8. With regard to the viewpoint of view 13 – Mountpleasant Avenue Lower – Bannaville, I query why this was not taken from within Bannaville – further east, at a point where the development directly adjoins the single storey over basement dwellings. Where arguably the greatest impact will be experienced.
- 8.4.9. The height of the proposed building is visible over the rooftops of Ontario Terrace (view 17). The LVIA describes this view as moderate and neutral. The proposed development introduces a solid mass that extends across the skyline for a considerable view in summer and in winter introduces a three-storey form where currently there is none. I am minded to agree with the appellant that this view is not moderate, and will be viewed by the residents of Ontario Terrace as significant and adverse.
- 8.4.10. All of these views are magnified when viewed through the lens of winter foliage, when the visual impact of the proposed buildings is more significant (views 1,2,3,4, 5 and 17).
- 8.4.11. I concur with the characterisation of the area in the LVIA (section 1.6.1) as a “transition between Dublin’s Inner City and its immediate suburban districts...Rathmines and Ranelagh”. The report states that the “site is embedded in a suburban landscape, punctuated by larger scale uses and buildings embedded in the urban matrix”. I agree with the assessment of the site being embedded in a suburban landscape, but, the larger scale uses are further east and north. I do not agree with the findings of the LVIA that all of the views are neutral and one is positive. It is considered that the proposed development reacts to the wider context, particularly north of the Canal more successfully than the immediate, more sensitive residential environment. It is considered that the subject site is too heavily constrained by its immediate residential neighbourhood to accommodate a building of the scale height, mass and bulk proposed.

8.5. Impact on Residential Amenity

- 8.5.1. The appellants submit that the proposed development with its significantly greater site coverage, will bring taller buildings closer to their residential properties.

- 8.5.2. The applicants draw attention to the development at Dartmouth Place – a rectangular seven-storey office block with full façade glazing on the northern and western façades. I am not satisfied that this development provides a comparison to the subject site. For a start, it is a much smaller stand-alone building, a rectangular seven storey block running parallel to the Canal and perpendicular to the five storey dwellings to its south. The southern and eastern facades have limited glazing, protecting the only residential neighbours.
- 8.5.3. The subject site occupies a different context, being nestled entirely within a residential neighbourhood, with dwellings of one storey to the immediate west. The quantity of more sensitive land uses is considerably greater and also, more sensitive to taller buildings.
- 8.5.4. The decision to locate the greatest bulk of the buildings to the rear (south), ultimately brings the greatest impact closest to the most sensitive neighbours. The building line created by the newer / taller buildings in the wider area is more heavily concentrated at the Canal – the northern boundaries. This has the dual effect of creating a distinct building line, edge and uniform height on both sides of the Canal but also away from the residential elements further south. This approach could work well on the subject site as the Protected Structures on Ontario Terrace are set back from the Canal Road by a wide green open space that is heavily planted.
- 8.5.5. The single storey over basement dwellings on Bannaville and the two storey dwellings on Athlumney Terrace will likely face the greatest impacts from the proposed development. The existing development on site, although not significantly lower in height than the proposed development offers some relief in the massing of the two distinct buildings with a wide expanse of open space between. The southern elevation of Canal House is entirely devoid of fenestration. CIF house, being further east on the site is removed from the majority of the dwellings on Athlumney Terrace. The five storey Canal House looks directly into the rear gardens of Bannaville, but the landscaped front gardens which show recreational use are relatively protected from overlooking. It is not sufficient, however, to assess the proposed development solely against improvements in the existing baseline. The proposed development must do more than just reproduce the existing level of impact, it must increase the protection of residential amenity of those surrounding residential properties, in my opinion.

- 8.5.6. The proposed development comprises a 30m high wall of fenestration (with 2.5 floors of fins) 11m from the rear boundary wall at the closest point. This is demonstrated in viewpoint no. 18 as submitted at Further Information stage. I do not consider that appropriate in an predominantly residential neighbourhood. Nor do I consider it a sufficient distance to protect the residential amenity of the limited private open space belonging to the dwellings on Athlumney Terrace. On the western side, the rear gardens of Ontario Terrace, the mews on Ontario Court and the rear gardens of Bannaville will be faced with a 44m high elevation at separation distances of 6m, 15 and 18m. As above, I do not consider this sufficient to protect residential amenity. The applicant has employed measures to reduce overlooking such as aluminium fins, however this does not reduce the impacts of overbearing and dominance from the scale bulk and massing of a 44m high development in such close proximity to residential dwellings.
- 8.5.7. I consider that the proposed rooftop terrace no. 4 would look directly into the rear gardens of 3-7 Ranelagh Road. and rooftop no 3 would looks directly into the private open spaces of the dwellings on Bannaville.
- 8.5.8. It is considered that the proposed development does not respect the residential environment within which it is nestled, that the proposed development would significantly, seriously, and adversely injure the residential amenities of the dwellings adjoining by reason of overlooking, excessive scale, bulk and massing.

8.6. **Daylight and Sunlight**

- 8.6.1. The appellant raises the issue of the impact of the proposed development on the sunlight and daylight available to the existing dwellings. The appellant states that an assessment of APSH was not undertaken for Athlumney or Bannaville.
- 8.6.2. Section 6.1.2 of the Daylight & Sunlight study submitted states that only windows that have an orientation within 90 degrees of due south are assessed for APSH / WPSH.
- 8.6.3. In terms of findings the study concludes that 87% of the 161 no. windows assessed for VSC and 92% / 93% of the 83 no. windows assessed for A and WPSH are compliant with BRE Guidelines. For those windows that fall below the guidelines, the report notes that the subject site is city centre and a prime site for development.

- 8.6.4. Hazelwood House to the north-east of the subject site appears to have the greatest impact, with only three of the 15 no. windows BRE compliant for VSC, eight windows comply with the BRE guidance for APSH, rising to twelve of the 15 windows for WPSH. In both APSH and WPSH, room Gd (ground floor rear) will experience a significant or very significant effect on sunlight. Of the 12 no. dwellings on Athlumney Villas, only four are compliant with VSC.
- 8.6.5. While the subject site is not 'city-centre' as submitted by the applicants study, it is inner-urban, is currently occupied by a relatively tall office block and will likely be re-developed at a greater intensity at some point. Some of the surrounding buildings will experience a degree of impact, that is inevitable.

8.7. Impact on Conservation Area and Protected Structures

- 8.7.1. The site is partially located within a Conservation Area associated with the Grand Canal and identified on development plan maps. The site is not located in an Architectural Conservation Area (ACA) where the Architectural Heritage Protection Guidelines advise the design of any structure is of paramount importance and where there is an existing mixture of styles, a high standard of contemporary design that respects the character of the area should be encouraged. Whilst not an ACA, these principles are important and worth bearing in mind at this location.
- 8.7.2. The Appellant notes the lack of comment from the Conservation office of the Planning Authority. It is not clear from the Planning Authority documentation if the application was referred to the Conservation Department for comment, only that there is no internal report on the file from the department.
- 8.7.3. Development in Conservation Areas is subject to Policy BHA9. This policy requires that development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Further, Section 11.5.3 of the plan states that "The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals".
- 8.7.4. Policy BHA10 refers to demolition in a Conservation Area, namely that there is a presumption against the demolition or substantial loss of a structure that positively

contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit. The loss of historic fabric from Dunville Terrace is regrettable, notwithstanding the state of dereliction. The re-use of the structures within a larger re-development of the site is considered to be a lost opportunity. The Terrace addresses the Canal, providing a human scale context which is lost with larger-scale development such as that proposed. The benefit from the removal of the structures is, however, the opening up of the site and the provision of a urban realm that will encourage a more active streetscape.

- 8.7.5. In terms of architectural merit, an Architectural Heritage Impact Assessment was submitted with the application. The appellant submits that the application ignores the significance of Thomas Grubb. I note that this is addressed in AHIA wherein it is noted that he lived at 1 Ranelagh Road and his 'Optical and Mechanical' works were briefly located on the site before moving to Rathmines in 1868. No buildings remain but I note that The National Committee for Science and Engineering Commemorative Plaques, the Dublin Institute for Advanced Studies (DIAS) and the Construction Industry Federation (CIF) came together to erect the permanent marker at the site of Grubb's first engineering works in Dublin in 2018. That plaque is visible on site. No details have been provided of how this plaque / commemoration will feature in the proposed development.
- 8.7.6. In terms of Dunville Terrace, the AHIA notes that one cottage was removed and that the remaining cottages have been extensively damaged by water ingress. In terms of the impact, the AHIA states that their demolition is a loss of conservation significance but that loss is mitigated by the limited significance of these structures.
- 8.7.7. The AHIA does not address the Conservation Area of the Grand Canal, nor the relationship of the site to the water body.
- 8.7.8. I am not satisfied, based on all of the foregoing, that the proposed development complies with the Policy BHA9 which requires development to positively contribute to the character and distinctiveness of a conservation area and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

8.8. Building Height

- 8.8.1. Appendix 3 of the 2022 development plan provides the Height Strategy for Dublin City. It provides key criteria which all proposals for increased scale and height must demonstrate. In accordance with SPPR 1, the plan provides identifies areas within which a more intensive form of development will include increased height. The subject site, being outside the Canal falls between two classifications – being 200m from the Charlemont Luas stop and the ‘outer city / suburbs.
- 8.8.2. Within the first classification ‘public transport corridor’, considerations include the capacity and proximity of public transport. In the second classification, the plan provides for a minimum of 3 to 4 storeys and greater heights being considered on a case by case basis “having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3”.
- 8.8.3. Table 3 provides ten criteria against which proposals for enhanced height, density and scale must be assessed. These principles closely follow those set out in the Urban Development and Building Height Guidelines. Most of the performance criteria relate to how new development would fit into and add to the area in terms of scale, design and height.
- 8.8.4. In terms of criteria 1 – to promote development with a sense of place and character, I am not satisfied that the existing and established character and local context are respected. Nor are the development constraints acknowledged in favour of the surrounding residents. This was addressed above and my conclusion is that the development fails to address its more sensitive residential neighbours, does not protect the residential amenity of adjoining properties and has a negative visual impact in the immediate environs. Legibility (criteria 2, 3 and 4) is improved, with the proposed development opening up the site to the Canal and creating a positive urban space at street level. Private spaces (criteria 5) is not crucial, the proposed development being office accommodation rather than residential. Notwithstanding that, a high degree of sunlight and communal space is proposed for the development. Likewise, criteria 6 is not pertinent for a single use office development being proposed within a residential neighbourhood.
- 8.8.5. Criteria 7 refers to high quality and environmentally sustainable buildings. The applicant has submitted a sustainability report, that while generic in nature provides

a use template upon which the development is based. The proposed buildings would be a significant improvement on the existing structures from an environmental sustainability point of view. The environmental waste arising from demolition rather than re-use, retrofit has been addressed above (section 8.3) and is not in accordance with the development plan climate change policies. Criteria 8 is achieved due to the location of the subject site within 200m of the Charlemont Luas station. Criteria 9: impact on historic environments is addressed in section 8.8 above and is deemed to be an inadequate response to the architectural significance of the wider area. Criteria 10 refers to management and maintenance and I have no concerns in this regard.

- 8.8.6. Overall, I am not satisfied that the proposed development achieves the criteria under which an enhanced scale and height are appropriate. It is considered the development fails to satisfy a number of the key performance criteria that would allow a higher, greater scale development to be absorbed successfully.

8.9. Summary

- 8.9.1. The subject site is an appropriate site for re-development and the zoning objective of the current 2022-2028 development plan supports the use of the site for office / employment uses.
- 8.9.2. The site is currently under-utilised, given the Canal side location and proximity to high frequency public transport options. The extent of demolition proposed is significant, particularly where it is not demonstrated that demolition is a last resort, as required by the City Development plan. Details of the re-use of materials within the site have not been provided, nor has a Climate Action Energy Statement been provided in accordance with Policy CA10 of the development plan. The current development plan is clear, that demolition must be considered after all possible retrofitting options have been discounted. I am not satisfied that this high-threshold has been met in this instance.
- 8.9.3. The relationship of the site to the Canal is not maximised. The site is heavily constrained by the proximity of relatively low-density one / two and three storey housing on three of the four site boundaries. Any re-development of the site must respect the character of the immediate neighbourhood, before reaching out for comparison to the wider more commercial uses north of the canal and to the east. It is considered the subject proposal, while modulated and stepped back at upper

floors, fails to protect the more sensitive land uses immediately adjoining its site boundaries. It is considered that the scale bulk and massing of the proposed development is excessive, for this stand-alone site nestled within a residential area. It is considered that the visual impact of the proposed development is significant, negative and wide-ranging.

8.10. Appropriate Assessment

- 8.10.1. The applicant has submitted a Stage 2 Appropriate Assessment Natura Impact Statement. The report states that the site is not located within or directly adjacent to any Natura 200 sites, but the boundaries of ten SAC's and seven SPA's are within 15km of the site. Thirteen of the sites were screened out due to distance, intervening lands and lack of impact pathways. A hydrological connection between the site and the South Dublin Bay SAC, North Dublin Bay SAC, Bull Island SPA, and South Dublin Bay and River Tolka Estuary SPA exists through the Grand Canal Main Line / River Liffey.
- 8.10.2. An NIS has been prepared in respect of the effects of the project on, North Dublin Bay SAC, South Dublin Bay SAC South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Compliance with Article 6(3) of the Habitats Directive

- 8.10.3. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

- 8.10.4. The Report provides a description of the proposed development, identifies and provides a brief description of European Sites within a possible zone of influence of the development, an assessment of the potential impacts arising from the development and an assessment of potential in-combination effects. The report identifies the qualifying features of interest, the potential adverse effects and the screening conclusion for each of the four designated sites. The report assesses the potential impacts and an analysis of in-combination effects. The report concludes that the proposed office development and associated works alone or in-combination with other projects, will not adversely affect the integrity and conservation status of any of the qualifying interest of any Natura 2000 sites. Accordingly, progression to Stage 3 (assessment of alternative solutions) is not considered necessary.
- 8.10.5. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

Stage 1 AA Screening

- 8.10.6. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 8.10.7. Description of the project: The applicant provides a description of the project, which includes significant demolition in the Appropriate Assessment NIS. The proposed development is summarised in Section 2 of this report.
- 8.10.8. Description of the Site Characteristics: The applicant provides a description of the site context and surrounding land uses in page in the Appropriate Assessment NIS and other documentation submitted with the application. The site is currently occupied by large-scale, empty, office buildings, derelict cottages, car parking and

hardstanding areas. There are no streams or open drains on site. The nearest waterbody to the subject site is the Grand Canal Mainline, 12m to the north of the site boundary. According to the EPA, the water quality of the Grand Canal Mainline is classified as 'good' and is 'not at risk' based on categorisation for the purposes of the Water Framework Directive. A site specific FRA was undertaken and submitted with the application.

Zone of Influence

8.10.9. The proposed development is not located within or immediately adjacent to any European Site. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features.

8.10.10. The AA NIS notes, having regard to the project attributes, the possibility for impacts on European sites is limited to the series of sites associated with the Dublin Bay complex to which the Grand Canal and the River Liffey flows. As set out above the nearest waterbody to the subject site is the Grand Canal Mainline. Using the source-pathway-receptor model, foul waters from the proposed development will ultimately drain to Dublin Bay, located to the east of the proposed development site, and therefore may indirectly have an impact. Therefore, the European sites with qualifying interests, which are potentially linked to the proposed development are South Dublin Bay SAC (site code: 000210), North Dublin Bay SAC (site code: 000206), South Dublin Bay and River Tolka Estuary SPA (site code: 004024) and North Bull Island SPA (site code: 004006).

8.10.11. Given the scale of the proposed development, the lack of a direct hydrological connection, the dilution provided in the estuarine/marine environment and the distances involved other sites in the bay area are excluded from further consideration this screening. I do not consider that any other European sites fall within the zone of influence of the project based on a combination of factors including the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site, aided in part by the applicant's Appropriate Assessment Screening Report, the conservation objectives of Natura 2000 sites, the lack of suitable habitat for qualifying interests, as well as by the information on file and I have also visited the site.

Screening Assessment

8.10.12. The Conservation Objectives and Qualifying Interests of sites in South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA are outlined in the table below.

European Site Name [Code] and its Qualifying interest(s) / Special Conservation Interest(s) (*Priority Annex I Habitats)	Location Relative to the Proposed Site
<p>South Dublin Bay SAC (site code: 000210).</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] The NPWS has identified a site specific conservation objective to maintain the favourable conservation condition of the Annex I Habitat Mudflats and sandflats not covered by seawater at low tide [1140], as defined by a list of attributes and targets.</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.</p>	<p>3.21km to the east</p>

<p>North Dublin Bay SAC (site code: 000206)</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.</p>	<p>6.29km to the north-east</p>
<p>South Dublin Bay & River Tolka SPA (site code: 004024).</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Artic Tern (Sterna paradisea) [A194] Wetland and Waterbirds [A999]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SPA has been selected.</p>	<p>3.25km to the east</p>
<p>North Bull Island SPA (site code: 004006)</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054] Shoveler (Anas clypeata) [A056] Oystercatcher (Haematopus ostralegus) [A130] Golden Plover (Pluvialis apricaria) [A140] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris</p>	<p>6.58km to the north east</p>

<p>canutus) [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] Wetland and Waterbirds [A999]</p> <p>Conservation Objective: To maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SPA has been selected.</p>	
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8.11. Consideration of Impacts

8.11.1. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), North Dublin Bay SAC (Site Code 000206), South Dublin Bay SAC (Site Code 000210) and North Bull Island SPA (Site Code 004006), relate to:

- surface water drainage from the proposed development site during the construction and operational phases;
- increased disturbance as a result of construction activity;
- increased wastewater being sent to Ringsend WWTP during the operational phase of the proposed development;
- potential collision risk/obstruction for bird species during the operational phase.

Assessment of Likely Significant Effects on Designated Sites

8.11.2. The proposed development will not result in any direct loss of habitat within Natura 2000 sites and no potential for habitat fragmentation is identified. Similarly, having regard to separation from European sites, construction or operational activity thereon will not result in any disturbance or displacement of qualifying interests of the identified sites. The habitats within or adjoining the site are not of value for qualifying species of these Natura 2000 sites, which are associated with estuarine shoreline areas or wetlands. The site does not provide suitable roosting or foraging grounds for these species. No fauna species being a Qualifying Interest (QI) for any Natura

2000 site was identified during surveys within the proposed development site. No ex-situ impacts on qualifying species are therefore considered likely.

- 8.11.3. Findings of a desk based study on protected species that occur within a 2km grid square of the site and habitat studies are detailed. A pair of herring gulls were observed resting on the rooftop of the eastern building. It is noted that due to the urbanisation of coastlines, birds have adapted to new built habitats. The abundance of more suitable feeding sites within the wider area is such that it is considered unlikely that existing habitats within the site are of significant importance.
- 8.11.4. The proposed development is within close proximity of the Grand Canal Mainline. As such potential run-off from the site reaching surface or ground water into the river could adversely affect the water quality within the River Liffey and ultimately Dublin Bay. I consider given the location of the site in a built-up area, there is no potential for pollution to enter the watercourses. Given the nature of the works, all of these effects would be expected to be localised in nature restricted to the immediate vicinity of the site. Any potential pathway is via discharges to the surface water drainage network.
- 8.11.5. In relation to the operational phase of the development, I note surface water from the proposed development will discharge to the public surface water sewer system.
- 8.11.6. It is a policy of Dublin City Council (SI18) to “require the use of Sustainable Urban Drainage Systems in all new developments, where appropriate, as set out in the Greater Dublin Regional Code of Practice for Drainage Works”. As such, the design entails a suite of SuDS measures that will be incorporated into the proposed development. This will reduce the flow rate of surface water run-off and largely eliminate the risk of pollution to waterbodies arising from surface water run-off during the Operational Phase. While the use of SUDS measures are not intended to avoid or reduce the harmful effects of a project on a European site, they will reduce peak flow rates and the likelihood of suspended solids or hydrocarbons entering the water system. They are clearly not included as a measure to mitigate potential impacts on European sites. Furthermore, the scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded

given the indirect and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the subject site from European sites in the Dublin Bay area (dilution factor), including the river Liffey.

8.11.7. It is proposed to discharge foul sewerage by means of discharge to the public sewer. There is an indirect hydrological pathway between the application site and the coastal sites listed above via the public drainage system and the Ringsend WWTP.

8.11.8. The Construction and Environmental Management Plan and Operational Waste Management Plan submitted with the application state that all waste from the construction phase and the operational phase would be disposed of by a registered facility.

In Combination/Cumulative Impacts.

8.11.9. The proposed development is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased wastewater volumes to the Ringsend WWTP. Significant effects were previously screened out in the afore mentioned development at application stage. It is considered that in combination effects with other existing and proposed developments in proximity to the application area would be unlikely, neutral, not significant and localised. The development is not associated with any loss of semi-natural habitat or pollution which could act in a cumulative manner to result in significant negative effects to any SAC or SPA. There are no projects which can act in combination with the development which can give rise to significant effect to Natura areas within the zone of influence.

8.11.10. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2022-2028. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites.

8.11.11. With regard to Ringsend WWTP, I note that permission was granted by the Board in April 2019 for the upgrading of the plant under ABP ref. ABP-301798-18, which is currently underway. The project will deliver the capacity to treat wastewater for 2.4 million pe on a phased basis. In granting permission, the Board undertook an

Appropriate Assessment of the development and concluded that, by itself or in combination with other plans or projects, the proposed development would not adversely affect the integrity of any European Sites, in view of the sites' Conservation Objectives. Documentation and evidence provided in that case, provide a reasonable basis to conclude that this proposed development would not be likely to give rise to significant effects on the conservation objectives of European Sites, either individually, or when taken together and in combination with other plans or projects. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the wider city and the increased capacity of the plant.

8.11.12. Significant effects on marine biodiversity and Natura 2000 sites within Dublin Bay from the operation of Ringsend WWTP were unlikely, and that in the absence of any upgrading works, significant effects to Natura 2000 sites were not likely to arise.

8.11.13. Having regard to the foregoing I am satisfied that 'in-combination' effects arising from this development and others, will not result in significant effects, directly or indirectly, on any European site arising from the level of discharge envisaged.

8.11.14. Therefore, having regard to the scale and nature of the proposed mix-use development and its location within the built-up area of the city which can be serviced, I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

8.12. Screening Determination

8.12.1. From the information before the Board, it is evident that on the basis of the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment NIS report that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), or an European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

- 8.12.2. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.
- 8.12.3. I note the applicant submitted a Natura Impact Statement (NIS). I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.
- 8.12.4. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC (000206), South Dublin Bay SAC (000210), North Bull Island SPA (004006) and South Dublin Bay and River Tolka Estuary SPA (004024) or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

- 9.1. I recommend permission be REFUSED for the following reasons and considerations:
- 1 It is considered that a justification for the whole-scale demolition of all structures on site has been not made, with regard to national policy on transitioning to a low carbon and climate resilient society (NSO no. 8 of the NPF) and the national commitment to reducing GHG emissions by 40% by 2030 as per the Climate Action Act 2021. Objectives which are repeated in the 2022-2028 Dublin City Council development plan (section 3.5.2) which requires that demolition cannot be the first option, that refurbishment, extension or retrofitting must be considered and only dismissed where they "are not possible". The 2022 City Development Plan acknowledges the role of the built environment in climate mitigation actions and requires that "proposals for substantial demolition and reconstruction works can be justified having regard to the 'embodied carbon' of

existing structures as well as the additional use of resources and energy arising from new construction relative to the reuse of existing structures". The proposed development has not complied with Policy CA10 of the development plan as a Climate Action Energy Statement has not been submitted.

- 2 The proposed development by reason of height, scale, massing and bulk, would significantly adversely the immediately adjacent residential properties in Athlumney Villas, Ontario Terrace and Bannaville, by reason of overlooking, overbearing and injury to residential amenity. The proposed development represents over development of this sensitive site, and would be out of character with the prevailing height of this established residential neighbourhood, resulting in a unacceptably adverse visual impact. At the scale of the site and the neighbourhood, the proposed development would not successfully integrate with existing development in the vicinity and would therefore be contrary to the advice given by section 3.2 of the Urban Development and Building Heights – Guidelines for Planning Authorities: issued by the Department of Housing, Planning and Local Government in December 2018.
- 3 The proposed development would represent an inappropriate design response to the subject site, being surrounded by lower-density residential development and would constitute a visually discordant feature that would be detrimental to the distinctive character of Canal Road. The proposed development is contrary to policies BHA 9 and BHA 10 of the 2022 -2028 Dublin City Council Development Plan which seeks to protect and enhance the distinctive architectural character of the Grand Canal Conservation Area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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.

Gillian Kane

Senior Planning Inspector

31 March 2024

EIA- Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference ABP-315292-22		
Development Summary	Demolition of all structures on the site and site clearance works. Construction of office buildings	
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?		A stage 2: Natura Impact Statement were submitted with the application. An Ecological Impact Assessment was also submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA		SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028

B. EXAMINATION	Where relevant, briefly describe the characteristics of impacts (i.e. the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	The proposed development is in keeping with the existing office development on site	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed development has been designed to logically address the alterations in topography on site, resulting in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	No
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Outline CEMP, Outline CMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Phase Environmental Management Plan, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Operation of the standard measures listed in the Construction Phase Environmental Management Plan, will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Construction Phase Environmental Management Plan and Noise Impact Assessment.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Phase Environmental Management Plan and</p>	<p>No</p>

	Resource Waste Management Plan would satisfactorily address potential risks on human health. No significant operational impacts are anticipated for the piped water supplies in the area.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding.	No
1.10 Will the project affect the social environment (population, employment)	Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan	The nearest European sites are listed in Section 8 of this report and other designated sites are referenced in the application Stage 2 NIS. Protected habitats or habitat suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream	No
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for	The proposed development would not result in significant impacts to protected, important or sensitive species	No

breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?		
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	9.2. The site is not within an area of archaeological potential. There are no Protected structures on site.	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No such features are in this urban location.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	Site is within 500m of public transport stations. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	The site is in close proximity to residences. However no negative impacts are anticipated as a result of the proposal.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No

3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No
C. CONCLUSION		
No real likelihood of significant effects on the environment.	Agreed <input type="checkbox"/>	EIAR Not Required
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	<input type="checkbox"/>
D. MAIN REASONS AND CONSIDERATIONS		
<p>Having regard to</p> <ul style="list-style-type: none"> • the nature and scale of the proposed development, which is below the threshold in respect of class 10(b)(iv) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022; • the location of the proposed office on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z6 -Employment / Enterprise, which has the stated objective "To provide for the creation and protection of enterprise and facilitate opportunities for employment creation, and the results of the Strategic Environmental Assessment of the Development Plan; • the nature of the existing site and the pattern of development in the surrounding area; • the availability of mains water and wastewater services to serve the proposed development; • the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised; • the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003); • the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and; • the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction Management Plan, the Outline Construction Phase Environmental Management Plan, the Conservation Assessment and the Engineering Services Report. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required. 		

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____