



An
Bord
Pleanála

Inspector's Report

ABP-315488-23

Development

Demolition of buildings, construction of 688 no. apartments (272 no. Build to Sell units and 416 no. Build to Rent units), Hotel and associated site works.

Location

A c.4.155 ha site which previously formed part of the overall RTÉ Campus at Montrose, Donnybrook, Dublin 4.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

LRD6033/22-S3

Applicant(s)

Cairn Home Montrose Limited

Type of Application

Permission for Large Scale Residential Development.

Planning Authority Decision

Grant permission.

Type of Appeal

Third Party

Appellants

1. Brian and Orla Murphy
2. Ailesbury Apartments Management Company Limited
3. Republic of Austria

4. Sharon Mullin
5. Pat Desmond and Others
6. ARADAG

Observers

Sean and Marie Sexton

Mike and Marion McKillen

Shrewsbury Property Services
Company Limited

Date of Site Inspection

13th April 2023

Inspector

Rónán O'Connor

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1.0 Site Location and Description

- 1.1. The subject site is located c.500m south east of the centre of Donnybrook, Dublin 4 and c.3.5km south east of Dublin City Centre. The site is bounded by Stillorgan Road (R138) to the west/south west, while the RTÉ Studio Complex adjoins the site to the east which the subject site previously formed part of. The north west of the site adjoins 2 no. apartment complexes at 'Belville' and 'Ailesbury Court', both accessed off Ailesbury Close, which are 3 storeys above ground. To the west, the site is bounded by four dwellings at 'Belville House', 'Belville Lodge' and two mews type dwellings which are accessed off Stillorgan Road (R138). To the north, the site is bounded by private rear gardens of residential dwellings situated on Ailesbury Road, Seaview Terrace and Nutley Road.
- 1.2. The site is served by 3 no. vehicular entrances, the main entrance being via the new Stillorgan Road (R138) Airfield Park junction to the south west of the site, which also provides the main access to the adjacent RTÉ campus. The site is also accessed via Ailesbury Close to the north west and a long established access gateway directly onto Stillorgan Road (R138).
- 1.3. The site comprises of car parks, a studio set and office accommodation, including Mount Errol House (a Protected Structure: RPS no. 7846) and associated stables building, 1 no. recreational/leisure facility, an internal access road linking the subject site with Ailesbury Close to the north west and the RTÉ campus to the east and 1 no. gated pedestrian link and 1 no. gated vehicular link providing access to Stillorgan Road (R138) to the south west.

2.0 Proposed Development

- 2.1. The development will consist of:

The demolition of the former RTÉ Sports and Social Club (c.1,233 sq.m.), all structures associated with the former Fair City set (c.604 sq.m.), extensions to Mount Errol House and adjacent stable building (c.100 sq.m.) (a Protected Structure, RPS Ref. 7846), 1 no. shed (c.31 sq.m.) and removal of 1 no. security hut (c.5 sq.m.) to the north west of the site and associated ancillary structures. 1 no. 1.5 metre high wall running east-west adjacent to the internal road is proposed to be taken down

and re-used for the construction of entrance piers at Ailesbury Close. All car existing car parking on site is to be removed.

The proposed development comprises a Large-scale Residential Development of 688 no. apartments comprising of 272 no. Build to Sell units and 416 no. Build to Rent units, 1 no. hotel (with 192 no. rooms and associated restaurant and ancillary facilities); 1 no. childcare/creche facility; 2 no. residential amenity areas, 1 no. management suite, 2 no. parcel collection facilities; and 7 no. substations. The total gross internal floorspace area of the proposed development is c.91,646 sq.m. which is comprised of c.79,963 sq.m. of residential floorspace and c.11,683 sq.m. of commercial floorspace. The proposed blocks will consist of:

Block 1 (4 – 5 storeys) comprises 29 no. residential units (4 no. studio units, 8 no. 1-bed units, 15 no. 2-bed units and 2 no. 3-bed units), residential amenity area (c.657 sq.m.) over ground floor and 1st floor levels to include parcel collection area, bicycle store (c.71 sq.m.), bin store (c.50 sq.m.), plant room (c.27 sq.m.) all at ground floor level and solar photovoltaic panels at roof level with a max. height of 17.3 metres (31.1 metres OD);

Block 2 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 3 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 4 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 5 (9 – 16 storeys) comprises 80 no. residential units (64 no. 1-bed units and 16 no. 2-bed units), 1 no. hotel (c.10,276 sq.m.) with 192 no. rooms and associated restaurant and ancillary facilities, gym (c.394 sq.m.) over basement and ground floor levels, bin store (c.37 sq.m.) and plant room (c.68 sq.m.) at ground level, provision of

telecommunications infrastructure comprising 4 no. steel support pole frames allowing for 24 no. broadband panel antennas, 30 no. Ø0.3m and 10 no. Ø0.6m microwave links all at roof level, together with associated ancillary equipment and cabinets; and plant and solar photovoltaic panels at roof level with a max. height of 55.6 metres, (70 metres OD);

Block 6 (4 – 6 storeys) comprises 36 no. units (20 no. 1-bed units and 16 no. 2-bed units), residential amenity area (c.667 sq.m.) over ground floor and 1st floor levels, bicycle store (c.55 sq.m.), bin store (c.33 sq.m.) and plant room (c.29 sq.m.) at ground floor level, and solar photovoltaic panels at roof level with a max. height of 20.45 metres (34.85 metres OD);

Block 7 (6 – 10 storeys) comprises 103 no. residential units (6 no. studio units, 39 no. 1-bed units, 52 no. 2-bed units and 6 no. 3-bed units), bicycle store (c.60 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 32.75 metres, (48.4 metres OD);

Block 8 (6 – 10 storeys) comprises 103 no. residential units (6 no. studio units, 39 no. 1-bed units, 52 no. 2-bed units and 6 no. 3-bed units), bicycle store (c.60 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 32.75 metres, (48.4 metres OD);

Block 9 (6 – 10 storeys) comprises 94 no. residential units (38 no. 1-bed units, 51 no. 2-bed units and 5 no. 3-bed units), residential amenity area (c.180 sq.m.) comprising management suite, meeting room, parcel collection area, store and WC, childcare/creche facility (c.418 sq.m.), bicycle store (c.54 sq.m.), bin store (c.9 sq.m.), plant room (c.27 sq.m.) at ground floor level, and solar photovoltaic panels at roof level with a max. height of 33.35 metres, (48.85 metres OD); and

Block 10 (2 – 3 storeys) comprises 15 no. Age Friendly residential units (13 no. 1-bed units and 2 no. 2-bed units), bin store (c.11 sq.m.), plant room (c.27 sq.m.) consultation room (c.15.5 sq.m.) and treatment room (c.9.8 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 10.85 metres (23.45 metres OD).

A single level basement of c.18,919 sq.m. accessed from the Stillorgan Road (R138) Airfield junction to provide 457 no. car parking spaces, 490 no. cycle parking spaces and 20 no. motorcycle spaces and other ancillary services for residential and other

uses in the scheme including gym (basement level), bin stores, comms rooms, plant rooms, sprinkler plant/tanks, water tanks, compactors, boiler/CHP plant areas, air source and heat pump plant room, stores, generator rooms, hotel back of house areas (BOH), hotel plant/sprinkler and water tank areas. At surface level and within the public areas with access from the Stillorgan Road (R138) Airfield junction, 21 no. car parking spaces are provided (5 no. car parking spaces adjacent to the proposed crèche, 13 no. car parking spaces for Blocks 2-4, and 3 no. car parking spaces for the hotel and associated coach set-down). At surface level with access from Ailesbury Close, a total of 12 no. parking spaces are provided for Mount Errol House and Block 10 (7 no. car parking spaces and 1 no. accessible parking space for the Age Friendly Living units at Block 10, and 1 no. accessible parking space and 3 no. visitor parking spaces at Mount Errol House). 679 no. cycle spaces are provided at surface level with 89 no. visitor cycle spaces to be provided throughout the public areas at ground level in the form of Sheffield stands adjacent to the entrances to the various blocks.

The proposed development delivers a new urban neighbourhood with c.9,727 sq.m. of public open space across two main landscape areas within the Cairn landholding and other ancillary services for residential and other uses in the scheme. A change of use is sought for Mount Errol House (a Protected Structure, RPS Ref. 7846) from commercial offices and studios to a restaurant and café (c.449 sq.m.). It is intended to refurbish the associated stable building adjacent to Mount Errol House to provide a change of use to 1 no. artisan food shop (c.146 sq.m.).

Vehicular and pedestrian entrances to the site are provided via the Stillorgan Road (R138) Airfield junction, which will be the main entrance to the proposed scheme, with pedestrian/cyclist access and limited vehicular access from Ailesbury Close to the serve the Age Friendly Living units in Block 10 and Mount Errol House and stable building (a Protected Structure, RPS Ref. 7846). Two pedestrian/cyclist entrances are also provided to the south along the Stillorgan Road (R138) with 2 no. further pedestrian-only entrances located between Blocks 7 and 8 and adjacent to the Stillorgan Road (R138) Airfield junction. The proposed development includes an upgrade to the existing 150mm diameter sewer at Ailesbury Close to a 225mm diameter sewer to facilitate a foul drainage connection from the proposed development. Amendments and upgrades to the shared access road from the

Stillorgan Road (R138) Airfield junction to the south east including provision of a kerbed carriageway of 5.5 metres width and the provision of a 2.5 metres wide footpath along the northern boundary. The proposed development includes the removal of part of the boundary wall on the western side of the Airfield junction to facilitate landscaping and signage, all enabling and site development works, landscaping, play areas, lighting, green roofs, services and connections, boundary treatments, signage, waste management and all other site ancillary works.

Key Figures

Key development parameters include:

Site Area	4.155 Ha Gross 3.509 Ha Net ¹
No. of residential units	688 no. apartments (272 no. Build-to-Sell units and 416 no. Build-to-Rent units)
Density	197 units/ha (Net)
Plot Ratio	2.1
Site Coverage	23%
Building Heights	Block 1 4-5 storeys Block 2 5-8 storeys Block 3 5-8 storeys Block 4 5-8 storeys Block 5 9 – 16 storeys Block 6 4 – 6 storeys Block 7 6-10 storeys Block 8 6-10 storeys Block 9 6-10 storeys Block 10 2-3 storeys
Dual Aspect	50%
Other uses	Block 5 - Hotel use (10,276 sq. m) with associated uses. Block 9 – childcare/crèche facility (418 sq. m)

¹ Excludes the strip of land linking the Stillorgan Road (R138) Airfield junction with the development site through existing RTÉ lands and the roadway from the Ailesbury Close entrance in DCC ownership

	Mount Errol House - Change of use of Mount Errol House (a Protected Structure, RPS Ref. 7846) from commercial offices and studios to a restaurant and café (c.449 sq.m.). Stable building - Change of use to artisan food shop (c.146 sq.m.)
Public open space	c9,727 sq. m. (28% of net site area)
Communal open space	C4,954 sq. m.
Car parking	490 no. spaces
Cycle parking	679 no. spaces

Unit type	Studio	1-bed	2-bed	3-bed	Total
Overall No.	28	314	312	34	688
%	4%	16%	45%	5%	100

3.0 Planning Authority Pre-Application Opinion

- 3.1. A section 32 Consultation Meeting took place on the 26th October 2021 with representatives of the applicant and planning authority in attendance.
- 3.2. A Large Scale Residential Development (LRD) Opinion was issued on 29th April 2022. The opinion stated that the documents submitted in relation to the proposal 'would constitute a reasonable basis' on which to make an application for permission for the proposed LRD. Specified information was requested. A summary of the issues cited is set out below:

- Design Strategy and Height –
 - Height of Blocks 5, 7 8 & 9 contravene standards of Dublin City Development Plan/more comprehensive Building Height Strategy required having due regard to the existing protected structure and the five proposed protected structures on the RTE lands
 - Visual Impact Assessment/CGIS – additional views from Stillorgan Road/from rear gardens of Ailesbury Road/Seaview Terrace and Nutley Road

- Details of solar panels
- Report addressing materials
- Residential Amenity
 - Report detailing facilities and services for the BTR
 - Daylight and sunlight assessment
 - Schedule of accommodation
- Conservation
 - Illustrate the visual impact of the proposed development on the protected structure/proposed protected structure/in particular the 16 storey hotel structure on the RTE Radio Building
 - CGIs of established view corridors towards and from Mount Errol House/from public realm in the vicinity of the Z2 lands/proposed development in relation to the Radio Building in particular the 16 storey hotel structure
 - Revised conservation report/detailing recent deterioration in the condition of Mount Errol, demonstrating the maximum retention of historic fabric of Mount Errol House/demonstrating the conservation gain resulting from the proposed development
 - Justification for the loss of the established historic setting for Mount Errol House
- Surface Water
 - Justification for surface water strategy/details of same
 - Revised Flood Risk Assessment which correlates with the Drainage Report
- Open Space and Biodiversity
 - Rational for the extent of tree removal
 - How proposals will enhance flora and fauna/use of paladin fencing/level of access to the public open space/details of crèche play space/details of woodland play area

- Transport including Bus Connects
 - Details of cycle parking/connectivity to Nutley Lane/Areas to be taken in charge/Mobility Management Plan/Car Parking Management Strategy/interface with Bus Connects
- Archaeology
 - Archaeological Assessment

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The Planning Authority Granted Permission on the 13th December 2022. Conditions of note include:

- Condition 4: Relating to privacy screens, balcony railings, alternative materials

4.2. Planning Authority Reports

Planning Report (dated 13th December 2022)

4.2.1. I note that the application was assessed against the Dublin City Development Plan 2016-2022, the applicable plan in place at the time of assessment. The report provides a summary of the proposed development, the LRD process and submissions received. The planner has set out their assessment under the following headings, with main matters summarised below:

Principle of Development

- Under the 2016-2022 Dublin City Development Plan, the majority of the site is zoned Z12/Residential use, hotel and childcare facilities are permissible in this zoning.
- Masterplan required/update to the 2016 Masterplan for the entire RTE lands has been submitted with the application,
- Eastern part of the site, which includes Mount Errol House, a Protected Structure, and the lands around it, are zoned Z2/Residential is permissible under this zoning/proposed restaurant/café use within the protected structure is open for

consideration/proposed artisan shop in stable building block is not permissible or open for consideration/however Development Plan allows for a relaxation of zoning objectives for Protected Structure/refurbishment represents a significant conservation gain.

- Proposed development is acceptable in principle

Density

- Density is c196 units/ha/Section 16.4 of Development Plan refers to the Sustainable Residential Development in Urban Areas Guidelines/promote increased densities within 500m of a bus stop or 1km of a light rail station/site is a 'central and/or accessible urban location' as per section 2.4 of the Apartment Guidelines.
- Density consistent with Government policy, specifically the NPF, the RSES and the Apartment Guidelines
- Plot ration/site coverage density standards are in compliance with the Development Plan

Design including Height/Site Layout

In relation to height:

- Site is located in the outer city/max height of 16m applies/all but one of the proposed blocks have a height greater than this/refer to the Building Height Guidelines and in particular SPPR3/
- Assessment is made against criteria within the Building Height Guidelines
- Note site is well served with well-connected public transport
- Note existing and emerging urban form/considered the proposed development will add to this urban form/provide for an effective and efficient use of the land along this major artery
- Heights successfully integrate with surrounding built form, including the RTE Radio Centre (which is a proposed Protected Structure)
- Proposed development will provide an effective urban edge/contribute to placemaking/will increase permeability

- Blocks No. 1 and 6 will provide a setting and a sense of enclosure to grounds in front of Mount Errol, a Protected Structure.
- Proposed development will introduce a wider range of housing typologies to the area
- Notes the results/conclusions of Chapter 13 of the EIAR which deals with daylight and sunlight/considered that on balance the level of compliance is considered acceptable.

In relation to site layout:

- Loss of trees regrettable/some trees are of lesser quality/planting of new trees will provide relief in the built frontage
- Setting of Danesfield House would be compromised by the backdrop of the new development/significance and quality of visual effect would be slight
- Successful transition between the higher density elements and the lower density development on Ailebury Crescent and Ailesbury Road
- Note contents of the Parks Department report in relation to the public open space/quantity is considered satisfactory/details of playspace require clarification/additional recreation space required/will not be taken in charge
- Concern in relation to the use of render for the northern edge elevations/recommended that a more durable material be used on these elements
- It is noted that the existing extensions to Mount Errol House are proposed to be removed/these are not considered to be architecturally significant/proposed uses are suitable for the protected structure/will contribute to the longevity of the building/proposed layout is sympathetic to the original floor plate/most important elements are retained/layout retains the historic parkland in front of Mount Errol House/parking provides an adequate and appropriate setting.
- Note site is in proximity to 5 no. proposed protected structures/proposed 16 storey hotel will have a significant impact on the setting of the RTE Radio Building (a Proposed Protected Structure)/Due to the positioning and design, proposed buildings will not detract from the proposed protected buildings.

Surrounding Residential Amenity

- No significant adverse impacts on surrounding daylight and sunlight levels/on surrounding gardens
- Concurs with the conclusions of the Visual Impact Assessment in that the proposed development would have a positive impact on the wider area
- To prevent overlooking, proposed railing to the rear apartments on the first floor close to No. 89 Ailesbury Road should be replaced with obscure glazing/privacy screens should be provided to Blocks 2 and 3 where there is overlooking of Danesfield and Seaview Terrace.

Proposed Residential Amenity/Residential Standards

- In relation to the Build-to-Sell units - Note SPPR 1 of the Apartment Guidelines (in relation to mix); Minimum floor areas have been complied with (SPPR 3); SPPR 4 (in relation to dual aspect); SPPR 5 (in relation to floor to ceiling height); SPPR 6 (apartments per floor per core); Proposed residential amenities provide adequate facilities
- In relation to the Built-to-Rent units – considered that these units will have an adequate provision of Resident Support Facilities and Residential Amenities/comply with SPPR 7 (in relation to amenity space, floor areas)
- Proposal has provided adequate childcare provision.

Transport

- Comments from the Transportation Section are noted including:
- Applicant's engagement with NTA/NTA confirms proposals are compatible with Bus Connects
- Note contents of EIAR/TTA/Generally satisfied with general methodology, scope and content of EIAR/TTA
- Generally satisfied with the overall quantum of car parking
- Contents and measures outlined in the MMP are welcomed.
- Broadly satisfied with the content of the outline CTMP/detailed CMP should be submitted should permission be granted

- Phasing should be conditioned

Other Issues

- Conditions recommended in relation to archaeology

Appropriate Assessment

- Conclusions of the NIS are well supported.

EIA

- Note the contents of the EIAR/considered the environmental effects arising as a consequence of the proposed development have been satisfactorily identified and assessed.

Recommendation

4.2.2. It was recommend that permission be granted.

4.2.3. Other Technical Reports

- Drainage Division – No objections raised. Recommend conditions.
- Transportation Planning Division – No objections raised. Recommend conditions.
- Parks, Biodiversity and Landscaping – Note extensive loss of trees along Stillorgan Road/considered that retention of the trees would help situate the development into the local area/would provide an environmental buffer/recommended conditions
- Archaeology - No objections raised. Recommend conditions.
- Conservation Officer – No report on file. Reference is made to an informal Conservation Officer review in the Planner's Report.

4.3. **Prescribed Bodies**

NTA

- Proposed development is broadly consistent with the land use planning principles of the Transport Strategy.
- Confirms that the proposed development facilitates BusConnects

Irish Aviation Authority

- Recommend a condition in relation to crane operations.

Transport Infrastructure Ireland

No observations.

4.4. Third Party Observations

- 4.4.1. The 15 no. submissions to the planning authority on the application raised issues similar to those raised in the subsequent third party appeals and observations to the board.

5.0 Planning History

- 5.1.1. Relevant planning history relevant to the wider RTE site (and this site) is as follows:
- DCC Ref 3094/16 Grant Permission – New access junction from the Stillorgan Road and associated works [decision date 13/10/2016]
 - DCC Ref 2682/16 Grant Permission – Montrose House (A Protected Structure) Change of use to a crèche/single storey extension and associated works [decision date 09/06/2016]
 - ABP Ref 236717 (DCC Ref 4057/09) – Grant permission [Appeal Decision date 24/11/2010] - New broadcasting facility at the RTÉ campus – 10 year permission [expired November 2020]
- 5.1.2. I note that the Board’s decision to grant a Strategic Housing Development (SHD) for 611 apartment units and 3 houses (ABP Ref 307239 - decision date 15/09/2020) was quashed by Order of the High Court 25/03/2021 (JR No. 499). As such it has had no bearing on my assessment of this current appeal and I have not had regard to same.

6.0 Policy Context

- 6.1.1. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 supports the delivery of new housing on appropriate sites. I also note

the Government's Housing for All Plan (2021) which identifies the need to increase housing supply as a critical action.

6.1.2. **Project Ireland 2040 - National Planning Framework (2018)**

The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management.

Section 28 Ministerial Guidelines

- 6.1.3. Having considered the nature of the proposal, the receiving environment and the documentation on file, including the submissions from the planning authority, I am of

the opinion that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (December 2020)²
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- Design Manual for Urban Roads and Streets (2013). Interim Advice Note- Covid 19 (May 2020).
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') (2009)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

Regional

Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

- RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

² While updated guidelines have been published in December 2022, this application is considered and decided in accordance with the 2020 version, as per Circular Letter NRUP 07/2022

- RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.
- RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin’s sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

Transport Strategy for the Greater Dublin Area 2022-2042

The Transport Strategy for the Greater Dublin Area 2022-2042 provides a framework for the planning and delivery of transport infrastructure and services in the Greater Dublin Area (GDA).

Local

Dublin City Development Plan 2022-2028

The Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022. The plan came into effect on the 14th of December 2022.

As such, the applicable Local Planning Policy is set out in the Dublin City Development Plan 2022-2028.

Under the current Development Plan the site is zoned Z12 ‘Institutional Land (Future Development Potential)’ with the associated Land-Use Zoning Objective Z12: ‘To ensure the existing environmental amenities are protected in the predominantly residential future use of these lands’. The supporting text for same notes the following:

- Where lands zoned Z12 are to be developed, a minimum of 25% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site.
- Require the preparation of a masterplan.
- Public open space shall not be split up into sections/fragmented...unless the incorporation of existing significant landscape features and the particular recreational or nature conservation requirements of the site and area dictate that the 25% minimum public open space shall be apportioned otherwise.

Residential, childcare facility, hotel, cafe/tearoom, restaurant, shop (local) are permitted uses.

'Built-to-Rent residential' is open for consideration

Chapter 1 describes the Strategic Context and Vision for Dublin City, the vision for the city is that:

Within the next 10 years, Dublin will have an established international reputation as one of Europe's most sustainable, dynamic and resourceful city regions. Dublin, through the shared vision of its citizens and civic leaders, will be a beautiful, compact city, with a distinct character, a vibrant culture and a diverse, smart, green, innovation-based economy. It will be a socially inclusive city of urban neighbourhoods with excellent community and civic infrastructure based on the principles of the 15 minute city, all connected by an exemplary public transport, cycling and walking system and interwoven with a high quality bio-diverse, green space network. In short, the vision is for a capital city where people will seek to live, work, experience, invest and socialise, as a matter of choice.

Chapter 2 sets out the Core Strategy, and identifies the Housing Demand for the years 2022 to 2028 as approximately 40,000 residential units for the six year period of the Development Plan.

Chapter 3 of the Plan relates to Climate Action. Policies of most relevance include:

- Policy CA3 - Climate Resilient Settlement Patterns, Urban Forms and Mobility - To support the transition to a low carbon, climate resilient city by seeking sustainable settlement patterns, urban forms and mobility in accordance with the

National Planning Framework 2018 and the Regional Spatial and Economic Strategy 2019.

- Policy CA6 - Retrofitting and Reuse of Existing Buildings - To promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible.
- Policy CA8 - Climate Mitigation Actions in the Built Environment - To require low carbon development in the city which will seek to reduce carbon dioxide emissions and which will meet the highest feasible environmental standards during construction and occupation, see Section 15.7.1 when dealing with development proposals. New development should generally demonstrate/ provide for:
 - a. building layout and design which maximises daylight, natural ventilation, active transport and public transport use;
 - b. sustainable building/services/site design to maximise energy efficiency;
 - c. sensitive energy efficiency improvements to existing buildings;
 - d. energy efficiency, energy conservation, and the increased use of renewable energy in existing and new developments;
 - e. on-site renewable energy infrastructure and renewable energy;
 - f. minimising the generation of site and construction waste and maximising reuse or recycling ;
 - g. the use of construction materials that have low to zero embodied energy and CO2 emissions;
 - and h. connection to (existing and planned) decentralised energy networks including the Dublin District Heating System where feasible.

CA9 - Climate Adaptation Actions in the Built Environment - Development proposals must demonstrate sustainable, climate adaptation, circular design principles for new buildings / services / site. The council will promote and support development which is resilient to climate change. This would include:

- a. measures such as green roofs and green walls to reduce internal overheating and the urban heat island effect;
- b. ensuring the efficient use of natural resources (including water) and making the most of natural systems both within and around buildings;
- c. minimising pollution by reducing surface water runoff through increasing permeable surfaces and use of Sustainable Drainage Systems (SuDS);
- d. reducing flood risk, damage to property from extreme events— residential, public and commercial;
- e. reducing risks from temperature extremes

and extreme weather events to critical infrastructure such as roads, communication networks, the water/drainage network, and energy supply; f. promoting, developing and protecting biodiversity, novel urban ecosystems and green infrastructure.

CA10 - Climate Action Energy Statements - All new developments involving 30 residential units and/or more than 1,000sq.m. of commercial floor space, or as otherwise required by the Planning Authority, will be required to submit a Climate Action Energy Statement as part of the overall Design Statement to demonstrate how low carbon energy and heating solutions, have been considered as part of the overall design and planning of the proposed development.

CA25 relating to Electric Vehicles; CA28 relating to Natural Flood Risk Mitigation;

Chapter 4 relates to 'Shape and Structure of the City'. Policies of relevance include:

SC10 – Urban Density - To ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, 2009), and its companion document, Urban Design Manual: A Best Practice Guide and any amendment thereof.

SC10 relating to Compact Growth; SC12 relating to Housing Mix; SC12 relating to Green Infrastructure;

SC14 – Building Height Strategy - To ensure a strategic approach to building height in the city that accords with The Urban Development and Building Height Guidelines for Planning Authorities (2018) and in particular, SPPR 1 to 4.

SC15 – Building Height Uses - To support the development of an adequate mix of uses in proposals for larger scale development which are increasing height or proposing a taller building in accordance with SPPR 2

SC16 – Building Height Locations - To recognise the predominantly low rise character of Dublin City whilst also recognising the potential and need for increased height in appropriate locations including the city centre, Strategic Development Zones, Strategic Development Regeneration Areas, Key Urban Villages and other locations as identified in Appendix 3, provided that proposals ensure a balance with

the reasonable protection of existing amenities and environmental sensitivities, protection of residential amenity and the established character of the area

SC17 – Building Height - To protect and enhance the skyline of the city, and to ensure that all proposals with enhanced scale and height:

- follow a design led approach;
- include a masterplan for any site over 0.5ha (in accordance with the
- criteria for assessment set out in Appendix 3);
- make a positive contribution to the urban character of the city and that responds positively to the existing or emerging context;
- deliver vibrant and equitable neighbourhoods that are walkable, compact, green, accessible, mixed and balanced;
- Do not affect the safety of aircraft operations at Dublin Airport (including craneage); and
- have regard to the performance-based criteria set out in Appendix 3.

All new proposals in the inner city must demonstrate sensitivity to the historic city centre, the River Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas and civic spaces of local and citywide importance

SC18 – Landmark/Tall Buildings - To promote a co-ordinated approach to the provision of landmark/tall buildings through Local Area Plans, Strategic Development Zones and the Strategic Development and Regeneration Area principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline and that such proposals comply with the performance based criteria set out in Appendix 3.

SC19 – High Quality Architecture; SC20- Urban Design - Promote the guidance principles set out in the Urban Design Manual – A Best Practice Guide and in the Design Manual for Urban Roads and Streets (2019); SC21 – Architectural Design; SC23 – Design Statements;

Chapter 5 concerns Quality Housing and Sustainable Neighbourhoods. Relevant policies include:

QHSN1 – National and Regional Policy; QHSN2 – National Guidelines; QHSN3 – Housing Strategy and HNDA; QHSN10 – Urban Density; QHSN04 – Densification of Suburbs; QHSN11 – 15 Minute City; QHSN12 – Neighbourhood Development; QHSN16 – Accessible Built Environment; QHSN17 – Sustainable Neighbourhoods; QHSN22 – Adaptable and Flexible Housing; QHSN011 – Universal Design - To ensure that 50% of apartments in any development that are required to be in excess of minimum sizes should be designed to be suitable for older people/mobility impaired people, people living with dementia and people with disabilities...’; QHSN36 – High Quality Apartment Development; QHSN37 – Houses and Apartments; QHSN38 – Housing and Apartment Mix;

QHSN40 – Build to Rent Accommodation - To facilitate the provision of Build to Rent (BTR) Accommodation in the following specific locations:

- Within 500 metre walking distance of significant employment locations,
- Within 500 metres of major public transport interchanges (e.g. Connolly Station, Tara Street Station and Heuston Station), and
- Within identified Strategic Development Regenerations Areas.

There will be a general presumption against large scale residential developments (in excess of 100 units) which comprise of 100% BTR typology. To ensure there are opportunities for a sustainable mix of tenure and long term sustainable communities, a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020.

There will be a presumption against the proliferation and over concentration of BTR development in any one area. In this regard, applications for BTR developments should be accompanied by an assessment of other permitted and proposed BTR developments within a 1km radius of the site to demonstrate:

- that the development would not result in the overconcentration of one housing tenure in a particular area and take into account the location of the proposed BTR.

- how the development supports housing need, particularly with regard to tenure, unit size and accessibility with particular reference to the Dublin City Council Housing Need and Demand Assessment.

QHSN42 – Build to Rent Accommodation - To foster community both within a BTR scheme and to encourage its integration into the existing community, the applicant will be requested to provide an evidenced based analysis that the proposed resident support facilities are appropriate to the intended rental market having regard to the scale and location of the proposal. The applicant must also demonstrate how the BTR scheme must contribute to the sustainable development of the broader community and neighbourhood.

QHSN44 - Build to Rent/Student Accommodation/Co-living Development - It is the policy of DCC to avoid the proliferation and concentration of clusters of build to rent/student accommodation/co-living development in any area of the city

QHSN47 – High Quality Neighbourhood and Community Facilities; QHSN48 – Community and Social Audit; QHSN015 – Community Safety Strategy – all 100+ housing developments; QHSN55 – Childcare Facilities;

Chapter 6 refers to ‘City Economy and Enterprise’. Relevant policies include:

CEE26 Tourism in Dublin; CEE28 – Visitor Accommodation – sets out criteria when considering *inter alia* hour accommodation proposals;

Chapter 8 relates to Sustainable Movement and Transport. Relevant policies include:

SMT1 – Modal Shift and Compact Growth; SMT6 – Mobility Management and Travel Planning; SMT7 – Travel Plans for New and Existing Developments; SMT9 – Public Realm in New Developments; SMT27 – Car Parking in Residential and Mixed Use Developments;

Chapter 9 relates to Sustainable Environmental Infrastructure and Flood Risk.

Relevant policies include: SI2; SI3; S14; SI6 – relating to water services; SI15 relating to Site Specific Flood Risk Assessments; SI21; SI23; SI25;SI26 relating to SuDs and surface water management;

Chapter 10 relates to Green Infrastructure and Recreation. Relevant policies include:

GI6 New Development/New Growth Areas; GI9 European Union Natura 2000 Sites; GI10 Flora and Fauna Protected under National and European Legislation Located

Outside Designated Areas; GI11 Proposed Natural Heritage Areas; Habitat Creation and New Development; GI28 relating to public open space in new residential development; GI41 relating to the protection of existing trees; GI52 relating to children's play facilities in new developments;

Chapter 11 relates to Built Heritage and Archaeology. Relevant Policies include: BHA2 – Development of Protected Structures – sets out relevant criteria to be considered; BHA11 Rehabilitation and Reuse of Existing Older Buildings; BHA21 Retrofitting Sustainability Measures; BHA24 Reuse and Refurbishment of Historic Buildings;

Chapter 12 relates to 'Culture'. Relevant Policies include:

CUO25 - SDRAs and large Scale Developments - All new regeneration areas (SDRAs) and large scale developments above 10,000 sq. m. in total area* must provide at a minimum for 5% community, arts and culture spaces; CUO30 - Large development applications (over 10,000 sq. m) required to undertake a cultural audit (in the absence of a DCC local area culture audit).

Chapter 14 relates to Land Use Zoning.

Chapter 15 relates to Development Standards. Table 15-1 – sets out documentation requirements for various thresholds of development. Section 15.4 refers to Key Design Principles; 15.6 refers to Green Infrastructure and Landscaping including the need for a Landscape Design Report (30+ residential units), Daylight/Sunlight within public open space be in accordance with BRE guidelines, with reference to Appendix 16; 15.7 refers to Climate Action; 15.8 refers to residential development.; 15.9 refers to Apartment Standards; 15.10 refers to Build to Rent Developments; 15.14.2 refers to Hotel and Aparthotels; 15.15.1.1 refers to Hotel Development; 15.15.2 refers to Built Heritage; 15.16 refers to Sustainable Movement and Transport with reference to Appendix 5; 15.7 refers to Public Realm; 15.18 refers to Environmental Management

Relevant Appendices include:

Appendix 1 sets out the Housing Strategy and the Dublin City Housing Need Demand Assessment (HNDA).

Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

Appendix 5 Transport and Mobility sets out the technical requirements for developments. Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments. Dublin City Development Plan 2022 - 2028

7.0 The Appeal

Third Party Appeals

7.1. 6 no. Third Party Appeals have been received from the following parties in respect of the Notification of Decision to Grant Permission issued by Dublin City Council on 13th December 2022. Ailesbury Apartments Management Company Ltd.

- Angelsea Road, Ailesbury Drive and Ailesbury Grove Residents Association
- Brian and Orla Murphy
- Pat Desmond, Chris Comerford, John and Imelda Gleeson
- Republic of Austria
- Sharon Mullin

7.2. The appeals were received after the current Dublin City Development Plan 2022-2028 came into force (14th December 2022).

7.3. I have summarised the grounds of appeal under the following general headings below:

Principle of Development/Zoning

- Find it incongruous that a 192 bedroom hotel could be granted under the guide of a Large Residential Development/nothing residential about a hotel/scale makes it a very substantial element of the overall scheme/is this permitted under the relevant legislation
- No LAP for the site.

- Proposed development exceeds the quantum of development by 37% as set out in the applicant's Masterplan/Provision of a hotel was not envisaged in the masterplan
- Provision of 40% build to sell unit contravenes the policies of the adopted plan (Section 15.10)/ Quantum of BTR conflicts with the Development Plan/ BTR element will not establish positive placemaking/neighbourhood connection and interaction
- Request the Board overturn DCC's decision and refuse permission for the proposal
- Contrary to zoning objectives
- Material contravention of the zoning objective (2016-2022 Z2 Zoning)

Design and Conservation (including Density, Height, Detailed Design, Visual Impact, Impact on Protected Structures/Residential Conservation Areas)

- Request the Board to consider the application *de novo* taking into consideration the adoption of the Urban Development and Building Height Guidelines and the Heights Strategy in Appendix 3 of the Dublin City Development Plan 2022-2028
- DCC have accepted the heights and densities put forward by the applicants verbatim/opposite of a plan led approach/conflicts with policy guidance
- Building Height Guidelines state that general building heights of at least 3 to 4 storeys, coupled with the appropriate density, in locations outside of the city centre, including suburban areas, must be supported in principle/Within the canal ring heights of at least 6 storeys at street level is the default objective/All schemes must have regard to the prevailing context within which they are situated/Prevailing height is 2-3 storeys
- Densities well in excess of the norms/somewhere in the region of 200 units/ha/More than double the maximum per planning guidelines
- A development that was approximately 50% of this scale would be consistent with good planning and development
- Donnybrook is classified as an urban village/Former RTE site is an institutional site on the edge of an urban village/Prevailing low-density character/proposals for

increased height and density need to have regard to the existing pattern and urban grain of development to ensure successful integration

- Objective of the Sustainable Residential Guidelines in Urban Areas to preserve some of the character of institutional sites/proposal fails to achieve this objective
- Guidelines indicate that average net densities of above 50 dwellings per hectare and up to 70 dwellings per hectare should be considered on former institutional sites such as the former RTE site
- Current Dublin City Development Plan indicates that densities between 60-150 dwellings per hectare should be considered in key urban village locations
- Proposed density of 196 units per hectare vastly exceeded both of the upper limits for density envisaged in both the urban development guidelines and the development plan guideline/Density far exceeds the acceptable levels of density indicated in the adopted Dublin City Council Development Plan
- Performance criteria as set out in Table 3 of the Heights Strategy (Development Plan) shall apply
- Proposed density is a an appropriate range for a city centre site with the canal belt/site is not a SDRA/SDZ/Subject to an LAP
- The density range should be between 60-150 dph nett as applied to key Urban Villages or former Z6 lands.
- Heights will result in an unacceptable impact on residential amenity/contravene Appendix 3 of the adopted heights policies contained within Dublin City Development Plan 2022-2028
- Hotel is the same height as Liberty Hall/much too high for an area with virtually no high rise structures/create overlooking and overshadowing issues/would be visually inappropriate
- Heights exceed Development Plan (2016-2022) Standards
- Height and density far too high for the capacity of the public transport
- Height of blocks along the northern boundary are too high

- Scheme is lacking the necessary innovative urban design/architectural design to justify height increases.
- The only intervention of the planning department is to replace the proposed rendered finishes with brickwork
- Applicants have previously delivered successful schemes
- Proposed development fails to respect or compliment existing surrounding character/context/does not enhance the design quality in the area
- Approved higher buildings demonstrate higher standards of architectural design/good examples of the need to achieve higher standards of architectural design.
- Excessive scale and overbearing development.
- No landscape assessment carried out/fails to identify density yields/provide for recreational uses
- Will result in monolithic structures/typology inconsistent with the established character of the area
- Overdevelopment in terms of its density and height/will result in substandard residential accommodation/and seriously injure the character and amenity of the surrounding residential conservation area.
- Insufficient assessment of the Z2 zoning/protected structure on site
- There is not a comprehensive report from the Planning Department
- Will seriously injure the character and amenity of the surrounding residential conservation area.

Transport Issues

- Condition No. 28 (I) [Access at Ailesbury Close]/Proposal will give rise to a traffic hazard/will endanger public safety/In their present condition, road and pedestrian footpath are not suitable/must be improved to safely accommodate cyclists and pedestrians/Do not object to the continued use of this access at Ailesbury Court on a limited basis in keeping with previous grants of permission/should be restricted to pedestrian and cycle access; emergency access; access to the 10

no. 'age-friendly' apartments in Block 10; servicing and deliveries to Mount Errol House and the stable building/this can be achieved by way of condition.

- Condition No. 6 [Mount Errol House & Stable Building]/Concerned with vehicular traffic implications of the proposed uses in Mount Errol House and the stable building/Number of car parking spaces accessed from Ailesbury Close is nearly twice the quantum of parking spaces permitted to use this access in the SHD proposal/reservations regarding the assessment of predicated vehicular traffic associated with the commercial uses at Mount Errol House and stables in the TTA/Condition No. 6 refers to the communal residential facilities/unclear if the condition applies to Mount Errol House and the stable buildings/request that condition be amended to refer explicitly to Mount Errol House and the stable buildings
- Commercial uses at Mount Errol House and the stable buildings will generate more traffic than the previous residential uses in the SHD scheme/materially different implications in terms of vehicular access at Ailesbury Close/Unable to safely accommodate significant additional vehicular movements in its present condition/limited visibility from existing access points from Ailesbury Court and Belville/implications for pedestrian and cycle safety/no proposals to improve road/commercial facilities should be omitted by way of condition and replaced with residents gym/members club
- Uses proposed should be specified in the application rather than be agreed by condition/lack of third party input/condition should be amended to 'prior to commencement of development'.
- Will create traffic congestion
- Under provision of car parking spaces
- Concerns in relation to the capacity to cater for traffic and parking associated with the proposed development
- Vehicular access and parking must be restricted to the age friendly units in Block 10 and Mount Errol House and Stables/should be ensured that there is no access to the basement car park in the proposed scheme from the Ailesbury Close entrance/no through access for vehicles from the Stillorgan Road to the Ailesbury

Close entrance/access though Ailesbury Close should be restricted during construction

- Increase in traffic on Ailesbury Close will result in a negative impact on the existing residential amenity for residents of Ailesbury Close
- Will be construction parking along Ailesbury Close
- Overprovision of car parking spaces
- Underprovision of residential car parking spaces/insufficient spaces for the hotel

Impact on Surrounding Residential Amenity (Overlooking/Daylight, Sunlight and Overshadowing/Construction Impacts)

- Heights will result in an unacceptable impact on residential amenity
- Impact on existing and proposed amenities
- DCC have not given due consideration to the observations raised by appellants during the application process
- Impact of the development on the appellants family home
- Will compromise right to light/will impact on sky line
- Significant impact on VSC/4 of 10 windows fail at No. 8 Stillorgan Road/Impacts on kitchen and living room windows/first floor is a bathroom/windows serve 7 rooms/no assessment of the affected rooms has been carried out
- Higher buildings at the Stillorgan Road end/more balanced approached needed
- Impact of construction over 10 years
- Impact of privacy of properties/which are protected structures/immediately adjacent to the Z2 part of the site/objective to protect/improve amenity of adjacent residences
- Mitigation measures should be included as a condition to any planning permission in order to avoid overlooking/use of translucent windows/opaque privacy screen on balconies/height restrictions on blocks closest to their properties/condition 4 should be retained
- Overlooking of Ambassador's residence creates security and privacy concerns

- Would overlook appellant's property and surrounding properties
- Loss of daylight to property/this is not insignificant

Daylight/Sunlight Standards (Proposed Residential Units)

- Substandard daylighting within the units
- 27% of units fall below the minimum recommended sunlight/daylight targets

Trees

- Lands are substantially open and characterised by the mature tree belt perimeter to the Stillorgan Road/visual amenity/absorbs traffic noises/assists biodiversity
- Applicant seeks to remove 53 trees along the boundary/only 12 are recommended for removal/will compromise the character of the existing landscape environment
- Removal of 53 mature trees not sustainable from a bio-diversity view or from an urban design viewpoint
- Loss of trees/should set development behind the tree belt/impact on air quality
- Visual impact would be greater if trees were removed
- Removal of trees

Other

- Decision was issued only 10 working days from the final date for observation/if more time had been taken perhaps different conclusions would have been reached.
- Timing of decision made it difficult to get professional advice
- Water and waste water infrastructure already under considerable strain/proposed development would increase problems/existing issue with the Rathmines Pembroke Sewer during heavy rainfall/increased risk of flooding from the sewer/surface water attenuation measures inadequate
- Area cannot support proposed development/result in over 1,000 people to the area
- Inadequate schools capacity/impact on health service capacity

- Impact of the RTE masts on future residents of the proposed development
- Contravenes DCC policy to have own door units

7.4. Applicant Response

7.4.1. The applicant has responded in two parts. Firstly, there is a response to the ARADAG appeal, which was received on the 7th February 2023. Secondly, there is a response to the remaining 5 no. appeals, which was received on 15th February 2023. In the interests of clarity I have grouped the two responses together and summarised both responses below.

Zoning

- Under the current plan, the entire site is zoned 'Z12 Institutional Land (Future Development Potential'.
- Proposed scheme is a predominately residential scheme that retains a parklands setting that safeguards the open character of these former institutional lands.
- Proposal delivers the required amount of open space (28% of the entire site)
- Proposal remains acceptable in principle and fully complies with the zoning of the site

Masterplan

- An Update to the 2016 Masterplan was included which addresses the issue of open space and high quality linkages/Previous Masterplan was prepared prior to the National Planning Framework, the RSES, the Height Guidelines, and current guidance from the NTA and TII/quantum of residential has been amended to reflect these documents

Surrounding Context

- Land use zoning objectives on the surrounding lands have not changed from the previous Development Plan.
- Design has had regard to the context/to the residential properties to the norther/main traffic artery into the city to the south/southern buildings give a strong definition to the Stillorgan Road/Blocks to the northern edge respond to

the Ailesbury Road residential context include the Z2 residential conservation area/facades facing into the park are more open in character, respond to the park like setting/potential to increase height to create a focal point for the site

- Northern blocks stepped down from 8 storeys to 5 to respond to the scale of the Z2 zoned lands and Protected Structures
- Tallest block located adjacent to the existing, non-residential buildings
- DCC Planner found that there would be no serious overlooking or loss of residential amenity to adjoining properties
- No basis for the claim that the proposal is a material contravention of the Z2 zoning objective
- DCC Planner notes that this is an area in transition/proposal will adequately integrate into its receiving environment including the Z2 conservation area and the RTE campus

Proposed Use of Mount Errol House and Stable Building

- The Residential Amenity Report describes the residential facilities on site/uses in Mount Errol House and the stables buildings are categorised as 'non-residential amenity'/Provisions of Condition No. 6 do not apply to these uses.
- Traffic Generated by these uses has been assessed in the TTA/predict 4 no. vehicular movements in the morning/10 no. vehicular movements in the evening peak hour via the Ailesbury Close access
- Request that the proposed uses remain as set out in the statutory notices

Scale of Development

- DCC Planner concluded that the density would be consistent with the NPF, RSES and the Apartment Guidelines
- Proposed development would deliver compact growth and consolidation of the existing urban area
- Site coverage is indicative of the design approach taken/in line with Development Plan Guidance/use of the open spaces by the wider public is promoted by the Development Plan

- Density figure of 197 units/ha relates to the residential element only
- For mixed use development a suite of measures should be used, including plot ratio and site coverage
- In relation to density, the site comes within the 'key location' category in terms of its location on a public transport corridor
- Development Plan promotes higher densities within 500m of a bus stop/site is located to the Stillorgan Road QBC/proposed BusConnects Core Bus Corridor/close proximity to Sydney Parade DART station
- Proposed plot ratio within current Development Plan standards (see outer city)
- Performance criteria in Table 3 applies/reflect those in the Building Height Guidelines/proposal complies with these criteria
- NTA's submission notes the suitability of the site for higher density development
- Supported by DCC's Planner's report

Overlooking

- Key consideration in the design development process/has been addressed though the provision of adequate separation distances/positioning of windows and balconies
- Austrian Ambassador's residence is c115m from the site boundary/rear garden boundary c80m from the application site boundary/Blocks 1-4 are set back c11.5m from the site boundary
- The southern boundary bounds the Stillorgan Road, a 30m wide road
- Obscure glazing and privacy screens have been recommended through condition no. 4

Visual Impact

- Landscape and Visual Impact Assessment has been prepared/included in the planning application/see Ch 15 of the EIAR
- Assessment found majority of the receiving environment would experience positive or neutral effects

- Proposed development is sufficiently removed from Ailesbury Road/residual effects would be moderate neutral
- Significance of visual effect on Danesfield House would be slight/unavoidable/in line with a compact growth policy
- Excessive Height
- Building Height Caps as contained in the previous Development Plan have been removed in favour of performance based criteria in the current Development Plan
- Proposal does not contravene the current Development in relation to height
- Design Statement addresses the issue of height and massing
- In relation to height, proposal is fully compliant with national policy and with the criteria as set out in the Building Height Guidelines
- Current Development Plan supports heights in areas close to high frequency public transport/Proposals comply with the criteria as set out in Table 3 of the Plan/Design Statement sets out the context and evolution of the design.
- Supported by the DCC Planner's report
- Detailed response to the criteria as set out in Table 3 and Table 4 (Landmark Buildings) of the Development Plan/Proposal has addressed each and every criteria and complies with same.

Design and Layout

- Design Statement sets out strategy/5 distinct character areas
- Context Height Ratio is an important factor to consider when assessing the tall building element
- Modulated approach to breaking down the massing
- Avoidance of monolithic elevations
- 6 storey height along Stillorgan Road/taller elements of these blocks set back within the scheme, fronting the open space

Daylight/Sunlight

- EIAR comprehensively addresses the issue of daylight and sunlight provision as well as impact on adjoining neighbours
- DCC Planner considered level of internal daylight and sunlight compliance to be acceptable
- Submitted scheme was reviewed in accordance with the recommendations as set out in Appendix 16 of the current Development Plan
- Assessed against the 2011 BRE Guidelines (now withdrawn) and the 2022 BRE Guidelines
- Detailed response to daylight sunlight issues attached in Appendix C of the applicant's response to the appeals
- Notes that the proposed units will afford future residents with their own private external daylight amenity spaces/this reduces the level of light entering the units below/contributes to many of the units falling below the minimum target criteria
- Compensatory design measures have been provided
- No significant impacts on daylight levels to surrounding properties/where there are impacts some rooms are served by other windows that meet BRE criteria/one window found to be a non-habitable room/some windows have overhangs or are recessed/supported by No Sky Line analysis which indicates that no material change in daylight amenity is likely to occur
- DCC planner concluded that impacts on neighbouring properties would not be significant.

Build to Rent

- BTR is recognised as a viable long-term housing solution in the Design Standards for New Apartments
- Development Plan acknowledges BTR serves an important role in meeting housing demand
- DCC Planner concluded that the proposed development complied with SPPR, 3, 4, 5 7 and 8 of the Apartment Guidelines (2020)

- Complies with national level guidance in relation to BTR, with which the current Development Plan must align
- Proposal complies with current policies in relation to BTR in the current plan (QHSN40, 41 and 42) in that:
- The proposed development is located next to RTE campus which is a significant employment location/also proximate to St. Vincent's Hospital, UCD, Facebook/Meta, Elm Park Green
- 447 of the 688 no. units have been designed as standard apartments (c65%) therefore comply with QHSN40
- 348 no. units meet the +10% requirement which complies with the 2022 Apartment Guidelines
- Appendix B of the applicant's response to the appeal contains an assessment of other permitted and proposed BTR developments within 1km radius of the site
- Notes there are three no. permitted/proposed BTR developments within 1km – would bring forward a total of 211 BTR units if constructed – would comprise c4.9% of the total residential properties within the identified Small Area /65.1 % of all properties are houses/bunglaows/ over half are owned or mortgage/loan/33.8% are flats/apartments
- Proposal would not result in an overconcentration of BTR units or flats/apartments
- Residential Amenity Report, Design Statement, Chapter 4 'Population and Human Health' and Chapter 15 'Landscape and Visual Impact Assessment' – demonstrate that the proposal will comply with the requirements of QHSN42
- In relation to residents facilities and services - current Development Plan recommends a general guidelines of 3 sq. m. per person/assessed on a case by case basis/total of 3,500 sq. m. provided/equates to a provision of 2.8 sq. m. per person/also excess provision of public open space
- BTR units are provided as part of a new urban neighbourhood/will deliver a range of services and amenities on site including *inter alia* café/restaurant, artisan shop, gym and hotel/all in a parkland setting

Transport

- Ailesbury Close access will act as a secondary/emergency access only
- Vehicular access restricted to Mount Errol and the age friendly apartment in Block 10.
- There will be no through route from the Stillorgan Road onto Ailesbury Close (with the exception of emergency access)/physical barrier preventing this manoeuvre.
- The access is existing/established rights and patterns of vehicular movements over a long number of years/there are low vehicle speeds on this road
- Required sightlines have been achieved
- There are parking restrictions in place on Ailesbury Close
- Will not be used for construction traffic as per condition No. 28(I)
- Substantial development contribution towards public infrastructure and facilities will be paid including roads infrastructure
- Significant amount of background analysis has been undertaken including a TTA, a Public Transport Capacity Assessment, a Transport Assessment as part of the EIAR/Outline Construction & Environmental Management Plan (OCEMP), Outline Construction Traffic Management Plan (OCTMP), as well as a Mobility Management Plan.
- Impact on the surrounding road network will be minor
- Development will provide high quality pedestrian and cycle routes/car clubs/mobility manager/site is highly accessible
- Parking standards in the current (and previous) Development Plan are 'maximums'
- Proposal is providing 0.6 spaces per dwelling/416 car parking spaces/60 spaces to serve the 192 bed hotel in line with Development Plan standards
- Transport Planning Division had no objection to the proposed development subject to conditions.

Conservation

- Architectural Heritage Impact Assessment was submitted with the application
- Established a line of vision to be retained to the front and sides of Mount Errol House, to ensure an adequate setting for the building/to ensure that views of the house were maintained from the Stillorgan Road/to protect the mature parkland to the front of the house
- Proposed residential buildings are also lower in height than the rest of the scheme
- Mount Errol House is in existing use as office space/very little interior fabric remaining/will be refurbished for use as a café/restaurant/Stable Building will be brought back into use as an artisan shop
- DCC Planner's report fully assessed Mount Errol House and other Protected Structures on RTE campus

Landscape/Trees

- Along Stillorgan Road boundary, Tree Group No. 1 is overgrown and scrubby/does not contain specimen trees/proposed for removal/a new line of semi-mature trees proposed to the front of the residential blocks/removal of trees has been considered at length/will be mitigated through the planting of 504 new individual trees to compensate for the removal of existing trees/to improve the species mix on site
- Improvement to the public realm on this boundary do not appear to have been considered by Parks Services of Dublin City Council, who have recommended the conservation of this existing tree belt
- Proposed development respects and safeguards the open character of the site
- Trees that make a valuable contribution to the environment, notable along the northern and western boundaries, are retained in line with Policy GI41/majority of trees on the boundary with Stillorgan Road are Category C trees

Compliance with Current Dublin City Development Plan 2022-2028

- The overall development is compliant with the new Development Plan and there is no contravention of the current Development Plan

- Applicant's response to grounds of appeal set out how the development complies with relevant provisions of the new plan, including those relating to Chapter 5 'Quality Housing and Sustainable Development', Chapter 8 'Sustainable Movement and Transport', Chapter 9 'Sustainable Environment and Flood Risk'. Chapter 10 'Green Infrastructure and Recreation', Chapter 11 'Built Heritage and Archaeology', Chapter 12 'Culture, Chapter 15 'Thresholds for Planning Applications'

Infrastructure

- No evidence provided that infrastructure capacity is insufficient/Internal departments found the proposal to be acceptable/no submissions from Prescribed Bodies highlighting any issues in relation to capacity/Issue dealt with at length in the EIAR/Community and Social Infrastructure Audit/Drainage and Watermains Report.
- Proposal will deliver open space, food shop, restaurant/café, crèche
- Irish Water has advised that the water supply and wastewater network has capacity to cater for the proposed development without upgrades

Other

- Applicant has met with landowners immediately bounding the site

7.5. Planning Authority Response

- 7.5.1. The Planning Authority's response to the third party appeals was received on 1st February 2023. This response states that it is requested that the Board uphold the decision of the Planning Authority. It is requested that particular conditions to be applied.

7.6. Observations

Mike & Marion Mckillen

- Subject lands are not at 'Montrose' – it is Mount Errol
- Impact on daylight sunlight/impact on garden/fruit and vegetable production in garden

- Bulky development
- Hotel not a suitable use having regard to the Z2 zoning objective.
- Visual impact of the development
- Board should request a montage as viewed from back garden
- Dublin is overprovided with hotel beds/Greenhouse gas emissions from overseas tourists
- Any provision of telecommunications equipment should be rejected
- Existing trees from the RTE car parking impact on daylight/sunlight levels/cause overshadowing/structural impacts on boundary wall from the trees/do not want additional trees on the boundary

Sean and Marie Sexton

- Negative impact on surrounding amenity
- Impact on surrounding daylight/W4, 5, 6,7 all serve habitable rooms
- Development would be overbearing
- Scale mass and bulk of Blocks 7, 8 and 9 will dwarf the existing building environment and are overly repetitive
- Development has sought to appease previous appellants on the northern boundary to the detriment of the appellants on the south-western boundary of the site
- Visual impact of the development
- 474 habitable rooms fall below the minimum recommended sunlight and daylight targets
- Issue of height and right to light should be addressed by way of condition

Shrewsbury Property Services Company Limited

- Will add to congestion on Ailesbury Close at construction and operational phase/Donnybrook Church has recently created second point of access which will also contribute to congestion
- Belville Court will be forced to introduce parking controls

7.7. Further Responses

7.7.1. None on file.

8.0 Assessment

8.1.1. It is noted that the decision of the planning authority was made when the 2016-2022 Dublin City Development Plan was in place. The current Dublin City Development Plan 2022-2028 came into effect on the 14th December 2022. The appeal is therefore assessed having regard to the provisions of the current Development Plan, as well as National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines. It has full regard to the planning authority's report, the submitted third party appeals and observations, the first party response to same, and submissions by prescribed bodies.

8.1.2. The main issues in this appeal case are those raised by the third parties in their appeal submissions. I am satisfied that no other substantive issues arise. I propose to address these issues under the following broad headings:

- Principle of Development
- Design and Conservation
- Transport Issues
- Surrounding Residential Amenity
- Daylight/Sunlight Standards (Proposed Residential Units)
- Other Issues

8.1.3. I have also addressed issues raised by third parties within Section 9 of this report (Environmental Impact Assessment) and within Section 10 of this report (Appropriate Assessment).

8.2. Principle of Development

8.2.1. Under the current Development Plan the site is zoned Z12 'Institutional Land (Future Development Potential)' with the associated Land-Use Zoning Objective Z12: 'To

ensure the existing environmental amenities are protected in the predominantly residential future use of these lands’.

- 8.2.2. Residential, childcare facility, hotel, cafe/tearoom, restaurant, shop (local) are permitted uses. ‘Built-to-Rent residential’ is ‘open for consideration’. An ‘open for consideration’ use is one which may be permitted where the planning authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.
- 8.2.3. The Planning Authority has not objected to the principle of the uses proposed (albeit it was assessed by the Planning Authority under provisions of the previous Development Plan). Having regard to the zoning provisions of the current Plan, I am satisfied that the principle of the uses are acceptable here. I am of the view that the proposed artisan food store, which is to be located in the stable building of Mount Errol, could be classed as a shop (local). In relation to the Build-to Rent (BTR) element, there is no evidence before me that a BTR use would not be compatible with the overall policies and objectives of the zoning, there is no evidence that the use would have an undesirable effect on the permitted uses, and, generally speaking, the BTR element would be consistent with the proper planning and sustainable development of the area. As such I am satisfied the uses are acceptable in principle, having regard to the Z12 Zoning Objective for the site, subject to the detailed considerations below.

Build to Rent

- 8.2.4. Relevant policies with the Development Plan in relation to BTR developments include Policy QHSN40, which allows for BTR developments within a 500 metre walking distance of significant employment locations, within 500 metres of major public transport interchanges and within identified Strategic Development Regenerations Areas. This policy further states a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020.

8.2.5. In relation to relevant Section 28 Guidelines, I note that Build to Rents schemes are not recognized as a distinct category in relation to amenity standards in the current Apartment Design guidelines issued in December 2022 (therefore the same standards as applied to Build-to-Sell would apply to Build-to-Rent). However, the 2022 guidelines were accompanied by a Circular Letter from the Minister stating that transitional arrangements would apply to applications for Build-to-Rent apartment developments that were already in train when the new guidelines were adopted, such as the current one. Under these arrangements, the previous version of the apartment design guidelines (2020) would continue to apply. The Board is therefore advised that the standards set out in the 2020 guidelines apply to the current proposal. Furthermore, given the specificity of the minister's circular in relation to current applications for Build to Rent schemes and the recognition in the Apartment Design Guidelines of their role in meeting wider objectives in relation to housing and urban form, I am of the view that the Build-to-Rent element of the proposed development on this site is justified at this time by guidelines and policies issued by the minister. In addition, I accept the applicant's contention that the site is within 500m of a significant employment location, namely the RTE campus³, located directly adjacent to the site, and as such complies with the locational restrictions imposed by Policy QHSN40 of the Development Plan. I also accept that that the occupants of this development could take advantage of other significant employment locations at University College Dublin and St. Vincent's Hospital, which are both at a distance of approximately 1km from the site, and within reasonable walking distance from the site. The site is within reasonable walking distance of Donnybrook Village, and Ballsbridge also which provide further employment opportunities, and is within approximately 3.5km of Dublin City Centre, with the significant levels of employment opportunities found therein.

8.2.6. Policy QHSN40 further states that a minimum of 60% of units within a development must be designed as standard apartments in accordance with the requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, December 2020. In relation to same, I note that 65% of the units are designed as standard apartments, and as such comply with the above policy.

³ The total full time, part time and casual employees of RTE Group was 1,871 persons in 2021 (source: https://www.rte.ie/annual-report-2021/pub/pdf/21877_RTE_Annual_Report_YE21_EN.pdf)

- 8.2.7. Policy QHSN40 also seeks to avoid an overconcentration of BTR developments within a 1km area, and seeks that applications for same are accompanied by evidence which demonstrates that this will not occur, as well as how the development will support housing need, with reference to the Dublin City Council Housing Need and Demand Assessment. The application was lodged when the previous Development Plan was in force, and this was not a requirement under this previous plan. As such, no such assessment is submitted with the application. However, the first party has provided this information as part of the response to the third party appeals. Appendix B of the first party's response to the appeals contains an assessment of other permitted and proposed BTR developments within 1km radius of the site. It is noted that there are 3 no. permitted/proposed BTR developments within 1km – would equate to a total of 211 BTR units if constructed, comprising approximately 4.9% of the total residential properties within the identified Small Area (as defined by the CSO). In terms of housing typologies, it is noted that approximately 65.1 % of all properties are houses/bungalows and 33.8% are flats/apartments, with over half of the properties owned outright or with a mortgage. As such, I am of the view it cannot reasonably be asserted that the proposal would result in an overconcentration of BTR developments within a 1km radius of the site, noting also that there is no threshold specified in the Development Plan that would define an overconcentration of such BTR developments. In relation to housing need, Section 28 Guidelines are clear in relation to the role of BTR in securing the continued delivery of residential development (Para 5.1 of the Apartment Guidelines 2020). Specifically, in relation to the Dublin City Council's Housing Need and Demand Assessment (Appendix 1 of the Development Plan), it is noted that rental inflation in Dublin has been driven by a number of factors, one of which is identified as housing supply levels. The interim HNDA for the Dublin City Development Plan 2022-2028, forecasts that housing need in the Dublin City administrative area will comprise 27,219 households over the plan period, of which 4,088 will be in the private rented sector. The proposed BTR units here will help to deliver private rented units responding to this identified need.
- 8.2.8. SPPR 7 of the Apartment Guidelines (2020) require, *inter alia*, the provision of residential support facilities and residential services and amenities. I note the provisions of Development Plan policy QHSN42 seeks to ensure resident support

facilities are appropriate to the intended rental market having regard to the scale and location of the proposal and such schemes must also demonstrate how the BTR scheme will contribute to the sustainable development of the broader community and neighbourhood.

- 8.2.9. As per the application documentation, the support facilities and amenities include a laundry, concierge, residents' lounge, mail store, coffee dock, co-working area, kitchen, cinema and multi-purpose space. While SPPR 7 does not set out a quantum to be provided, the Development Plan recommends a general provision of 3 sq. m per person. The first party response to the appeal sets out that a total of 2.8 sq. m per person has been provided (a total of 1,602 sq. m of 'residential support facilities' and 1.898 sq. m. of 'residential services and amenities'). Having regard to same, I am satisfied that the proposed development is generally in accordance with the requirements of SPPR 7 and with the Development Plan, notwithstanding the slight shortfall in Development Plan standards, which I do not consider is material.

8.3. Design and Conservation

- 8.3.1. This section will consider issues relating to design and conservation, and will consider density, height, layout, visual impact, impacts on protected structures and on the surrounding residential conservation area.
- 8.3.2. The proposed density is c196 units/ha. A number of Third Party Appeal submissions have raised these issue of density, and compliance with both the new Development Plan and with the Sustainable Residential Development Guidelines (2009), in particular in relation to Institutional Lands. It is further set out that the proposal does not comply with the criteria in the Building Height Guidelines. It is set out that the proposed development will impact negatively on the Protected Structure on the site and on the surrounding residential conservation area.
- 8.3.3. The applicant, in their response to the appeal, have responded to the issues above, and maintain the proposal complies with the provisions of the relevant Section 28 Guidance, as well as the current Development Plan.
- 8.3.4. In relation to national policy on density Project Ireland 2040: National Planning Framework (NPF) seeks to deliver on compact urban growth. Of relevance, objectives 27, 33 and 35 of the NPF seek to prioritise the provision of new homes at

locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.

- 8.3.5. In relation to regional policy, the site lies within the Dublin Metropolitan Area Strategic Plan (MASP) as defined in the Regional Spatial & Economic Strategy (RSES) 2013-2031 for the Eastern & Midland Region. A key objective of the RSES is to achieve compact growth targets of 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs. Within Dublin City and Suburbs, the RSES supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area and ensure that the development of future development areas is co-ordinated with the delivery of key water and public transport infrastructure.
- 8.3.6. The Apartment Guidelines (2020) are of relevance when considering appropriate densities. The site can be defined as 'central and/or accessible site' given its proximity to a high frequency, high capacity bus service (see Section 8.4 of this report for a detailed consideration of same). Such sites are considered suitable for higher density development. No density limits are set out within these guidelines. As such the proposal is broadly in line with the principles as set out in the Apartment Guidelines.
- 8.3.7. Also of relevance is the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009). Having regard to the criteria within these guidelines, the site can be defined as a 'Public Transport Corridor', given its proximity to bus stop that is served by a high frequency, high capacity bus service (as demonstrated in Section 8.4 of this report). The Guidelines state that minimum net densities of 50 units/ha should be applied to these sites, with the highest densities being located at rail stations/bus stops, and decreasing away from such nodes. There is no upper density limit set out. I am of the view that the density proposed is generally appropriate for a site that is defined as a 'Public Transport Corridor', noting in particular the proximity of the site to bus stops served by a high frequency, high capacity service (as detailed in Section 8.4 of this report).
- 8.3.8. Given the nature of the site, as former Institutional Lands, and the current zoning of the site as Z12 'Institutional Land (Future Development Potential)', the site can also be categorised as 'Institutional Lands'. Institutional Lands are considered as a

distinct category within Chapter 5, Part (e) of the Guidelines (Para 5.10). The guidelines state, with regard to institutional land in suburban areas, that average net densities of 35-50 dwellings per hectare should prevail, and the open character of the site should be retained by concentrating increased densities in selected parts of the site (say up to 70 unit/ha). While the density is well above that set out for 'Institutional Land', I am not of the view that density of 70 units/ha would be appropriate for this highly accessible site, and would not be in line with the general thrust of the recently adopted Development Plan (adopted 13th December 2022), which seeks to provide higher densities at appropriate locations, in particular on those sites well served by public transport, subject to the performance criteria as set out in the Plan (see discussion on same below), and, furthermore, would not be in line with the principles of the NPF and the RSES, which in, general terms, seek to achieve higher densities in locations such as this one. It would also not be in line with the principles of the Apartment Guidelines, and other relevant provisions of the Sustainable Residential Development Guidelines (particularly in relation to 'Public Transport Corridors). as set out above.

8.3.9. In relation to national policy on height, the National Planning Framework sets out that general restrictions on building heights should be replaced by performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth (NPO Objectives 13 and 35 refer). The principle of increased height on a particular site, over and above any specific restriction in height such as that set out in the Development Plan, such as that proposed here, is supported by the NPF, subject to compliance with the relevant performance criteria. Such relevant performance criteria can be found in Section 3.2 of the Urban Development and Building Height Guidelines (2018), which I have discussed in tandem with the performance criteria as set out in the Development Plan, below. Other relevant policies within the NPF, and referred to in the Building Height Guidelines, include NP02 (a) (relating to urban growth); NP03a/b/c (relating to brownfield redevelopment targets); NP04 (well-designed neighbourhoods); NP05 (relating to scale and quality of urban development) and NP06 (related to increased urban populations/employment).

8.3.10. In relation the Building Height Guidelines (2018), referred to above, it set out that that increasing prevailing building heights has a critical role to play in addressing the

delivery of more compact growth in our urban areas. (Section 1.21 refers). It is stated that increasing 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 (Section 2.3 refers). It is further stated that such increases in height help to optimise the effectiveness of past and future investment in public transport serves including rail, Metrolink, LUAS, Bus Connects and walking and cycling networks (Section 2.4 refers). Section 3.2 of the Building Height Guidelines sets out detailed development management criteria, which incorporate a hierarchy of scales, (at the scale of the relevant city/town, at the scale of the district/neighbourhood/street; at the scale of the site/building), with reference also made to specific assessments required to be submitted with application for taller buildings. I am of the view that the criteria within the Building Height Guidelines are generally reflective of the criteria as set out in Appendix 3: Height Strategy of the Dublin City Development Plan, and I have considered compliance, or otherwise, with same (and therefore with the Building Height Guidelines) in the relevant section below.

- 8.3.11. In relation to Development Plan policy on density, the recently adopted Plan (2022-2028) is the applicable local policy document. Policy SC10 'Urban Density' of the current Development Plan seeks to ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Policy SC11 'Compact Growth' seeks to *inter alia* promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors.. Policy QHSN10 'Urban Density' seeks to promote residential development at sustainable densities in accordance with the core strategy.....having regard to the need for high standards of design...and to integrate with the character of the surrounding area'.
- 8.3.12. In the context of the Development Plan as a whole, reference is made to meeting the density targets within the National Planning Framework and the Regional Spatial and Economic Strategy (executive summary, p13), providing opportunities for increased density in a sustainable manner whilst ensuring the highest standards of design as well as the protection of existing amenities and the natural and historical assets of the city (Chapter 4, p117) and encouraging higher-density development along public

transport routes and more intensive development on sites located adjacent to high quality public transport (Chapter 8, p236; Chapter 15 p563).

8.3.13. Section 15.5.5 of the Plan sets out that high densities will be supported in appropriate urban locations, in accordance with the NPF, RSES and Section 28 guidelines. Appendix 3 of the plan sets out guidance regarding density [and building height]. Within Appendix 3, Table 1 of same sets out a range of density ranges that, as a general rule, apply to particular locations. I am of the view that, with reference to locations as set out in Table 1 of Appendix 3, the only applicable location type would be 'Outer Suburb', notwithstanding its location on the edge of Donnybrook Village, and some 3.5km from the City Centre. None of the other 'location types' are applicable. The density range for the 'Outer Suburb' is 60 to 120 units/ha. However, these density ranges set out in the Development Plan are a generality, and where higher densities are proposed, that are denser than the surrounding area, as is the case here, the performance criteria in Table 3 of Appendix 3 shall apply. I have considered the proposal against these criteria below, and I refer the Board to same.

In relation to Policy SC10 of the Plan, it could be argued that the proposed development contravenes this element of the Development Plan, in light of the policy's reference to the 'Sustainable Residential Development Guidelines' and in light of a reference to an upper density limit of 70 units/ha on Institutional Lands, within these Guidelines (although I note that Policy SC10 does not explicitly reference 'Institutional Land'). I have considered the general thrust of the Development Plan, which seeks to provide for higher densities at appropriate locations, in particular on sites well served by public transport, and seeks to apply performance criteria to determine appropriate densities for individual sites (as set out above), and in determining the acceptability of the density proposed here, I have considered the proposal in light of these performance criteria (see detailed discussion below), and I have concluded therein that the proposed development generally complies with same, and have concluded therefore that the proposed density is in compliance with the plan, and does not materially contravene same. The Planning Authority have assessed the application against the provisions of the previous Development Plan, and I note that the Planning Authority did not consider the proposed density a material contravention of the previous Development Plan, notwithstanding similar references to the Sustainable Residential Development

Guidelines in Policy QH1, Policy SN4, and within Section 16.4 'Density Standards' of the previous Development Plan (2016-2022). Furthermore, the Planning Authority, in their response to the third party appeals, has not raised any concerns in relation to the proposed development's compliance, or otherwise, with the Development Plan now in force.

Height

8.3.14. In relation height, I have set out the heights of the proposed blocks below:

Block	Height (storeys)	No. of units/Residential Mix/Other uses
1	4-5 storeys	29 no. residential units (8 X 1 bed; 15 x 2 bed; 2 x 3 bed); Residential Amenity Area (657 sq. m)
2	5-8 storeys	76 no. residential units (4 x studio units; 31 x 1 bed units; 36 x 2 bed units; 5 x 3 bed units)
3	5-8 storeys	76 no. residential units (4 x studio units; 31 x 1 bed units; 36 x 2 bed units; 5 x 3 bed units)
4	5-8 storeys	76 no. residential units (4 x studio units; 31 x 1 bed units; 36 x 2 bed units; 5 x 3 bed units)
5	9 – 16 storeys	80 no. residential units (64 x 1 bed; 16 x 2 bed); Hotel use (10,276 sq. m) with associated uses; telecommunications infrastructure
6	4 – 6 storeys	36 no. residential units (20 x 1 bed; 16 x 2 bed); Residential amenity area (667 sq. m)

7	6-10 storeys	103 no. residential units (6 x studio units; 39 x 1 bed units; 52 x 2 bed units; 6 x 3 bed units)
8	6-10 storeys	103 no. residential units (6 x studio units; 39 x 1 bed units; 52 x 2 bed units; 6 x 3 bed units)
9	6-10 storeys	94 no. residential units (38 x 1 bed; 51 x 2 bed and 5 x 3 bed); residential amenity area (c180 sq. m); childcare/crèche facility (418 sq. m)
10	2-3 storeys	15 no. residential units (13 x 1 bed; 2 x 2 bed)

8.3.15. In relation to local policy on height, relevant Development Plan provisions on height are set out in Section 6 of this report (Policy Context) and in summary include Policy SC14 – Building Height Strategy, Policy SC16 – Building Height Locations, Policy SC17 – Building Height; Policy SC18 and SC21 – Architectural Design. Appendix 3 of the Development Plan is the Height Strategy and it is stated that where a scheme proposes buildings that are significantly higher and denser than the prevailing context, the performance criteria as set out in Table 3 shall apply. It is further stated that, as general rule, mixed use developments that includes buildings of between 5 and 8 storeys, are promoted in key areas identified in the plan, and these include City Centre and within the Canal Ring (inner suburbs), Strategic Development Zones, areas covered by an LAP, Strategic Development Regeneration Areas, Key Urban Villages (as identified in Chapter 7), former Z6 industrial lands, Public Transport Corridors and Outer City (suburbs). The criteria in Table 3 relate to such issues as character, legibility, creation of streets, open spaces, mix of uses, sustainability, accessibility, historic environment and management. In relation to the location types above, the site most readily fits into the category of Public Transport Corridor (with regard to the site’s proximity to high frequency, high capacity bus services as set out in Section 8.4 of this report). It is further stated that sites with an

area greater than 0.5ha will require a masterplan, and I note that an 'Updated Masterplan has been submitted', and I consider that this is sufficient to comply with this particular criteria. In terms of the proposal's compliance with original masterplan for the site, I note that this has been raised as an issue in an appeal submission. The original masterplan was a non-statutory document intended to provide guidance for the development of the overall site, and the updated version of same has been produced by the applicant in response to relevant policy changes as reflected in the NPF, the RSES and relevant section 28 Guidelines. The Planning Authority have accepted that the updated masterplan meets the requirement for sites such as this one and I have no reason to conclude otherwise.

8.3.16. A landmark/tall building is proposed as part of the development proposal (Block 5 which is up to 16 storeys or a maximum of 55.6m in height). Within Appendix 3, areas for landmark/tall buildings (typically greater than 50m in height) are identified, and are within existing LAPs and SDS and within a number of SDRAs. The site is not located within any of these areas. However, it is also stated within the Plan that the onus is on the applicant to demonstrate in their application documentation that the site is appropriate for a landmark/tall building. For such buildings, performance criteria is set out in Table 4 of the plan. The criteria in Table 4 relates to such issues as architecture, sustainability, public realm, environmental impacts, public safety, visual impact and tall building clusters. The Plan notes that there will be a general presumption against landmark/tall buildings outside of these locations unless in exceptional circumstances and where it can be demonstrated that there is a compelling architectural and urban design rationale for such a development. Further criteria are set out in such cases, and include compliance with those criteria in Table 4 as well as other criteria relating to civic or visual significance, contribution to economy or culture, public transport provision and planning gain. I have considered compliance, or otherwise, with the relevant criteria below.

8.3.17. In terms of location, the site falls within the category of public transport corridor, and as such, mixed use developments with *general* heights (my emphasis) of between 5-8 storeys in heights shall be considered, and will be assessed against the criteria in Table 3 of the Heights Strategy. I am not of the view that the Plan excludes heights greater than 8 storeys (and this would not be in line with the principles of the NPF and the Building Height Guidelines, which rule out imposing blanket height

limitations) but allows for developments with greater heights to be considered against the performance criteria in Tables 3 and 4 of the Plan (which is in keeping with the principles of the NPF – NPO 13 refers). I have considered the development under the criteria below. In the interests of avoiding unnecessary repetition I have incorporated the criteria as set out in Section 3.2 of the Building Height Guidelines in the assessment below.

- 8.3.18. In relation the performance criteria in Table 3, and as set out in the Section 3.2 of the Building Height Guidelines, these criteria broadly relate to the principles of good design and sustainable development, and relate to issues such as existing character, accessibility, permeability, bulk and massing, detailed design and materials, residential amenity standards and relationship to surrounding developments.
- 8.3.19. In relation to the existing character, and in relation to emerging baseline trends, the existing surrounding urban structure is generally low to medium rise, with a mix of two and three storey housing, three and four storey apartment buildings and the RTE campus, which is comprised of low rise buildings. The wider area is undergoing change however, with taller buildings either permitted or under construction within Donnybrook Village. The southern boundary of the site is the Stillorgan Road, a 30m wide dual carriageway, which dominates the urban environment along this frontage of the site. There is a protected structure on the site 'Mount Errol', located to the north-west of the site, with other protected structures in proximity to the site (as discussed in this section below)
- 8.3.20. I am of the view that this existing context has been recognised by the approach to the development, with the heights of the blocks reflecting their proximity to the more sensitive elements on the site (the Protected Structure on the site, 'Mount Errol') and reflecting their proximity to the residential properties to the north-west, north, and north-east of the site. Block 10, lying closest to the nearest residential property (and to Mount Errol) is limited to 3 no. storeys in height. Blocks 1, 2, 3 and 4 are limited to 5 no. storeys on the northern boundary, with the 3 additional storeys of Blocks 2, 3 and 4 set in from the boundaries (Blocks 2, 3 and 4 have a height of 8 no. storeys in total). In relation to those blocks fronting onto the Stillorgan Road (Blocks 6, 7, 8 and 9), the proposed heights are again reflective of the character and context of the immediate surroundings. Block 6 is limited to a height of 4-6 storeys, reflecting its proximity to Mount Errol. Blocks 7, 8 and 9 are 6 no. storeys fronting onto the

Stillorgan Road, with the additional 4 storeys set back, the greater heights here reflecting the less sensitive character of the urban environment (Blocks 7, 8 and 9 have a height of 10 no. storeys in total). The height strategy on the site has provided for a variety of scales and for an appropriate transition in scale, as required by Table 3, and as required by Section 14.6 'Transitional Zone Areas' of the Development. The variety in scale, and in particular the setbacks of the Stillorgan Road Blocks, have ensured that the elevations do not appear as monolithic, and long slab blocks have been avoided. I have considered Block 5 (the 16 storey element) as a separate entity below, given its status as a landmark building, to which additional criteria apply.

- 8.3.21. In terms of placemaking, the proposal is delivering a new residential neighbourhood which includes a variety of non-residential uses including a hotel, café and crèche, which to my mind will bring overall positive impacts to the local community. In terms of accessibility, the site is located in a highly accessible location, with a variety of different land use activity in the immediate and wider area, including at the RTE Campus, within Donnybrook Village, reflective of its location within 3.5km of the City Centre.
- 8.3.22. In relation to the layout of the development, I note that the layout is a rational one, with vehicle access and movement limited through the site, with priority given the pedestrian and cycle access. Car parking at surface level is minimised, with the majority of parking at basement level. I am of the view that, the proposed development creates a distinct urban neighbourhood, with a landmark structure serving to provide legibility to the wider area, with increased permeability through the site, noting that the proposed development provides for pedestrian and cycle connections from the Stillorgan Road through to Ailesbury Close, with a central open space within the site, which is defined and enclosed by the residential blocks. I am of the view that the central open space, and associated streets/walkways, is sufficiently wide to ensure that the scale of the residential blocks do not result in an overbearing or oppressive form of development. I have had regard also to the Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009), which states that for 'Institutional Lands' such as this site, it should be an objective to retain some of the open character of the lands. In this regard, the parkland to the front of Mount Errol House has been retained, retaining the open character of same,

with the provision of a large area of public open space located centrally within the site, which is above Development Plan standards, in terms of quantum, noting that 28% of the site is being delivered as accessible public open space, in excess of the current Development Plan requirement of 25%. The higher and denser elements have been set back away from the parkland area to the front of Mount Errol House (see discussion of same below). I am satisfied that, in general, some of the open character of the site has been retained, in line with the above Guidelines.

8.3.23. The overall design is distinctive and of high quality, with the higher blocks utilising a different palette of materials than the smaller scaled blocks to the north. Blocks 7, 8 and 9, as well as having setbacks from the Stillorgan Road, have setbacks on the 'park' elevations also, which further mitigates against a perception of 'overbearingness' or 'oppressiveness'. Blocks 2, 3 and 4 are sufficiently spaced apart so as to further reduce apparent bulk and massing of the buildings, when viewed from this open space. A further civic space at the entrance of the site close to the Block 5 to the east of the site. Activity, and a mix of uses, is provided for at ground floor level of this block with a hotel café/bar, with additional non-residential uses provided to the west of the site at Mount Errol, with a more informal, open character defining this end of the site, which is cognisant of the Protected Structure. Passive surveillance is provided over all of the open space areas. In terms of accessibility, the Design Statement notes that the proposed development must meet Part M of the Building Regulations, and in this regard the proposed development will be designed to Universal Access Standards, which includes all pedestrian walkways and routes through open spaces and building access points. Further requirements relating to these criteria relate to sunlight and daylight penetration to the spaces, and a consideration of wind effects to same. In relation to the former, the orientation and openness of the open space allows for sufficient daylight and sunlight penetration (as discussed in detail in Section 8.5 of this report). In relation to the latter, the Wind Assessment (Chapter 14 of the EIAR) has considered impacts of wind on the proposed amenity spaces, thoroughfares and the surrounding environment, at construction and operational phases. At operational phases, the combination of the prevailing wind environment, the taller building of Block 5, and wind funnelling effects, leads to some occasions where winds are above the relevant thresholds, in the absence of mitigation. However there is only one area where these effects are

significant, at the terrace area adjacent to Block 5. Mitigation proposed includes wind canopy's on selected blocks (Blocks 5 and 9), and no significant residual wind impacts are expected.

- 8.3.24. Further criteria relate to the overshadowing and loss of light and I have considered the issue of surrounding residential amenity (including overlooking) in Section 8.7 of this report. Reference is made to surface water strategies and flood risk (see Section 9.4 for discussion of same) In relation to the other criteria within this section of the table, I note that that units allow for reconfiguration if required at a future date; plant areas are mostly at basement, with plant at roof level placed behind parapet walls/screens. In relation to materials, a Materials and Finishes Report has been submitted which notes that a range of low maintenance high quality materials have been utilised, include brick, reconstituted stone, renders and anodised aluminium, with the adoption of best practice guidance as relates to the sustainable design and construction of tall buildings. In relation to energy efficiency, measures in relation to same are set out in the Materials and Finishes Report and the Energy Statement, and relate to reduction of solar gain, airtightness and insulation, and the provision of green roofs and solar panels. Issues relating to management including waste management have addressed within the EIAR (see also Section 9.4) and I note also the proposed development is also required to comply with the provisions of the Multi-Unit Developments Act 2011, which requires *inter alia* the formation of a management company responsible for repairs and maintenance of the development.
- 8.3.25. In relation to tall building/landmark element of the proposal (Block 5 which is a maximum of 16 storeys in height), for such buildings, performance criteria is set out in Table 4 of the plan. The criteria in Table 4 relates to such issues as architecture, sustainability, public realm, environmental impacts, public safety, visual impact and tall building clusters. The Plan notes that there will be a general presumption against landmark/tall buildings outside of these locations unless in exceptional circumstances and where it can be demonstrated that there is a compelling architectural and urban design rationale for such a development. Further criteria are set out in such cases, and include compliance with those criteria in Table 3 as well as other criteria relating to civic or visual significance, contribution to economy or culture, public transport provision and planning gain. I have assessed the landmark element of the scheme against these criteria below.

8.3.26. As referred to in the Design Statement, the R138 (Donnybrook/Stillorgan Road)/N11 corridor has facilitated greater heights, including the Eglinton Road site on the corner of Donnybrook Road/Eglinton Road, which up to 12 storeys in height, as well as other proposals along this corridor up to 8 and 9 storey in height. As such, I am of the view the principle of greater height at locations such as this one has been established, with heights (and density) increasing with proximity to public transport routes and to the city centre. The Planning Authority have also accepted the principle of a taller building at this location, and in approving the proposal, have not sought to reduce the height by way of condition. The contribution of a taller building towards the built environment is determined to a large degree by the design quality of the building. The design features incorporated into the building are set out in detail in the Material and Finishes report, and include the use of a reconstituted stone frame on the core of the building, deeper reveals to the upper floors and the use of metal panelling, to the top floor, with perforated metal panels to the plant enclosure (which serve to screen plant and telecommunications equipment) and double height colonnade at ground floor. Blank inactive gables have been avoided. I have considered the heights and massing, and the relationship of the other elements of the scheme to the surrounding context above, and have noted that heights generally increase as one moves away from the more sensitive elements on and around the site. In relation to this taller element in particular, I note that it is set away from the most sensitive elements of the site and surrounding the site (namely the Protected Structure on the site, and surrounding residential properties). It is also set in within the site, reducing the apparent height when viewed from the surrounding road network. Table 4 also set out a requirement for a 'Visual Impact and Cityscape Analysis'. Visual impacts of the proposed development as a whole are considered in the Landscape and Visual Impact Assessment (Chapter 15 of the EIAR). In order to assess visual impact at operational stage, reference is made to the photomontage document (submitted under separate cover). It is clear from same that the landmark element of the proposed development can be seen from significant distances from the site (i.e. Viewpoint 1, Stillorgan Road at Merrion Grove, for example which is some 2km from the site). At closer viewpoints (i.e. at Viewpoint 4, Stillorgan Road at RTE main entrance), the landmark element's central position within the site, close to the RTE campus, and the architectural detailing of same which references the

distinctive architecture of the existing RTE buildings, is concluded to bind the buildings together into a common landscape unit, while the blocks onto Stillorgan Road give enclosure to the road without being overbearing in nature. I share this view and the conclusion set out in the EIAR that visual effects here will 'significant positive'. From viewpoint 05b (Stillorgan Road footpath in front of Mount Errol House), the opening up of views towards Mount Errol House, and the publicly accessible open space to the front of same was concluded to a result in a 'significant positive' effect. I concur with same, and note that, as existing, views towards the visually attractive elevations of Mount Errol from the Stillorgan Road are very limited. As one moves north along Stillorgan Road, the visual impact is seen to diminish slightly (i.e. from viewpoint 6, 7a, b, Donnybrook Road), with the proposed buildings protruding above the roadside trees, and the TVIA notes that the character of the road is changing from its current 'motorway like' appearance towards a more urban street. View 19 (Ailesbury Road) is taken from the gap between the Protected Structures on this road, with Blocks 3 and 5 visible, but at a distance (Block 3 is 185m from the viewpoint, with Block 5 further distant). No negative effects are predicted from this viewpoint. 'Slight to Moderate' negative visual effects are predicted from Nutley Road (Views 21 and 22), which is zoned 'Residential Conservation Area'. No significant cumulative townscape and visual impacts are predicted. In relation to the conclusions of the TVIA, I generally concur with the commentary and conclusions of same, and concur that there will be long-term significant positive impacts from some of the viewpoints as described above, with no significant negative visual impacts arising.

8.3.27. Other relevant criteria as set in Table 4 relate to sustainable design (which I have considered above) and to the public realm. In relation the latter, I note that an active, well designed civic space has been provided at the base of the tall building, which positively contributes to the public realm, with permeability provided throughout the site as discussed above. Further criteria relate to environmental impacts, including wind and reflected glare, are considered in detail in the submitted EIAR and I refer to the Board to Section 9 of this report for a detailed consideration of same. Impacts on Birds and Bats are considered in Section 9.4 (in relation to bats and birds) and in Section 10 (in relation to birds). Additional criteria refer to public safety and functional impacts. In relation to same, I note the proposed development will be required to

follow relevant building regulations in relation to fire safety. Impacts on aviation and telecommunications are considered in the EIAR & Glint and Glare Assessment, and with the Telecommunications Report, and residual adverse impacts are ruled out in relation to same. In relation to Glint and Glare, impacts of the proposed roof mounted PV panels were considered, and impacts on aviation was considered assessing flight paths and runway approaches, and it was concluded that no hazardous glint or glare effects on aviation would result from the PV panes. In relation to Telecommunications, while some potential impact on the RTE tower telecommunications infrastructure was highlighted, any impact would be mitigated by the telecommunications infrastructure proposed as part of this development, located at roof level of Block 5. Servicing is considered in Section 8.4 of this report and I am satisfied that there will be no negative impacts on the public realm resulting from same. Entrances and access points are accessed off the areas of public realm and communal spaces, and I am not of the view that there is a significant risk of overcrowding in areas surrounding the entrance points and around the ground floor uses. A Public Transport Capacity Assessment, A Traffic and Transport Assessment and a Mobility Management Plan have been submitted and I refer the Board to Section 8.4 of this report for a consideration of same. Lighting proposals are set out in the External Lighting Design Report, which notes that the proposed lighting scheme is in line with best practice guidance, and the proposed lighting scheme (in terms of upward light ratio and light trespass) meets IS requirements for most of the area (save for where the proposed development must comply with Part M). The applicant has noted that an architectural design competition was held prior to the commencement of the scheme, which is in line with the criteria in Table 4.

8.3.28. In the case of tall buildings outside of the areas specifically identified in the Plan, there is general presumption against same, save for when it can be demonstrated that exceptional circumstances apply, and further criteria in relation to this is set out in the plan and relate to the performance criteria in Table 4 (as considered above), civic or visual significance, contribution to economy or culture, public transport provision and planning gain. In relation to same, the tall building element adds significantly to the legibility of the city, with the site representing an entrance point to the city, with higher and denser forms of development. I note that the proposal is contributing in a significant manner to the economy, and to the tourism sector in

particular, with the provision of a 192 room hotel. In bringing the protected structures on site back into active use, the proposal is also contributing to the cultural life of the city. The site is served by excellent high capacity, high frequency bus services and cycle and pedestrian infrastructure. It is also providing high quality public realm, publicly accessible open space, social and community infrastructure in the form of the crèche and a range of accommodation types.

Conservation Issues

- 8.3.29. An appeal submission has stated that insufficient consideration was given to Protected Structure on the site, and to the surrounding residential conservation areas. A consideration of architectural sensitivities is also required under Section 3.2 of the Building Height Guidelines as well as Tables 3 and 4 of Appendix 3 of the current Development Plan. Other relevant policies as relates to Conservation as set out in the Development Plan include BHA2 – Development of Protected Structures – sets out relevant criteria to be considered and BHA11 Rehabilitation and Reuse of Existing Older Buildings and I have had regard to same in the assessment below.
- 8.3.30. As noted above there is a protected Structure on the Site (Mount Errol House RPS No. 7846) with a number of Protected Structures to the north-west, north, north-east and east of the site (Sacred Heart Catholic Church RPS; 73-91 Ailesbury Road) and Montrose House on the RTE campus, with the associated Stables building also being protected by virtue of its location within the curtilage of Mount Errol.
- 8.3.31. The provisions relating to Protected Structures are set out in Part IV of the Planning and Development Act 2000 (as amended) and Section 52 of same refer to guidelines issued by the Minister in relation to architectural heritage, and in considering development objectives, a planning authority shall have regard to these guidelines. The Guidelines in question are the Architectural Heritage Protection Guidelines (2011). Section 57(10)(a) of the PDA 2000 (as amended) states, *inter alia*, that the Board, at appeal stage, should have regard to the protected status of a protected structure, or a proposed protected structure and 57(10)(b) states that, *inter alia*, the Board, at appeal stage, shall not grant permission for the demolition of a protected structure, save in exceptional circumstances.
- 8.3.32. Chapter 6 of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) (hereinafter referred to as the Heritage Protection Guidelines) sets out

guidance as relates to works to Protected Structures and Proposed Protected Structures. The Heritage Protection Guidelines notes that the demolition of a protected structure, or of elements which contribute to its special interest, may only be permitted in exceptional circumstances. Where partial demolition of a protected structure is proposed, the onus should be on the applicant to make a case that the part –whether or not it is original to the structure – does not contribute to the special interest of the whole, or that the demolition is essential to the proposed development and will allow for the proper conservation of the whole structure. It is further stated, within the Guidelines, that it will often be necessary to permit appropriate new extensions to protected structures in order to make them fit for modern living and to keep them in viable economic use and such extensions should complement the original structure in terms of scale, materials and detailed design. Generally, it is stated that the best way to prolong the life of a protected structure is to keep it in active use, ideally in its original use. Where this is not possible, there is a need for flexibility in relation to appropriate, alternative uses for a structure. The guidelines also consider development within the curtilage of a Protected Structure (Section 13.5 refers) any impacts on historical gardens (Sections 13.4.19 to 13.4.21 refer). The guidelines also consider the curtilage and attendant grounds of a Protected Structure (Chapter 13 refers). In relation to attendant grounds, it is set out that a Planning Authority has the power to protect all features of importance within the attendant grounds of a Protected Structure, but such features must be specified in the Record of Protected Structures (RPS). No such features have been identified in the RPS (as contained within Volume 4 of the Development Plan).

8.3.33. The Architectural Heritage Impact Assessment (AHIA) sets out a detailed description of Mount Errol House, its curtilage and its attendant grounds. It is concluded that the stable building (and later additions) are within the curtilage of the protected structure, a conclusion which is supported by historic mapping. The remnant garden wall, no longer physically connected to the house, or visible from the house itself, sits within the attendant grounds of the house. Mount Errol House itself is described as an early nineteenth century suburban villa, originally part of the Pembroke Estate, and is a fine example of a classical suburban house from this period. It has been refurbished for office use which has resulted in the loss of much of the internal fabric, although the exterior remains well preserved. Modern extensions to Mount Errol and the

stable building are considered to be of poor quality and are concluded to detract from the significance of the original buildings. Other previous developments on the site, now demolished, have resulted in the loss of the formal gardens to the east of the house. In relation to the 'Stables' building, this is a two-storey masonry structure which dates from the same time period as the house. The door and window openings on the front façade appear to be original, although alternations have been made to the facades. Some interior fabric remains, including original floor joists, plaster and lath ceilings. The AHIA sets out the conservation strategy which demonstrates how the facades and interior of the buildings will be repaired, restored and refurbished. A new extension is proposed to the rear of the house, where the central bay has been completely rebuilt. This will provide an external terrace for the restaurant and additional service floor area.

8.3.34. In relation to the gardens of the main house, the parkland has remained intact, with a previous modified single remnant wall from the walled garden the only remaining element of the formal gardens, sitting within the attendant grounds of the house. It is noted that this is to be removed and it is stated that this wall no longer contributes to the special interest of Mount Errol House, as so little of it remains. A photographic record of this wall is included in the AHIA and it is recommended that the remnant garden wall be recorded, dismantled and the stone from this wall will be retained on site, and incorporated into the new entrance at Ailesbury Close.

8.3.35. In relation to the setting of Mount Errol House and Stables, it is evident from the content of the AHIA that this has much changed over time. The open parkland to the front of the house is considered significant and it is recommended within the AHIA that this be retained, and it is important to the setting, historic character and special interest of the house. The house and its landscaped setting is considered to be of regional significance.

8.3.36. In relation to the surrounding area, the presence of a number of Protected Structures, and buildings of historic note are referred to, as is the modernist design of the RTE Campus, which has been altered to some degree since its construction in the 1960s and 1970s. However, it is noted that the RTE campus is still a significant example of modernist architecture in Ireland.

8.3.37. Chapter 17 of the EIAR considers 'Architectural Heritage'. This considers many of the issues as set out in the AHIA. In absence of mitigation, at the construction stage, potential impacts of note on Mount Errol and the Stables buildings are 'negative, significant and permanent', as a result of the structural impact of the removal of the extensions and the internal refurbishments of the buildings, which may result in damage to historic fabric. At operational phase, potential impacts of note, in the absence of mitigation, are 'significant, negative and long-term' impacts on the setting of Mount Errol House and views to and from same, as a result of large scale development around the structure and within primary sightlines to same. Mitigation at construction stage includes protection of the historic fabric during the works and adherence to method statements for works to the protected structure and stable building, and no significant residual impacts are predicted, with the outlined mitigation measures in place, with positive, long term impacts resulting from the repair and conservation of historic fabric of Mount Errol and stable building, the construction of extension to the rear of Mount Errol and the removal of the RTE Sports Centre from the setting of Mount Errol. At operational stage the removal of the existing extensions and construction of a new extension to Mount Errol is predicted to have a significant positive effect on the character and nature of Mount Errol. The establishment of an appropriate curtilage around Mount Errol and stable building, the adoption of appropriate uses, the stepping down in the heights of the buildings and the preservation of views and sightlines towards the front of Mount Errol House have been incorporated into the design as mitigation measures, and residual impacts on the setting of, and views towards, Mount Errol are described as 'moderate positive' in Table 17.7. Measures to prevent overlooking of the protected structures to the north have been incorporated, with resultant residual impacts on the setting of same as moderate in Table 17.7, with impacts on these structures considered to be in line with emerging baseline trends for development in the area. In terms of the impacts on the RTE campus, high quality architectural design of the proposed development, with references to the modernist style of the RTE buildings, serve to mitigate the impact on same, and the resultant residual effect is concluded to be 'Moderate' in Table 17.7. No other significant residual impacts on architectural heritage are predicted. No significant cumulative impacts are predicted. It is generally concluded within the applicant's documentation that an appropriate

curtilage to the south, east and east of Mount Errol House has been retained, with the parkland allowing views to and from the Stillorgan Road, with heights decreasing with proximity to the house. It is concluded also that the proposed uses are appropriate for the buildings,

8.3.38. In relation to those elements to be demolished/removed, the AHIA notes that four extensions have been added to these buildings, at various points, the oldest of which is a single storey extension dating to at least 1837, and the second extension added between 1865 and 1888. Two modern extensions date from the early to mid-twentieth century. The two 19th century additions to the stables building are in an advanced state of dereliction, with the two more modern extensions being uninsulated and not suitable for occupation. The extensions to the main house and the stables building are not considered to be of particular significance, and are concluded to detract from the symmetrical, formal relationship between Mount Errol and the stable building, which were originally connected by two courtyard walls. It is set out within the AHIA that the removal of the extensions to the main house and stables will allow the open courtyard to be reinstated and the symmetrical façade of the stable building to be visible from the house, as originally intended. I also note that the remnant of the old garden wall, as discussed above, is proposed to be demolished and the blockwork of same incorporated into the new entrance at Ailesbury Close.

8.3.39. In relation to acceptability, or otherwise, of the demolition proposed, I refer to Section 57(10)(b) of the Planning and Development Act (as amended), and to the Heritage Protection Guidelines, which set out that, exceptional circumstances are only required if the element proposed for demolition contributes to the historic character, nature or significance of the protected structure. It is further set out that if the element proposed to be demolished detracts from the special interest of the protected structure, or as little to no contribution to the special interest, the removal of same could be considered as a benefit or improvement to the presentation of the protected structure. Having regard to those considerations above, I am satisfied that the applicant have satisfactorily demonstrated that the existing extensions to the Mount Errol and the stable building do not contribute to the special interest of either Mount Errol or to the stables building, having regard to the detailed information as set out in the AHIA (and as set out in the EIAR), and I accept that the demolition of

same is acceptable, having regard to the Board's statutory obligations under Section 57 of the PDA 2000 (as amended). In accordance with the provisions of the Heritage Guidelines, Planning Authorities can make provision for features within the attendant grounds to be protected, but this needs to be set out within the RPS. There is no such features set out in the record for Mount Errol. I note that the remnant garden wall sits within the attendant grounds. However, it is unlikely that this is itself protected, given there is no reference to same on the RPS. However, even if the Board were to consider it was protected, by virtue of its association with Mount Errol, the AHIA has noted that it does not contribute to the special interest of the protected structure as it is no longer connected to the house, so little of it remains and it has been heavily modified. I accept that this is the case. As such its demolition is acceptable, having regard to the relevant provisions of the PDA (2000) as amended, and the Heritage Guidelines. Notwithstanding I am minded to impose a condition that requires it to be reinstated, or reused, within the new entrance to Ailesbury Close, as recommended in the AHIA.

8.3.40. In relation to the conclusions of the EIAR (and the supporting AHIA), I have considered the current baseline environment and emerging baseline trends above, and in summary, I note the existing relatively low rise environment, which is changing towards a higher and denser form of urban development, as supported at a national level by the NPF and by the provisions of Section 28 Guidelines, including the Building Height Guidelines and the Apartment Guidelines, with developments of greater height permitted (Jefferson House, 11 storeys – DCC Ref 3386/22; junction of Donnybrook Road and Brookvale Road 12 storeys (granted on appeal following DCC refusal –ABP Ref 3102040) and under construction (junction of Donnybrook Road and Eglinton Road, 12 storeys – ABP Ref 307267). The site itself is earmarked for future development with the current Development plan, with greater heights and density on the site supported by the policies and objectives of same, subject to the performance criteria set out in the plan. As such where moderate impacts have been identified I concur with same, having regard to these emerging trends. I also share the view that significant positive impacts arise as a result of the refurbishment of both Mount Errol House, and the stable buildings, the removal of those elements that do not contribute to the special character of same, and detract from the originally intended setting, as a result of the opening up of views towards Mount Errol, and as

a result of the proposals keep the buildings in active use. I am satisfied that the scale of the proposed single storey extension to the rear of Mount Errol will not detract from the character and appearance of the structure, and will not impact negatively on the setting of same. Overall therefore, I am satisfied that no significant negative impacts on cultural heritage will result from the proposed development.

Conclusions on Design and Conservation

8.3.41. I am satisfied that the overall design of the proposal is appropriate, having regard to the context of the site, and having regard, in particular, to the polices as set out in the Development City Development Plan 2022, including performance criteria as set out in Appendix 3 of the Development Plan. Specifically in relation to height and density, I conclude that the proposed development complies with those performance criteria as set out in Tables 3 and 4 of Appendix 3, and also complies with the additional 'exceptional circumstances' criteria that apply to taller landmark buildings proposed on sites such as this one. I also conclude that the proposed development will have significant, positive, long term on the protected structure on the site, Mount Errol House, and associated stable building, as a result of the retention of the parkland setting, the opening up of views to same as well as the refurbishment and continued use of these structures, ensuring the continued protection and viability of same over the long term.

8.4. Transport Issues

8.4.1. Transport issues raised in the third appeals include traffic congestion, public safety considerations, inadequate road infrastructure, servicing issues, lack of clarity in relation to certain conditions imposed by the planning authority, car parking provision and impacts of construction traffic. The applicant has provided a response to the issues raised in the response to the grounds of appeal. I have considered all of the issues raised in the submissions in the assessment below.

8.4.2. Chapter 9 of the submitted EIAR considers transportation impacts associated with the proposed development. In assessing transport impacts I have had regard to same as well as other transport related documentation submitted under separate cover including the Traffic and Transport Assessment (including a Public Transport Capacity Assessment), the Outline Construction & Environmental Management Plan,

the Outline Construction Traffic Management Plan and the Mobility Management Plan (MMP).

- 8.4.3. It is noted within the EIAR (and within the Traffic and Transport Assessment) that the site is well served by existing road, pedestrian and cycle infrastructure. In relation to public transport frequency and capacity, it is set out that the site is currently served by 14 different bus routes, with a combined frequency of one bus every two minutes, with the nearest bus stop located on the Stillorgan Road (the southbound bus stop is immediately adjacent to the site, and the closest northbound bus stop is approximately 200m m from the site). Table 4 of the Traffic and Transport Assessment (TTA) sets out details of the most frequent bus routes, with the 46a route (Dun Laoghaire – Phoenix Park) having a peak hour frequency of 7-8 minutes. Other frequent routes include the 145 (Bray – Heuston Station) and the 39a (UCD – Blanchardstown) having 10 minute peak hour frequencies. In relation to BusConnects proposals, it is noted that the site is proposed to be served by the Ballymun to City Centre CBC, which is planned for phase 3 of the Bus Connects project, with the Belfield/Blackrock to City Centre CBC running along Nutley Lane, approximately 250m from the primary site access. Both of these routes are proposed to have frequencies of between 4 and 10 minutes. The TTA has set out that there is no conflict with the Bus Connects proposals, and has outlined discussions with the NTA, and I note there is no objection on file from the NTA in relation to the proposed development. As part of the Bus Connects, I note there is a proposed bus stop in proximity to proposed Block 6, as indicated in Figure 32 of the TTA. In terms of existing bus capacity, utilising survey data, the Bus Capacity Assessment concludes that there is adequate capacity on the bus service, both with and without the development, with the existing average spare seated capacity of routes serving the city (northbound towards the city centre) over the survey period shown to be 57% (7am to 9am), or 46% in the period of the highest passenger loadings (8.16am to 8.30am), indicating more than sufficient capacity to accommodate the development. Post development, the estimated spare capacity of northbound routes is 54% over the 7am to 9am period, and 39% within the busiest period (8.16am to 8.30am). In relation to southbound services, it is stated that these routes are less busy, except in the evening peak, with the capacity of the PM peak higher than the AM equivalent as

the evening peak around Dublin is relatively well spread as most returning schoolchildren head home well ahead of the commuter peak.

- 8.4.4. It is stated that the nearest DART station, is Sydney Parade is 1km from the Ailesbury Road access (I note the walking distance is 1.4km from this access point). The nearest LUAS stop (Cowper) is 2.8km west of the site. It is demonstrated that both of these modes of transport have sufficient capacity to accommodate the predicted demand from proposed development, although the Capacity Assessment concludes that most local journeys will most likely be made by bus, given the proximity of bus stops to the site.
- 8.4.5. In relation to impacts on the road network, a Traffic and Transport Assessment has been submitted with the application. I note that no parties have questioned the methodology used within the Traffic and Transport Assessment, although third parties have stated that localised congestion will result from the development and that the existing road infrastructure is not sufficient to serve the proposed development. It is stated within the TTA that the document has been prepared in accordance with Transport Infrastructure Ireland (TII) 'Traffic and Transport Assessment Guidelines'. In relation to the baseline scenario, of note is the finding, derived from Census 2016 data that 34% of local people, who live in apartments, travel to work on foot, 22.7% travelling on public transport and 10% travelling by bike. 30% of people travel by car. The TTA concludes that this modal share is reflective of the area's good accessibility to local amenities and employment, as well as excellent walking, cycling and public transport links.
- 8.4.6. In relation to access and servicing, the main access will be from the Stillorgan Road, at the existing shared junction with the RTE campus. A secondary access will be provided from Ailesbury Close, with vehicular access restricted to the Mount Errol element and the age friendly apartments in Block 10. Access to the basement car park is within Block 9, located adjacent to the main vehicular access. Servicing of the development, including refuse collection will take place from the Stillorgan Road access, with the exception of Mount Errol House and the age friendly apartments which will be serviced within the site, via Ailesbury Close.
- 8.4.7. In relation to predicted impacts on the road network, due to the additional traffic generated by the development, the TTA carries out an assessment of same, and is

in line with the TII guidance as referred to above. Within the document, a number of assessment scenarios are set out as follows:

- 2021 Baseline flows;
- 2025 Future Baseline (includes the committed development + any committed mitigation);
- 2025 Future Baseline + Montrose Development + any proposed mitigation; and
- 2040 Future Baseline + Montrose Development + any proposed mitigation.

8.4.8. Junction assessments were carried out at the site access/Stillorgan road/Airfield Park junctions (this is erroneously referred to Airfield Court in the TTA) and at the Nutley Lane/Stillorgan Road/Greenfield Park Junction for each of the assessment scenarios. It is shown that some links within both junctions are close to their practical reserve capacity (which is set at 90% of their theoretical capacity) in the 2021 baseline scenario. This capacity further decreases in the both the 2025 assessment scenarios (i.e. with and without the development in place). In the 2040 scenario the capacity of some links of both junction is seen to be exceeded (over 100%), with and without the development in place, most notably at the Stillorgan Rd / Nutley Lane / Greenfield Park junction, where the most saturated link is seen to have a degree of saturation (DoS) of 106% without the development in place. With the development in place, the increase in the DoS is between 3 and 6 % at some junction links that are already over capacity. The TTA concludes that this additional impact can be classed as 'minor'. It is further noted within the TTA that the analysis does not consider any transport related impacts of the Covid Pandemic (I assume this refers to a greater proportion of people remote working) as the baseline traffic flows are based on February 2020 counts, and therefore the results in the TTA are expected to be an overestimate. It is concluded therefore that no mitigation is necessary.

8.4.9. A further capacity analysis was carried out at the R138 Donnybrook Road / Eglinton Road and Anglesea Road / Beaver Row / Stillorgan Road Junctions. These junctions operating within capacity in the 2021 scenario. In the 2025 scenario, with the development in place, the junctions still operate under the 100% capacity level (although some links are above the 'practical reserve capacity'). In the 2040 scenario, without the development in place, some links are seen to slightly exceed

the 100% capacity or are seen to operate close to the 100% capacity. Of particular note is that the Ailisbury Road/Ailesbury Close junction is operating well within capacity in all scenarios, with very little change with the development in place, an indication of the relatively small volumes of traffic proposed to utilise the Ailesbury Road access when the development is completed. It is concluded within the TTA that the proposed development would not result in any material impact on the operation of the local road network.

- 8.4.10. With reference to the analysis set out in the TTA, predicted impacts during construction phase are set out in Section 9.6 of the EIAR, and it is noted that the demolition and construction phase will last approximately 36 months, with limited on-site parking for construction personnel, in order to prevent overspill parking. At excavation stage (in relation to the basement), which will take place over the first 5 to 6 months of the project, approximately 12 HGV movements are predicted into and out of the site, during peak hours. The site access point is from the Stillorgan Road, and will not be from the Ailesbury Road. The EIAR predicts a negative, short-term impact as a result of HGV movements along the Stillorgan Road, which will increase the number of HGVs along this road by 13%. The total increase in vehicular traffic in both directions along the Stillorgan Road is approximately 1%, which is concluded to be a 'negligible, not-significant' impact on the road network.
- 8.4.11. During the operational phase, impacts of the development on a total of 17 no, surrounding junctions/locations are considered. Not including the access roads into the development (Ailesbury Close and RTE Access, off Stillorgan Road), the proposed development will have a 'not-significant' effect on the most of surrounding road network, and a negative, slight and long-term effect experienced on Ailesbury Road, with maximum increases of 4.9% along the Stillorgan Road, and 5.9% along Ailesbury Road to the east of Ailesbury Close.
- 8.4.12. Specifically in relation to Ailesbury Close, the EIAR (with reference to data within the TTA) reports a 39.8% increase in traffic flows (2025). It is noted that the number of existing vehicle trips per hour in the AM (4 no. two-way trips per hour) and in the PM (10 no. two-way trips per hour) is a low baseline, so any increase in traffic volumes would have a relatively large percentage increase in overall traffic volumes. In relation to the main access for the development, the RTE access, the EIAR notes that existing volumes for this entrance are also low, given it only provides access to

the RTE site, and hence any additional traffic volumes would again have a relatively high percentage increase.

8.4.13. In relation to mitigation, the EIAR notes that a number of measures have been included from the outset, including a reduced parking ratio of 0.6 spaces per residential unit, which is below the maximum as set out in the 2016-2022 Plan, resulting in a low number of car trips generated. Cycle parking provision above the Development Plan standards are also provided (1.5 spaces per unit). Residential amenities and a crèche on site are also expected to reduce the demand for travel. Specific measures at construction phase include adherence to a Construction Traffic Management Plan, which will provide for limited parking on site to prevent overspill onto the surrounding road network and agreed HGV haulage routes. At operational stage, notwithstanding that no significant impacts on the road network have been identified, a Mobility Management Plan will be in place, with the aim of further reducing car based trips, with the appointment of a Mobility Manager to oversee same. Residual impacts at construction phase will be 'negative, slight and short-term'. At operational phase, residual impacts are concluded to be 'negligible, not significant and long-term'. In relation to cumulative impacts, the TTA has accounted for committed developments in the surrounding area, in addition to growth factors, aligned with the National Planning Framework Forecasts for the Greater Dublin Area (GDA) which will see a 20% growth in population and employment within the GDA by 2040. Impacts from the development are not concluded to be 'moderate' (i.e. generally exceed 10% increase from baseline traffic flows), with most junctions operating within capacity, and the junctions that are exceed capacity by 2040 will do so in a 'do-nothing' scenario in any case. Following the implementation of the Mobility Management Plan, the development's car share mode is expected to be reduced further, and the cumulative operational impact is expected to be negative, slight and long-term but confined to the local network.

8.4.14. In relation to specific issues raised in the third party appeals, and not covered in the assessment above, I note that there will be no through route via Ailesbury Close to Stillorgan Road, with the Ailesbury Close entrance acting as a secondary/emergency access only. Sufficient sightlines are in place at this existing access point and I am satisfied that no road safety concerns will arise at this entrance point. In relation to the general condition of the road and footpath network, this has not been raised as a

concern by the Planning Authority and as noted in the First Party Response to the appeal, the application of the Development Contribution Scheme will require the applicant to make a financial contribution to the upgrading of the road network, with the allocation of the funds being determined by the Planning Authority.

- 8.4.15. Noting the low volumes of traffic predicted along Ailesbury Close, as set out above, I see no reason to amend or omit the proposed uses within Mount Errol house and Stables on traffic grounds, given this low volume of traffic predicted. Specifically in relation to Condition No. 6 of the Planning Authority's Decision Notice (which relates to communal residential facilities) I am satisfied that this clearly relates to those residential facilities that are associated solely with the proposed residential units, and not to the proposed restaurant and artisan shop, which are proposed to be commercial ventures, open to the general public. It would not be reasonable to restrict the use of these elements to residents of the proposed development, and it is unlikely these element would be viable if this were the case. I am not of the mind to amend this condition as requested by the appellant, given these considerations. In relation to the proposed uses, I am satisfied that the nature of same is clear from the development description and there is no condition imposed by the Planning Authority that seeks to agree the nature of a particular use. Condition 6 refers to the submission of details relating to the operation of the communal residential facilitates.
- 8.4.16. I note also that construction traffic will not be authorised to utilise Ailesbury Close for access, and the Planning Authority have imposed a condition in this regard, and I recommend that the same condition is imposed by the Board.

Parking Provision

- 8.4.17. Development Plan policies related to parking include SMT27 – Car Parking in Residential and Mixed Use Developments which *inter alia* seeks to provide for sustainable levels of car parking and car storage in residential schemes in accordance with the standards in Appendix 6 so as to promote city centre living and reduce the requirement for car parking, as well as encouraging car clubs and mobility hubs to reduce the requirement for car parking.
- 8.4.18. Appendix 6 states that applicants should provide a rationale for the quantum of car parking proposed, including analysis of census data. Maximum standards are set out in Table 2 of Appendix 6. It is noted that car parking provision is dependent on a

number of factors including walking and cycling infrastructure, provisions to support active travel modes, access to high frequency public transport corridors as well as *inter alia* access to services and amenities located within walking distance. With reference to Map J of the Development Plan, I note that the site lies with Parking Zone 2. The following 'Maximum' standards are relevant for this proposed development:

Apartments – 1 per dwelling; Hotel – 1 per 3 rooms; Café/Restaurant – 1 per 150 sq. m. seating area; Other retail – 1 per 275 sq. m; Creche – 1 per 100 sq. m. GFA

8.4.19. I have set out the proposed provision below:

Proposed Use	Maximum Provision (Zone 2)	Maximum Quantum	Proposed Quantum
Apartments	1 per dwelling	688 no spaces	416 no spaces (0.6 spaces per unit)
192 bed Hotel (including ancillary restaurant)	1 per 3 rooms	64 no. spaces	60 no. spaces
Café/Restaurant (449 sq. m within Mount Errol House)	1 per 150 sq. m.	3	0
Other retail (Artisan Food Store 146 sq. m)	1 per 275 sq. m.	1	0
Creche (418 sq. m)	1 per 100 sq. m. GFA	4	10 (5 no. drop off and 5 no. long-stay spaces).

- 8.4.20. It is noted within Appendix 6 that a relaxation of car parking standards will be considered in Zone 1 and 2 for any site located within a highly accessible location, and applicants are expected to set out a case for reduced demand based on those factors above, as well as a consideration of the impact of overspill parking on surrounding amenities as well as impacts on traffic safety. It is further noted that residential parking spaces are mainly to provide for car storage to support family friendly living policies in the City.
- 8.4.21. In relation to the proposed car parking provision, the proposed development is provided a total of 416 car parking spaces, a total of 0.6 car parking spaces per dwelling, which includes 6 no. car club spaces and 79 no. electric vehicle spaces. 10 no. spaces are proposed to serve the crèche (5 no. drop off and 5 no. long-stay spaces), as set out in the Table above. For the hotel element, parking demand for same has been estimated utilising the TRICS database, based on site specific survey data from two Dublin Hotels, one of which is located in Donnybrook. A total of 60 car parking spaces are provided (57 at basement level and 3 at surface level), which takes account of predicted daily trips utilising a car as well as all day and overnight parking demand.
- 8.4.22. The Planning Authority are satisfied as to the quantum of parking provided (although they have assessed the development in relation to the parking standards as set out in the previous Development Plan). I note there is no material difference in the 'maximum' quantum of parking required and there are similar provisions within each of the Development Plans (both the previous Plan and the current Plan) to promote more sustainable modes of transport, especially in areas with good transport. The application is being assessed with regard to the provisions of the current Development Plan, however, and I am satisfied that the applicants have set out a clear rationale, within the TTA, for the quantum of parking provided, making reference to *inter alia* car ownership levels in the local area (0.78 per dwelling for rented accommodation and 0.91 for privately owned apartments), and the objective of the Transport Strategy for Greater Dublin which seeks to reduce community trips by car from 62% to 45% (a 17% reduction). It is therefore set out a target car ownership for sites such as this one should be approximately 0.45 to 0.54 cars per household. It is also set out within the TTA that within this area, a relatively high proportion of trips made by apartment dwellers are by sustainable modes of

transport (walking, cycle, public transport), accounting for 66.7% of trips, which reflective of the area's good accessibility to local amenities and employment, as well as excellent walking, cycling and public transport links. In relation to the potential for overspill parking, and as noted in the applicant's response to the appeals, there are parking restrictions in place on Ailesbury Close, and in many of the surrounding residential areas, and as such the potential for overspill parking is therefore limited.

Conclusions on Transport Issues

8.4.23. In conclusion, subject to conditions, and notwithstanding the concerns raised by third parties, I am satisfied that the proposed development would not reasonably result in an or significant additional traffic congestion in the area and I concur with the conclusions of the EIAR with respect to anticipated impact of the development during construction and upon the vehicular highway network during operation. I am also satisfied that the proposed development would feature an appropriate provision of car and cycle parking and would not result in a traffic hazard.

8.5. Daylighting/Sunlighting Standards (Proposed Residential Units)

8.5.1. The third party appeal submissions have raised the issue of daylight and sunlight standards to the proposed units. In addition, relevant Section 28 Guidance documents (Design Standards for New Apartments – Guidelines for Planning Authorities' (2022) and the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) and Appendix 3 of the Development Plan, refer to the need to for sufficient daylighting when considered schemes that are higher and denser than surrounding development.

8.5.2. The criteria under section 3.2 of the Building Height Guidelines include the performance of the development in relation to daylight in accordance with guides 'like' the 2011 BRE 'Site Layout Planning for Daylight and Sunlight', with measures to be taken to reduce overshadowing in the development. The Apartment Guidelines (2020) also reference similar provisions.

8.5.3. In relation to local policy, Policy CA8 (in relation to climate) of the Dublin City Development Plan 2022 – 2028 states *inter alia* that new development should generally provide for a building layout and design which maximises daylight. Appendix 16: Sunlight and Daylight of the provides direction on the technical

approach for daylight and sunlight assessments., Table 3 of Appendix 3 of the Plan refers to levels of natural light to the windows of proposed residential units and to high quality and sustainable buildings and refers to criteria such as daylight, sun lighting (with reference to Appendix 16 of the Plan). Indirect references to daylight and sunlight are made via Policy SC17 'Building Height' which state that proposals with enhanced scale and height *inter alia* have regard to the performance-based criteria as set out in Appendix 3, and also via Policy SC18 'Landmark/Tall Buildings' which states that *inter alia* such proposals should comply with the criteria in Appendix 3.

- 8.5.4. It should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. Paragraph 1.6 of the BRE guidelines state that the advice it contains should not be used as an instrument of planning policy.
- 8.5.5. Appendix 16 of the current Dublin City Development Plan relates to Sunlight and Daylight. Guidance within this appendix states that in 2018, the National Standards Authority of Ireland adopted EN 17037 to directly become IS EN 17037. It is further noted that no amendments were made to this document and unlike BS EN 317037, it does not contain a national annex (which takes account of the fact that daylight and sunlight conditions in Ireland differ from those of Spain, for example). It offers only a single target for new buildings (there are no space by space targets – e.g. a kitchen would have the same target as a warehouse or office). It does not offer guidance on how new developments will impact on surrounding existing environments. As it is concluded within Appendix 16 that these limitations make it unsuitable for use in planning policy or during planning applications. Appendix 16 of the Development Plan does not refer to the 3rd Edition of the BRE Guidance (published in June 2022). It is stated however that if a revised version of BR 209 is to be issued, the guidance within this new version will take precedence. This has occurred and therefore the relevant BRE Guidance document is the BRE 2022 document. Table 1 of Appendix 16 sets out the relevant UK Annex Standards for Target Illuminance which is 200 lux for kitchens, 150 lux for living rooms and 100 lux for bedrooms, and 200 lux for kitchen/living/dining rooms, and it is stated that internal daylight levels shall be benchmarked against these targets. As such I have assessed the proposal against these targets, as have the Planning Authority in their assessment of the scheme.

- 8.5.6. Chapter 13 of the EIAR addresses the issue of ‘Sunlight, Daylight, Shadow and Light Effluence’. This address *inter alia* the daylight and sunlight levels achieved within the proposed residential units and describes the performance of the proposed apartment blocks in the development against the 2022 BRE guidelines. A Supplementary study is also provided with respect to criteria under the 2011 BRE guidelines and against IS EN17037.
- 8.5.7. In the proposed development, where kitchens and dining spaces form part of open plan living areas, the applicant has provided analysis against the higher target i.e. 200 lux or 2% ADF target.
- 8.5.8. The EIAR sets out that of the 1730 habitable rooms assessed, 1256 no. rooms (73%) will meet the minimum targets of 100 lux for bedrooms and 200 lux for LKDs, to 50% of their area for 50% of daylight hours, with 474 rooms (27%) falling below the minimum recommended targets. The EIAR then sets out a breakdown of each of the blocks, and in summary the results are as follows:

	Daylight		Sunlight	
Block	No. of rooms assessed	No. of rooms meeting target of 100 lux for bedrooms and 200 lux for LKD's, to 50% of their area for 50% of daylight hours (%)	No. of rooms assessed	No rooms meeting target of 1.5 hours of direct sunlight on 21st March (%)
All Blocks	1730	1256 (73%)	1730	1015 (59%)
			No. of Units Assessed	No. of units meeting the target of having one habitable room that will meet the

				minimum recommended sunlight criteria of 1.5 hours of direct sunlight on 21st March (%)
All Blocks			690	492 (71%)
1	73	71 (97%)	29	22 (76%)
2	194	122 (63%)	76	53 (70%)
3	194	100 (52%)	76	45 (59%)
4	194	128 (66%)	76	56 (74%)
5	176	140 (80%)	80	54 (68%)
6	88	69 (78%)	36	27 (75%)
7	264	197 (75%)	103	66 (64%)
8	264	195 (74%)	103	68 (65%)
9	247	198 (80%)	94	84 (89%)
10	36	36 (100%)	17	17 (100%)
Compensatory design measures	Increased head heights, increased window widths; additional windows; reduced room depths; living areas placement closer to windows; offsetting balconies; minimum floor to ceiling height of 2.5m or above; Internal and external communal amenity spaces; Outlook to open spaces (for some units); Larger balconies/private amenity spaces (for some			

	units); Increased floor areas (for some units); Access to residential amenities.
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8.5.12. The report notes that the majority of the rooms that fall below the minimum criteria are living/kitchen/dining areas and bedrooms that are located below overhanging balconies, have recessed windows, face opposing blocks, and/or are on the lower floors. Examples of rooms which have not achieved BRE targets are referred to and include room R16/410 in Block 2, which is a ground floor bedroom that has 100 lux for 50% of daylight hours for 0% of its area. This is a ground floor bedroom that has a recessed window and is beneath an overhanging balcony. It is stated that there is a trade-off between providing sufficient external amenity space and achieving good levels of internal daylight amenity to all area of proposed rooms. It is further stated that some of the LKDs that fall below the BRE minimum targets, will still achieve reasonable levels of daylight to the living room portion of their area which is located closest to the window, in particular those on the upper floors.

BRE 2011 (2nd Edition)

8.5.13. Supplementary analysis utilising BRE 2011 ADF targets is also provided within the EIAR, and in this regard it is noted 1575 (92%) of the 1730 habitable rooms assessed will meet the minimum recommended ADF targets, with the room type breakdown as follows:

- 991 (95%) of the 1040 bedrooms assessed with achieve and ADF of 1%+
- 584 (85%) of the 690 LKDs assessed will achieve and ADF of 2%+.

8.5.14. In relation to same, these would be considered generally good results, if the application had been assessed against the 2011 BRE Guidance. However, in the interests of clarity, I have assessed the application utilising those standards as set out in the BRE 2022 Guidance, and the targets of the British Annex.

European Standard: EN17037

8.5.15. Further supplementary analysis utilising the European Standard: EN17037 (and consequently the Irish Standard which adopted the European Standard with no amendments) is set out in the EIAR. Under the European Standard a room must achieve 300 lux to 50% of the area of a room, for 50% of daylight hours; AND 100

lux to be met for 95% of the area. Of the 1730 habitable rooms assessed, 660 (38%) meet the 300 lux assessment and 991 (57%) meet the 100 lux assessment. While I note these results, I refer to Appendix 16 of the Development Plan, which states that the Irish Standard is not suitable for use in planning assessments, for the reasons as set out above.

Sunlighting

- 8.6. The 2022 BRE Guidance notes that, for interiors, access to sunlight can be quantified and that BS EN 17037 recommends that a space should receive a minimum of 1.5 hours of direct sunlight on a selected date between 1 February and 21 March with cloudless conditions (21st March is suggested). For dwellings, at least one habitable room, preferably main living room, should meet at least the minimum criterion. As set out in the EIAR, the compliance rate for the overall development, 71% of the units have at least one habitable room that meets the minimum recommended sunlight criteria (in line with BRE 2022 Guidance). The EIAR notes that where targets have not been achieved, these are generally rooms which have a north, east or west to some degree, with a number of these rooms located beneath overhanging balconies, which serve to limit the quantum of available sunlight hours.
- 8.6.1. In relation to the conclusions within the EIAR, with respect to sunlight exposure, the 2022 BRE guidelines describe that reasonable sunlight will be provided where at least one main window wall faces within 90 degrees due south, and a habitable room (preferably a living room) can receive a total of at least 1.5 hours of sunlight on 21st March. In the proposed development 71% meet the criteria for sunlight exposure. I am satisfied that the proposed development demonstrates a high level of sunlight exposure, in recognition that to achieve an efficient level of residential development on the site, it will not be possible for all units to have a habitable room facing 90 degrees due south. Page 24 of the 2022 BRE guidelines states in relation to new buildings where multiple units are planned, site layout design should aim to maximise the number of dwellings with a main living room that meets sunlight exposure targets, and I am satisfied that the proposed development conforms with this recommendation. In addition, the EIAR outlines compensatory measures that have been incorporated within the development, and are as outlined above.

Proposed Amenity Spaces

8.6.2. The EIAR sets out that, of the six amenity area proposed, 5 no. of same will achieve BRE 2022 target. The amenity space that does not achieve this is a small amenity space (amenity space No.11) and it is set out within the EIAR that it is constrained by its boundary walls and a rear extension to the property (south of the terrace) which limits sunlight access into the amenity space. Overall, however, I am satisfied that the majority of spaces within the proposed development will be sufficiently well lit, with all six areas especially well-lit during the summer months.

Conclusion on daylight and sunlight/overshadowing

8.6.3. In relation to the daylighting standards of the proposed units, I note the following. Applying the 2022 BRE British Annex Standards (which is an acceptable approach having regard to the Development Plan Appendix 16) and is acceptable having regard to the wording of the Building Height Guidelines (which refer to technical assessments *like* the 2011 BRE Guidance), there is an overall compliance rate of 73% of habitable rooms. The compliance rate can be seen to vary between blocks however and it can be seen that there are some blocks have a relatively low compliance rate, with Blocks 2, 3 and 4 having compliance rates of 63%, 52% and 66% respectively. Reviewing the false colour diagrams (and the associated tabulated results) in Appendix 13 of the EIAR, it can be seen that the rooms that perform least well are those rooms on the lower floors which either have greater depth, recessed windows and/or have balconies above, or a combination of these factors. The lower floors of Block 3 in particular (levels 0 to 2) have rooms that fall well below the 2022 BRE targets. However, on the upper floors of Block 3, and within the other blocks, where LKD room targets have not been met, the living area of the LKDs at least are shown to achieve good levels of daylighting. In this instance, the living/kitchen/areas are combined and the habitable space within these types of rooms is generally the living/dining room, with the kitchen area in modern apartment designs generally being a smaller element to the back of the room layout. It is reasonable to assume that most time is spent in the living/dining areas of such room layouts, and as such a living/dining area that is relatively well served by daylight is of greater importance to occupier than an artificially segregated kitchen area that is placed within the unit solely to maximise daylight provision, which would make inefficient use of the unit floor area.

8.6.4. I accept there is a balance to be sought between achieving levels of daylighting to be achieved within individual rooms, and the provision of other amenities to the units such as balconies or sufficient size and room areas of generous proportions. In relation to the latter, a larger room area can result in a deeper plan, with the kitchen area and some of the living area at some remove from the window. Of note is the paragraph C17 of Annex C which states *‘Where a room has a shared use, the highest target should apply.....local authorities could use discretion here. For example, the target for a living room could be used for a combined living/dining/kitchen area if the kitchens are not treated as habitable spaces, as it may avoid small separate kitchens in a design. The kitchen space would still need to be included in the assessment area’*. Subsequent to same, it would be reasonable, in my view, to apply a target of 150 lux (the target for living rooms) to the L/K/D rooms. This would see an improvement in the overall compliance rate. However, the applicant has not presented this as an alternative target, so it is not possible to determine the overall compliance rate applying this target value.

8.6.5. Both the Building Height Guidelines (2018) and Apartment Guidelines (2020) state that where a proposed development cannot demonstrate that it meets the BRE daylight provisions, compensatory measures should be described.

“Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.” (page 14 section 3.2 criteria Building Height Guidelines).

8.6.6. Appendix 16 of the Development Plan also notes that, in exceptional circumstance, where minimum criteria haven’t been achieved, clear and robust compensatory measures should be put forward, and the Planning Authority will consider the wider impact of the development beyond matters relating to daylight and sunlight. I note that the Planning Authority have assessed the proposal in light of the BRE 2022 Guidance, and have concluded that, on balance, that the proposed level of compliance, is acceptable,

- 8.6.7. In relation to compensatory measures, I note that the units have been provided with increased head heights, increased window widths, reduced room depths (in some of the units), living areas placement closer to windows and internal and external communal amenity spaces, as well as outlook to open spaces (for some units), larger balconies/private amenity spaces, or some units and overall increased floor areas (for some units). I am satisfied that these compensatory measures will serve to mitigate any shortfall in daylight and sunlight standards, as identified in the EIAR.
- 8.6.8. As noted above, flexibility needs to be applied when using the relevant guidance document, particularly in the context of redeveloping this well-serviced site to accommodate a sustainable level of development, and overall, I am satisfied that the applicant has demonstrated adequate daylight and sunlight within the proposed development, specifically in light of the identification of compensatory measures as required in Section 28 guidelines, and as required by Appendix 16 of the Development Plan.

8.7. Surrounding Residential Amenity

- 8.7.1. Issues raised with the third party appeals include loss of daylight to surrounding properties, overlooking and loss of privacy. While there are a number of general policies relating to amenities in the plan, in particular I note and it is stated that in zones abutting residential areas, attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties.

Daylight/Sunlight/Overshadowing

- 8.7.2. Chapter 13 of the EIAR considers the impacts on surrounding properties in relation to daylight, sunlight, shadow and light effluence. 7 no. neighbouring amenity areas have also been assessed, in relation to overshadowing effects.

Daylight

- 8.7.3. In terms of daylight, in summary the EIAR reports 327 no. neighbouring windows and 207 no. neighbouring rooms were assessed for daylight impacts (Vertical Sky Component – VSC and No Sky Line – NSL). 311 no. windows (95%) and 199 rooms (96%) were found to comply with the 2022 BRE Guidelines for daylight, and it is concluded that the overall impact was ‘negligible’. In terms of sunlight, 206 no.

windows were assessed, with 201 no. windows (98%) complying with 2022 BRE Guidelines for winter sunlight and 202 windows (98%) will comply with total sunlight targets. It is concluded the overall impact will be 'negligible'.

8.7.4. Of those windows that experience some impacts and/or do not achieve the targets for daylight I note that the EIAR reports impacts as follows:

- Negligible (not significant) at 10 and 11 Stillorgan Road, 4 Stillorgan Road, Ailesbury Apartments, 4A Stillorgan Road, Belville House, 2 Seaview Terrace, Belville (Ailesbury Road)
- 'negligible to minor adverse' (not significant) at 9 Stillorgan Road, 7 Stillorgan Road
- 'minor adverse' (not significant) at No. 8 Stillorgan Road, No. 1A Donnybrook Close (The Cottage), 3 Stillorgan Road, 1 Seaview Terrace, 3 The Mews Seaview Terrace, Ailesbury Court; Danesfield

8.7.5. In relation to sunlight, of the windows that experience some impacts and/or do not achieve the targets for sunlight I note that the EIAR reports impacts as follows:

- 'negligible (not significant)' at 10 Stillorgan Road, 8 Stillorgan Road, 7 Stillorgan Road, 4 Stillorgan Road (Albert Lodge), 3 Stillorgan Road (Albert Lodge), 4 Stillorgan Road, 1 Seaview Terrace, 3 The Mews Seaview Terrace, Belville (Ailesbury Road), Ailesbury Court
- 'minor adverse' (not significant) at No. 1A Donnybrook Close – The Cottage, Ailesbury Apartments, Belville House, Danesfield, 2 Seaview Terrace.

8.7.6. The assessment does not identify any significant impacts on surrounding residential properties (with reference to the assessment criteria as set out in Appendix H of the BRE 2022 Guidelines). I note that third party appeal submissions raise the issue of daylight and sunlight impacts on No. 8 Stillorgan Road, Albert Lodge and (No. 3 Stillorgan Road). In response to same, the First Party response to the appeal, considers same, and includes a Memo prepared by Avison Young which considers specifically the issues raised in the Third Party Appeals.

8.7.7. In relation to No. 8 Stillorgan Road, it is noted that 4 no. windows on the ground and first floors fall below the criteria for VSC (27% or 0.8 times existing). There are as follows:

Window Number	Habitable Room?	VSC as existing	VSC with development in place	% reduction
W2/40	Yes (Kitchen)	34.56%	26.82	22.4%
W3/41	No (Bathroom)	32.24%	24.93%	22.67%
W6/40	Not verified/unknown	34.44%	25.97%	24.59%
W7/40	Yes (Living Area)	20.92%	14.49%	30.74%

8.7.8. It is set out in the Third Party appeal, submitted on behalf of No. 8 Stillorgan Road, that the first floor window (W3) serves a bathroom. This is not a habitable space for the purposes of BRE assessment, and therefore impacts on same are not a consideration under BRE. The First Party Response, notes that the three remaining windows which fall below BRE targets for VSC are below an overhang, which reduces daylight, a situation that is acknowledged by the BRE Guidance. One of the windows is also serving a kitchen, which is served by three other windows, all of which meet the criteria for VSC. In relation to window W7, the Third Party appeal submitted on behalf of No. 8 Stillorgan Road, sets out that this window serves a living area. This window has a VSC of 21% as existing which falls to 14.5% with the proposed development in place, which is a drop of 31%. The EIAR sets out that this is a 'moderate adverse' impact. However, in relation to the overall impact on daylight and sunlight to No. 8 Stillorgan Road, the impact was concluded to be 'minor adverse' (not significant). As set out in Appendix H (Environmental Impact Assessment) of the BRE Guidelines 2022, those factors which point towards a conclusion of 'minor adverse' impacts include cases where only a small number of window are affected; the loss of light is only marginally outside the guidelines; an affected room is served by other windows; there is an overhang above the window or it is unusually close to the boundary. I am satisfied that these factors are in place to allow a conclusion of 'minor adverse' impacts on this property. While there is a relatively large reduction in VSC to window W6, there is an existing overhang over this window, which reduces the amount of available daylight. I also note that the

majority of windows (10 of 14) achieve the BRE targets for daylight and all of the windows (100%) achieve the BRE targets for sunlight.

8.7.9. In relation to Albert Lodge (No. 3 Stillorgan Road), 12 (92%) out of the 13 windows assessed achieved BRE target for daylight (VSC). In relation to the window that does not achieve the BRE target (W1/73), has an existing VSC of 25% which falls to 15%, with the development in place, a reduction of 39.5%, and the impact on this individual window is classed as 'moderate adverse' within the EIAR. This room is served by an additional window which achieves BRE targets for VSC, and the room as a whole will comply with the BRE Criteria for No Sky Line (NSL) retaining 97% daylight distribution. I do note that the northern facing windows of this property are somewhat obscured by an existing hedgerow. In relation to same, these are not considered for the purposes of considering impacts of new developments on existing proposal (as per Section G1.2 of the BRE Guidance) and the EIAR has not considered same, in line methodology set out in the BRE guidance. The overall impact on this property is concluded to be 'minor adverse' with the EIAR. I concur with same having regard to the factors as set out in Appendix H of the BRE Guidelines (as discussed above), noting the window in question serves a room that is also served by a window that achieves BRE Targets. I also note the window in question is very close to the boundary wall which reduces the amount of daylight achieved to this window.

8.7.10. An observation has been received from No. 9 Stillorgan Road, which sets out that the impacts on same are significant. In relation to this property, the EIAR sets out that 8 of 10 windows will achieve the criteria for VSC, with 2 no. first floor windows (W7/21 and W8/21) falling just below the recommended criteria as set out in the BRE 2022 guidance. W7/21 sees a 20.8 %VSC reduction from 30.1% to 25%, and W8/21 sees a 20.6% VSC reduction from 28% to 22%. The ground floor windows achieve BRE Targets for VSC (noting that Window W11 was not assessed as this serves a non-habitable room (an entrance hall). All of the windows assessed achieve BRE targets for No Sky Line (Daylight Distribution). The EIAR concludes that the impact on this property is negligible to minor adverse (not significant). I note that W7/21 appears to serve a room that is served by other windows that meet BRE targets. While window W8/21 falls below BRE targets, this shortfall is not significant, in my view, and I concur with the conclusion set out in the EIAR that the overall impact on

this property is negligible to minor adverse, having regard to the factors as set out in Appendix H of the BRE Guidelines.

8.7.11. I have considered the assessment as a whole, as well as those specific properties and windows cited in the third party appeals, and within the observations, and I am satisfied that the impacts are as described in the EIAR, and are in line with the impact assessment guidance as set out in Appendix H of BRE 2022. While there are instances where some windows do not achieve the BRE Targets for daylight and sunlight, however in all cases the shortfalls are not substantial and/or the room in question is also served by other windows which are either unaffected or experience only negligible impacts, or there are other relevant factors such as an overhang over the window in question.

Overshadowing

8.7.12. A 'Sun Hours on Ground' overshadowing assessment has been undertaken for seven existing neighbouring amenity areas (Areas 04 to 10) as set out in the EIAR and supporting Appendix 13. It is demonstrated within the EIAR that all of the assessed amenity areas will retain two or more hours of direct sunlight to over 50% of their areas on the 21st March, with the development in place, and as such will comply with the recommended BRE Guidance. Further 'Sun Hours on Ground' assessments were carried out for 21st June, with all seven amenity areas retaining two hours of direct sunlight to 89% to 100% of their areas. It is concluded that any impacts as a result of overshadowing were therefore negligible (not significant).

8.7.13. A 'transient overshadowing' assessment (shadow analysis) was also carried out for these amenity areas, for three key dates throughout the year (21st March 7am to 5pm, 21st June 6am to 7pm and 21st December 8am to 3pm). Some overshadowing of some of the amenity areas is seen to occur at different times of the day on the March and June dates, although the EIAR notes that such overshadowing is only for a short time period and the amenity spaces generally have periods throughout the day where they are largely unaffected, with overall impacts concluded to be 'minor adverse (not significant)' in March, and 'negligible to minor adverse (not significant)' in June. During the December date, overshadowing is seen to occur throughout the day on amenity areas 4, 5, 6 and 7, with areas 8,9 and 10 seeing overshadowing from 11am. It is concluded in the EIAR that such overshadowing impacts are not

unusual for this period of the year given the low trajectory of the sun in winter. Overall impacts are concluded to 'minor adverse (not significant)'.

8.7.14. I am satisfied that surrounding amenity areas will still retain sufficient sunlight levels on the 21st March, having regard to BRE 2022 targets. While overshadowing of these amenity areas is seen to occur at various times of the year, I note that this is not extensive and I also refer to the BRE 2022 guidance which states that 'it must be borne in mind that nearly all structures will create areas of new shadow, and some degree of transient overshadowing of a space is to be expected' (Section 3.3.13 refers). Specifically in relation to the winter period, where more extensive overshadowing is seen to occur,, I concur with the view expressed in the EIAR that this level of overshadowing is expected in winter, given the low trajectory of the sun. I also note the existing relatively open nature of the site, which allows for a large degree of sunlight penetration. I also refer to the 2022 BRE Guidelines which note that '*if winter shadows (e.g. 21 December) are plotted, even low buildings will cast long shadows. In a built-up area, it is common for large areas of the ground to be in shadow in December*'. (Section 3.3.15 refers). As such, I am not of the view that this winter overshadowing would result, on balance, in an overall significant negative impact on surrounding properties, or on individual properties, given the conclusions of the SOG analysis and the conclusions of the shadow analysis for the March and June periods, and given the BRE guidance as described above.

8.7.15. Overall, I concur that the impacts are as defined within the EIAR, having regard to the impact assessment criteria as set out in Appendix H of the 2022 BRE Guidelines, and I am not of view that any significant negative/adverse impacts will result on daylight or sunlight levels to surrounding properties, nor will significant negative impacts will result from overshadowing, with the proposed development in place.

Overlooking/Loss of Privacy

8.7.16. A number of Third Party Appeals raise the issue of overlooking and loss of privacy that may result from the proposed development. The First Party Response to the appeals set out that the northern facades of Blocks 1 to 4 have been designed to minimise the number of openings/windows, in order to minimise overlooking. It is also set out that there is sufficient distance between the proposed development and surrounding properties so as to minimise overlooking.

8.7.17. Specifically in relation to the overlooking and security concerns raised by Republic of Austria (79 Ailesbury Road), I note that the rear boundary wall of same is approximately 80m from the northern boundary of this application site, with the main house of the embassy residence approximately 115m from the boundary. The closest proposed block to this property is located 11.5m from the application site boundary. I note also the substantial foliage in place to the rear of No. 79 Ailesbury Road. Having regard to the above factors, as well as having regard to the limited numbers of windows to the northern façade of blocks facing towards the properties on Ailesbury Road, I am not of the view that any material overlooking would occur (that would raise concern in relation to privacy and/or security) as a result of the proposed development.

8.7.18. In relation to the Third Party Appeal submitted on behalf of No's 85, 87 and 89 Ailesbury Road, these parties have requested that mitigation measures should be included so as to ensure that no overlooking of their properties will result from the proposed apartments. In relation, I concur with the conclusions of the Planning Authority, that the only opportunity for overlooking to result relates to the relationship between the proposed blocks to the north of the and those existing properties at 89 Ailesbury Road, and at Seaview Terrace and Nutley Road, with the balconies on the side elevations of same potentially result in overlooking of the amenity spaces associated with these properties. The Planning Authority has imposed a condition in relation to privacy screens to those units on the side (east and west) elevations of Blocks 1,2,3,4 and 10, and I see no reason to amend or remove this condition. Overall I am satisfied that, surrounding residential amenity of the above properties will result, arising from overlooking impacts, noting also the substantial distance of directly opposing windows [99m from the rear of No. 85 Ailesbury Road to the northern elevation of Block 1] and noting also that there is substantial foliage to the rear of these properties.

8.7.19. I note that concerns in relation to overlooking have been raised in the third party appeal submitted on behalf of No. 3 Stillorgan Road. In relation to this property, the front façade of the main house is located 57m from the nearest proposed block, Block 8, with the single storey property to the front of the main house, located approximately 30m from Block 7. In relation to the latter property, this has one window which faces towards the development site. However, this is already

obscured to a large degree by the boundary wall to the front of the window. While there may be views towards same from the higher floors of Blocks 7 and 8, I am satisfied that the separation distance to same, which is across a busy 30m wide dual carriageway, will ensure that no material overlooking will result. In relation to the main house, the separation distance is significant from the nearest proposed block to the front windows of the main house at No. 3 Stillorgan Road, and I am satisfied that this distance will ensure that no material overlooking will result from the proposed development. While there will be views into the front garden of this property, and views toward the main windows of the house, from the proposed development, this relationship is not unusual within an urban context. I note also the setback of the upper floors of these blocks, increasing further the separation distance between existing and proposed windows.

8.8. Other Issues

- 8.8.1. Decision date – The decision date of 13th December was raised as a concern. The timing of the decision of the Planning Authority is not a matter for consideration under this appeal.
- 8.8.2. Capacity of Schools/Health Service – A Community and Social Infrastructure Audit was submitted with the application, which sets out that the site is well served by educational facilities, with details of same set out in the report. In terms of healthcare, details of surrounding hospitals and medical centres are set out in the report, and of note is the site is within 1km of St. Vincent’s Hospital. The Planning Authority has not raised any concerns in relation to the capacity of schools or health facilities in the area. Noting this, and the details as submitted with the application, I am satisfied that, generally speaking, adequate educational and health services are available to future occupiers of the site, noting that wider issues of new school provision, and the capacity of the health service in general, are matters of general governmental policy, outwith the scope of this application.
- 8.8.3. Telecommunications – An observation on the appeal has raised concern in relation to the proposed telecommunications infrastructure. In relation to same, I note that telecommunications infrastructure comprising 4 no. steel support pole frames allowing for 24 no. broadband panel antennas and 40 no. microwave links, and

associated ancillary equipment and cabinets, are proposed at roof level of Block 5. These are set back behind the parapet at roof level reducing the visual impact of same, and I am satisfied that no negative impact on visual amenity will result, nor will any adverse impacts on residential amenity result from same.

- 8.8.4. Large Scale Residential Development (LRD) – An appeal submission has questioned if the provision of a hotel is permitted under the relevant legislation. An LRD is defined under the Planning and Development (Amendment) Large-scale Residential Development) Act 2021, and can be comprised of developments of 100 housing units or more, or student accommodation developments comprising 200 bed spaces or more, or a combination of same. Up to 30% of the gross floor space of the proposed development may be used for non-residential uses. The total residential use is 87.3%, with the total commercial uses being 12.7% (in terms of GIA). As such I am satisfied the provision of the hotel of the scale proposed is permitted under the relevant legislation.
- 8.8.5. Local Area Plan – An appeal submission has noted that there is no LAP for the site. The preparation of an LAP is a matter for the Planning Authority and is outwith the scope of this appeal.

9.0 Environmental Impact Assessment

9.1. Statutory Provisions

- 9.1.1. The application was accompanied by an Environmental Impact Assessment Report (EIAR). Item 10 (b) of Part 2 of Schedule 5 of the Planning Regulations 2001 (as amended) provides that an EIA is required for infrastructure projects comprising of either:
- Construction of more than 500 dwelling units
 - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere
- 9.1.2. The development would provide 688 no. dwellings. I therefore consider that an EIA is required with regard to the above legal provisions.

9.1.3. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, observers and prescribed bodies has been set out previously in this report. A summary of the main contents of the EIAR are listed below, with a detailed assessment of the environmental aspects after.

- Volume I of the EIAR comprises the Non-Technical Summary
- Volume II comprises the Written Statement
- Volume III includes the Appendices to the EIAR
- Chapter 3 of the Written Statement provides a consideration of alternatives
- Chapter 19 of the Written Statement considers interactions and cumulative impacts

9.1.4. The likely significant direct and indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

9.1.5. I am satisfied that the information contained in the EIAR has been prepared by competent experts and generally complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.

9.1.6. This section on Environmental Impact Assessment should be read in conjunction with the above planning assessment, and both sections should be cross-referenced where applicable, in the interests of brevity and the avoidance of repetition.

9.2. **Vulnerability of Project to Major Accidents and/or Disaster**

9.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. EIAR Chapter 18 'Risk Management' addresses the risk of Major Accidents and Disasters. The development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO. The nearest Seveso site is located c. 2.75km away (Dublin Waste-to-Energy and National Oil Reserves Agency) and so there is no potential for impacts from this source. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. EIAR Chapter 7 and the submitted SSFRA address the issue of flooding and the site is not in an area at risk of flooding. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

9.3. **Alternatives**

9.3.1. Article 5(1)(d) of the 2014 EIA Directive requires a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment. EIAR Chapter 3 deals with alternatives and sets out a rationale for the development. The 'do-nothing' alternative was concluded to result in an inefficient use of the subject lands, although it is noted that the potential for any likely significant adverse environmental impacts arising from the proposed development would not arise. Such a scenario would not see positive effects from the construction and operation of the development include the provision of housing and public open space. Such a scenario would not be consistent with national, regional and local policies, given that the site which is zoned for residential development (the EIAR refers to the previous Development Plan 2016-2022). In terms of alternative uses, the characteristics and its proximity to transport and services was considered to lend itself to residential led development, notwithstanding a previous permission on the wider RTE site to expand the current RTE campus (ABP Ref 236717). Reference is made also the Z12 zoning, noting the predominant land use on such sites will be residential. A brief comparison of the environmental impacts of the previously proposed RTE development, with the

current development is made, and it is generally set out that the current development would have greater positive impacts than the RTE project. In terms of alternative locations, it is concluded that, having regard to the zoning of the site, which expressly provides for residential development, and having regard to the Core Strategy of the plan, which seeks the development of infill, brownfield development sites at higher densities, especially along public transport corridors, it was not considered necessary to consider alternative locations in detail. In terms of alternative layouts/designs, a number of different layout/design approaches are set out in the EIAR, with each one in turn ruled out due to the impact on the protected structure on the site, negative landscape and visual impacts, fragmentation of open space, insufficient daylight, sunlight and privacy within the blocks and/or lack of permeability through the site. Various block and layout iterations (10 no. options in total, including the final design option as submitted) are illustrated in the report with the environmental impacts of each considered briefly.

- 9.3.2. In relation to the content of the EIAR, I am satisfied that the description of the consideration of alternatives in the EIAR is reasonable and coherent, and the requirements of the directive in this regard have been satisfactorily addressed.

9.4. **Assessment of the Likely Significant Direct and Indirect Effects**

- 9.4.1. The likely significant effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU.

9.4.2. Population and Human Health

EIAR Chapter 4 addresses Population and Human Health. In terms of the existing demographic profile, a catchment area of approximately 1km radius is set out, with all 'Small Areas' (as defined by the CSO) within this catchment included for statistical purposes, with the baseline data derived from the 2016 Census. It is set out that there are 12,194 living within the catchment area. It is concluded that the catchment area is characterised by a relatively low number of younger people (0-18 yr olds) when compared with the national average. The population within the catchment increased by 6.6% from 2011 to 2016 which is higher than the national average of 3.78% for the same period. In terms of community and social infrastructure, reference is made to the submitted Community and Social Infrastructure Audit, and

is it concluded that the site is well served by schools, medicated facilities, childcare facilities as well as other community and social infrastructure elements, and the extent of provision is illustrated graphically in Figure 4.7 of the EIAR.

- 9.4.3. In terms of predicted effects of the proposed development, the effects at construction and operational stages are considered under the headings of land use; demographics, socio-economic and employment, social infrastructure and human health, as per EPA Guidelines. At construction stage, in the absence of mitigation, temporary negative visual effects are predicted, up until completion stage (and which are described in greater detail in the Landscape and Visual Impact Assessment – see also Section 8.3 of this report). A temporary positive effects results from the increase in construction employment, and associate materials and service providers, with most of the workers coming from the wider region, including the Greater Dublin Area. Impacts on air quality are considered in greater detail in Chapter 11 of the EIAR, but in summary it is concluded that emissions from the proposed development will not result in a significant effect on human health. In relation to noise, this is discussed in greater detail in Chapter 12 of the report, and in summary, in the absence of mitigation, effects are likely to be negative, temporary, significant and localised. At operational stage, the provision of 688 no. housing units, increased permeability through the wide area, access to green space, access to services within the development, increased housing choice and employment opportunities with effects ranging from moderate to significant long-term positive effects. No potential significant negative effects resulting from noise or air quality are predicted.
- 9.4.4. In relation to mitigation, measures relating to construction practices, air quality and noise are summarised, and I refer to the Board to other sections of this report for consideration of same. In terms of residual effects, negative visual effects of varying significance are expected at construction stage, although these are considered to unavoidable. These impacts are considered in more detail in Section 8.3 of this report. Residual operational impacts are as per described above, with significant positive long term effects resulting from the provision of housing. No significant cumulative effects are noted.
- 9.4.5. In relation to the conclusions of the EIAR, I concur with same, in particular I am of the view that long-term significant positive impacts result from the provision of housing on the site. While not cited in the EIAR, I am also of the view that significant

positive cumulative effects on population and human health result from the provision of housing on this site, in combination with other sites, either with permissions for housing development or already under construction. While not significant, I am of the view that any impacts on population and human health as a result of noise and air quality, at construction stage, would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, and such measures are as described in other sections of this EIA. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

Noise and Vibration

- 9.4.6. EIAR Chapter 12 considers noise and vibration. The baseline environment, including the location of surrounding residential properties, is described in the EIAR. It is noted the existing noise environment is generally dominated by road traffic noise from the surrounding road network. The baseline noise environment was quantified by way of an environmental noise survey, carried out in 2018. It is stated that, as the survey periods precede any movement restrictions due to the COVID-19 pandemic, the measured noise levels are considered representative of the normal noise environment in the surrounding area. I accept that this is the case, and I also note no parties have raised an issue with the survey or methodologies of the noise assessment carried out and presented in the EIAR, although a third party appeal has raised the issue of noise impacts at construction stage.
- 9.4.7. Predicted impacts of the proposed development are set out in Section 12.6 of the EIAR. At construction stage noise levels from plant are predicted and while no significant impacts are on residential noise sensitive receptors are predicted (i.e. noise levels will be below that set out in Table 12.1 'Maximum Allowable Construction Noise Levels at Dwellings') it is noted that predicted levels are close to these levels (within 3 dB), and as such impacts are considered to be 'moderate', with 'worst-case' predicted impacts considered to be 'negative, moderate and short-term'. No significant negative impacts on commercial receptors are predicted, with the closest such building being the RTE Radio Building, with predicted effects, in the absence of mitigation, being negative, not significant and short-term. No significant impacts resulting from vibration are predicted, and predicted noise impacts from the increase in traffic levels (which is of the order of 2%) are considered to be negligible.

At operational phase, the main sources of potential noise result from traffic generated by the development, plant noise and noise from outdoor play areas. Increases in traffic levels on surrounding roads are as described in Section 8.4 of this report, and are not expected to result in any significant noise impacts, with potential impacts on most of the surrounding roads being negligible, and potential minor impacts along Ailesbury Close. No significant noise impacts from building plant are predicted. The noise levels at the nearest noise sensitive location, arising from the outdoor play area associated with the crèche is considered, and it is noted that the noise levels will be below the relevant criteria as set out in the EIAR, and will be below the existing ambient noise level close to this location (as measured during the baseline noise survey) and such no significant effects are predicted.

- 9.4.8. Mitigation measures are set out in Section 12.7 of the report and in relation to construction noise and vibration, best practice operation and control measures will be adhered to, and including selection of quiet plant, noise screening and noise monitoring. At operational stage, best practice measures in relation to building plant will be implement, although I note no significant potential impacts were identified in relation to same. Residual effects of noise at the nearest noise sensitive locations (NSL1 – NSL5), at construction phase, are concluded to be negative, moderate and short-term, with the effect being variable. Vibration impacts are neutral, imperceptible and short-term. No mitigation is proposed for the operational stage. No significant residual impacts on the noise and vibration environment at anticipated at operational stage, and no significant negative cumulative impacts are expected (as a result of those recently submitted planning applications and granted planning permissions as detailed in Chapter 19 of the EIAR).
- 9.4.9. The Inward Noise Impact Assessment (Appendix 12.3 of the EIAR) is presented separately, as it relates to impacts on the proposed development from external noise sources, rather than impacts of noise from the proposed development itself. *In* order to reduce expected internal noise levels with the residential units along the southwestern boundary of the site, enhanced glazing and ventilation specifications are proposed for the habitable rooms of these units. With these measures in place, no significant impacts on expected.
- 9.4.10. In relation to the conclusions of the EIAR, I am satisfied that residual impacts will be as described in the EIAR, and no significant, long-term impacts will result as a result

of noise or vibration impacts. Moderate, negative, short-term impacts are predicted at receptors in close proximity to the site. However this is a worst-case' scenario. I note third party concerns about noise impacts during construction. While there is potential for noise impacts during construction, these impacts are not significant, are short term and will be reduced by the implementation of proposed mitigation measures, and would occur with any substantial development of these zoned and serviced lands. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC

- 9.4.11. Chapter 5 of the submitted EIAR addresses biodiversity. It described various surveys carried out include fro habitats, protected flora, invasive special and bat surveys (roost assessments, internal assessments, bat activity), wintering bird surveys and breeding bird surveys, carried out on multiple occasions between 2021 and 2022.
- 9.4.12. In assessing impacts on Biodiversity, I have also had regard to the Tree Survey Report (Condition Assessment 3rd September 2022 – submitted under separate cover) and supporting tree survey drawings. I have considered potential impacts on European Sites in detail in Section 10 of this Report.
- 9.4.13. It is noted that there are no European Sites within or directly adjacent to the boundaries of the proposed development site, with the closest such sites being South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka SPA (004024), located approximately 1.4km to the east of the site. The nearest watercourses to the site are the River Dodder, located 100m to the north-west of the site, and the Nutley Stream, located approximately 150m to the northeast of the site. The River Dodder is a tributary of the River Liffey, which ultimately discharges into Dublin Bay, approximately 5km downstream from the proposed development site. The Nutley Stream flows directly into Booterstown March, and into Dublin Bay. Further consideration of European Sites is set out in Section 10 (Appropriate Assessment).
- 9.4.14. In relation to habitats on the site, the EIAR describes these as consisting of amenity grassland (improved) GA2; Dry meadows and grassy verges (GS2); (Mixed)

broadleaved woodland WD1; Mixed broadleaved/conifer woodland WD2; Hedgerows WL1; Ornamental/non-native shrub WS3; Buildings and artificial surfaces BL3; Spoil and bare ground ED2 and Stone walls and other stonework BL2. It is noted that none of the habitats corresponds with Annex 1 habitats. Of these habitats, Dry meadows and grassy verges GS2, Mixed) broadleaved woodland WD1 and Mixed broadleaved/conifer woodland WD2 were classified as 'Habitats of Local Importance (Higher Value) due to these habitats providing foraging and commuting resources, including for bats as well as a resource for breeding birds and mammals. The remaining habitats were classified as 'Habitats of Local Importance (Lower Value). While a number of non-native invasive species were recorded on the site, none of these are listed on the Third Schedule of the Habitat Regulations S.I. 477 of 2011 (which imposes restrictions on such species). In relation to mammals, no badger activity was recorded during the most recent 2021 and 2022 surveys, although a previous survey in 2019 identified badger activity. Badger setts were identified but camera surveys carried out in 2019 indicated that these were not active setts. Red fox was seen on the site. The site is still considered to be of importance (local importance – higher value) for commuting/foraging badgers in the wider surrounding environment, notwithstanding the recent lack of activity observed on the site. The site was not considered to be suitable for otter (although potential indirect source-pathway connections to Otter in the Wicklow Mountains SAC are noted and considered in the AA Screening Report). There is potential for the site to support other small mammal species such as pygmy shrew or hedgehog and the local population of same are assessed as being of local importance (higher value).

- 9.4.15. In relation to bats, no bats were noted to be actively using any features within the site as a roost during surveys carried out in July and August 2021. The bat activity surveys identified at least 4 no. bat species (common pipistrelle, soprano pipistrelle, Leisler's bats and brown long-eared bat) recorded using the area for commuting and foraging purposes during the bat activity surveys in 2021, although overall bat activity was low within the site. It is concluded that given the relatively unlit nature of the site and the presence of semi-natural habitats within the proposed development site and the immediate surroundings, the site is of moderate suitability for commuting and foraging bat species. Internal and external inspections were carried out in buildings within the development site. Five no. buildings were assessed as having

low suitability for roosting bats with some features present that could support small number of roosting bats. In relation to trees, only one tree, a beech tree, located along the southwest boundary between the proposed development site and the N11 was found to be suitable to host roosting bats (low suitability). The site as a whole was classified as being of local importance (higher value) for bats.

- 9.4.16. In relation to breeding birds, the majority of birds within or flying over the site were green listed species although amber were also observed including Goldcrest, Greenfinch and Willow warbler. The site was classified as being of local importance (higher value) for breeding birds. In relation to wintering birds, low numbers of herring gull and curlew were recorded feeding on the amenity grassland within the proposed development site, with a peak count of 12 herring gull recorded on one occasion, and a single curlew recorded on one occasion. Other wintering birds were observed flying over the site including but not limited to curlew, light-bellied brent geese and herring gulls. The EIAR considers potential impacts on European Sites and I have considered these in more detail in Section 12 of this report, although it is summarised that the site does not represent an important inland *ex situ* site or habitat for wintering herring gull, curlew or any other SCI species and the buildings will not pose a collision risk to waders and winterfowl. The site was is valued as being of local importance (lower value) for wintering birds, particularly waders and waterfowl.
- 9.4.17. The site was valued at local importance (lower value) for insects and pollinators, with few wildflowers available for pollinator species, and does not contain suitable habitat or host plant species for protected insects. In relation to aquatics and fisheries, it is noted that the River Dodder is a known salmonoid river and provides an important foraging habitat for otter. Records of brown trout and otter exist within 2km from the development sit. The Water Framework Directive (WFD) water quality status for the River Dodder for the 2013-2118 is 'Moderate' to 'Poor' water quality status (reference is made also to the WFD Assessment Report submitted under separate cover). It is noted that the proposed site is hydrologically connected to the River Dodder via surface water drainage. Fisheries and Aquatics are assessed as being of County importance, as too is the River Dodder itself, given its optimal foraging habitat for otters, as well as good salmonid and eel habitat.

- 9.4.18. I note the contents of the Tree Survey Report (Condition Assessment). In relation to the trees on the site, those to be removed are mainly those along the Stillorgan Road boundary which are largely individual trees planted at wide spacing in a belt to provide screening between the campus and the adjoining road. A number of third party appellants have stated that that these trees should be removed. The Parks report have also raised concerns in relation to the loss of these trees, stating they could help with integration and provide environmental benefits (the report does not include a recommended condition requiring their retention however).
- 9.4.19. Predicted impacts on biodiversity during the construction phase, in the absence of mitigation, includes the potential from surface water discharges at construction and operational stages, as surface waters from the lands ultimately discharge to the River Dodder and ultimately to Dublin Bay. These include potential impacts on European Sites (which I have discussed in Section 10 of this report) and potential significant water quality impacts on the South Dublin Bay pNHA, Booterstown Marsh pNHA, North Dublin Bay pNHA and Dolphins, Dublin Docks pNHA, located downstream within the Dublin Bay Coastal Waterbody. In relation to the habitats on the site, it is noted that, in the absence of mitigation, short-term significant impacts are predicted, at construction stage, as a result of the removal of habitat and the potential for damage to those habitats to be retained. In relation to bats, in the absence of mitigation, the removal of those structures with low suitability for roosting has the potential for bat mortality or injury, and in this regard to the protection of bats under the Birds and Habitats Regulations, and under the Wildlife Acts is referred to. Noting the low levels of bat activity on site, and the alternative foraging habitats located along the River Dodder and adjacent gardens, and noting the widespread distribution of the most frequently recorded species on site, significant negative impacts, at construction stage, on bats are ruled out. At the operational stage, reference is made to potential impacts from lighting. The EIAR notes that given the urban nature of the surrounding environment, and the presence of artificial lighting within the immediate vicinity of the surrounding area (along the Stillorgan Road), the local bat population would be expected to be habituated to artificial light spill, noting also that the most common species recorded on the site are some of the least sensitive to light spill and are often recorded in towns and cities. No significant impacts on the local bat population are predicted. No significant impact at either

construction phase or operational phases are predicted. Mortality of badgers, at construction stage, would result in a significant impact, given the legal protections afforded to same under the Wildlife Act. In the absence of mitigation, potential significant impacts could result, at construction stage, on the River Dodder, otter, aquatics and fisheries. No significant impacts on same are predicted at operational stage having regard to the design measures included in the proposal including SuDS measures.

- 9.4.20. Mitigation measures are set out in the EIAR and include measures to protect water quality during construction, and are as set out in the Outline Construction and Environmental Management Plan (OCEMP), including pollution control measures. Tree protection measures will be put in place. Specific measures in relation to bats will be put in place, including a confirmatory preconstruction survey of the 5 no. buildings deemed as low suitability for roosting bats, carried out by a suitable qualified bat ecologist, If bats are encountered during works at the site, the relevant activity will be suspended until appropriate measures are enacted, and if necessary a derogation licence will be sought from the NPWS in order to allow removal of bats, mitigate for the loss of roosts. In relation to birds, measures include appropriate timing of vegetation removal. In relation to badgers, pre-construction surveys will be carried out, and protection measures put in place if badger setts are found. At operational stage, reference is made to proposed SuDS measures that will reduce the quantity and improve the quality of water. Attenuation is also provided and the rate of surface water run-off will be restricted. In relation to bats, appropriate lighting will be provided on the site (at both construction and operational stage) that is in line with appropriate guidance on same. Bat boxes will be provided on suitable retained trees on the site, noting that this is an enhancement measure rather than a mitigation measure as no confirmed roosting on the site was identified. Nest boxes are provided for breeding birds in order to mitigate against the loss of nesting habitat.
- 9.4.21. With the mitigation measures in place, the majority of potentially significant impacts as noted above have largely been avoided and/or mitigated. It is noted that there remains an adverse temporary significant on particular habitats (dry meadows and grassy verges, broadleaf and broadleaf/conifer woodland and hedgerow habitat) until the proposed planting and landscaping becomes established, subsequent to which there will not be any long term significant impacts on habitats. No other significant

impacts on any of the ecological features discussed above are expected, and no significant cumulative impacts are highlighted.

- 9.4.22. I concur with the conclusions described in the EIAR and consider there to be no significant, negative residual impacts upon internationally or nationally significant receptors, with mitigation in place. While there will be removal of some habitat areas, the provision of areas of replacement planting provides substantial benefit. In relation to the 258 no. trees on the site, many of those trees in and around Mount Errol, are to be retained, including those to the frontage of Stillorgan Road, as well as many of the trees to the northern boundary. While there are 53 no. trees to be removed, which currently front onto Stillorgan Road, the applicant has set out a rationale for this, stating that bringing the residential blocks closer to the Stillorgan Road boundary was preferable in terms of placemaking. It is also set out that a new line of semi-mature Plane trees is proposed in front of the residential blocks. I accept the design rationale for the removal of the trees, and I am satisfied that proposed replacement planting and landscaping will be adequate in terms of compensatory value for any negative impacts on habitats arising from the removal of the trees, noting that a total of 504 new individual trees are to be planted on the site. I also note that the site is zoned for residential and thus this zoning supports redevelopment of the lands which in any form, will invariably lead to some disturbance and clearance of trees and habitats on the site. In relation to bats, I am satisfied that no significant residual impacts on bats will result, either at construction stage nor at operational phase. Overall, with the mitigation measures as outlined above, and within the EIAR, I am satisfied that, while there may be temporary significant negative impacts on particular habitats, at the initial phases of development, as a result of removal of some habitats, I am satisfied that these impacts will be short-term, and I concur that, as the proposed landscaping matures, any impacts will be reduced to less than significant over time.

Land, Soil, Water

- 9.4.23. Details of the proposed surface water drainage strategy is set out in the Drainage and Watermains Report (submitted under separate cover). In relation to surface water, the proposed surface water drainage system will be designed in accordance with the guidelines as set in the Greater Dublin Strategic Drainage Study (GDSDS) and the CIRIA 2015 SuDS Manual, and will provide for SuDs measures, such as

green roofs, filter drains, permeable paving and tree pits. Attenuation storage is required in order to limit discharge volumes from the site. It is noted in the report that that all surface water run-off will go through a two-stage treatment train via green roofs, permeable paving, filter drains and tree pits before discharging at a controlled rate into the receiving surface water network.

- 9.4.24. EIAR Chapter 6 addresses Geology and Hydrogeology and Chapter 7 addresses Hydrology. In terms of geology, the site is underlain entirely by dark grey to black limestone and shale and in relation to soil, the site is underlain entirely by made ground. In relation to groundwater, the site is located within the Dublin groundwater body, which was classified as 'Good' status under the most recent Water Framework Directive reporting period 2013-2018. Groundwater vulnerability ranges from low (the majority of the site, to moderate then high vulnerability at the extreme western edge of the site. The bedrock aquifer underlying the site is of local importance, being moderately productive only in local zones.
- 9.4.25. A 2018 survey identified three minor contaminated areas of the site, with elevated levels of naturally occurring selenium, low concentrations of lead and organic carbon, and trace levels of asbestos.
- 9.4.26. The EIAR puts forward a conceptual site model (CSM) in order to identify any potential source-pathway-receptor links. It is set out that none of the nearest European Sites or nationally designated sites (South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay pNHA, Booterstown Marsh pNHA, Grand Canal pNHA) are dependent on groundwater, with the nearest site designated for groundwater dependant habitats located approximately 18.2km away (Rye Water Valley/Cartron SAC). Potential impacts, as a result of hydrogeological effects, on same are ruled out (see further discussion on same in Section 10 of this report).
- 9.4.27. In relation to hydrology, I note a separate WFD assessment report has been submitted with the application, which the EIAR makes reference to. Within the EIAR, it is noted that the site falls within the Liffey and Dublin Bay WFD catchment, with the main sub-catchments being the Liffey, the Dodder and the Tolka Rivers. The River Dodder is contained entirely within the Dodder_SC_010 sub-catchment. The Dodder drains into the River Liffey at Grand Canal Dock. The EIAR cites the conclusions of

the WFD assessment report which concludes that the development will not lead to a deterioration in status of any WFD waterbody, with consideration of the mitigation measures as set out in the EIAR.

- 9.4.28. It is noted that there are two river waterbodies in proximity to the proposed development site, the River Dodder (within 100m at its closest point) and the Nutley Stream (c150 north-east of the site). The River Dodder is at Moderate Status (WFD classification) and is failing to achieve good chemical water status, and the waterbody is classified as 'At Risk', with reference to 2021 EPA data. It is stated that the Dodder is not listed as a salmonoid waterbody in the relevant regulations⁴ (although other Sections of the EIAR note it is a known salmonoid river with reference to other sources) Surface water from the site is discharged to the River Dodder via an existing local drainage pipe, and is noted that there is potential for surface water contamination during construction and operation of the development via this pipe. The Nutley Stream is not designated as a WFD waterbody. No water quality data is collected by the EPA for this stream.
- 9.4.29. In relation to flood risk, the EIAR summaries the contents of the standalone Flood Risk Assessment (submitted under separate cover). It is noted that there has been one previous flood event in the immediate vicinity, with the River Dodder flooding in 1986. Flood waters did not reach the proposed site however. The Nutley Stream also flooding in June 1989, with the flood event occurring approximately 400m east of the site. With reference to CFRAM mapping, the site is shown not to lie within any of the three flooding scenarios (0.1%, 1% and 10% AEP scenarios). The site lies within Flood Zone C, with reference to the Flood Risk Management Guidelines, and I am satisfied that the proposed development is in compliance with same, noting in particular no objection raised by the Planning Authority in relation to flooding issues.
- 9.4.30. Proposals for water supply and wastewater are summarised. In relation to the former it is proposed to connect to the watermain on Sillorgan Road. In relation to the latter, foul water will connect to the public foul network located along Ailesbury Close. In relation to stormwater, following interception and attenuation, stormwater will discharge to existing surface water sewer on Ailesbury Close. I note that an appeal

⁴ European Communities (Quality of Salmonid Waters) Regulations (S.I. No. 293 of 1988) (the Salmonid Regulations).

submission has raised concerns in relation to water and waste water infrastructure and it is stated that this is already under considerable strain and the proposed development would increase these problems. It is stated that the surface water attenuation measures are inadequate.

- 9.4.31. The EIAR considers impacts on hydrology and at construction phase, predicted impacts on same, in the absence of mitigation, include potential impacts on water quality due to contaminated surface water runoff, including from silt and suspended solids, and from chemical pollution, with downstream impacts along the River Dodder, and are concluded to be potential significant negative impacts. Other potential impacts include changes to the surface water regime, and potential for localised flooding on the site, which are concluded to be potential significant negative impacts. At operational phase, impacts on hydrology are considered to be long-term, imperceptible and neutral, having regard to the proposed surface water design, which is in accordance with the Greater Dublin Regional Code of Practice for Drainage Works and the Greater Dublin Strategic Drainage Study. In relation to same, and in relation to the concerns raised by Third Parties, I note the Drainage Division of the Planning Authority were generally satisfied with the proposed surface water design measures, and did not raise any concerns in relation to the capacity of the surrounding surface water network. Irish Water have not made a submission on this application (although there were a consultee at application) and it is therefore assumed that no fundamental objection is raised in relation to the water connection or wastewater proposals. In any case, such proposals will need to comply with the requirements of Irish Water.
- 9.4.32. Mitigation measures, relating to land, soil and hydrogeology, and hydrology, include proposed include site specific measures included within the Outline Construction Environmental Management Plan, which includes measures relating to chemical pollution, silt and suspended solids and removal of contaminated material. Residual impacts on land, soil and hydrogeology, and hydrology, at construction stage are concluded to be short-term, neutral and imperceptible, with residual impacts at operational stage neutral and imperceptible. No significant cumulative impacts are expected.
- 9.4.33. I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to land, soil and water would be avoided

managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions, including any impact on fisheries, including salmonids. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of land, soil, and water.

Air and Climate

- 9.4.34. EIAR Chapter 11 addresses Air Quality and Climate. The construction phase, significant impacts in relation to impacts on air quality from additional traffic emissions are ruled out, as are significant impacts on climate. Construction activities could affect air quality at nearby sensitive receptors through the emission of dust, in the absence of mitigation. At operational phase, impacts on air quality were considered to be long-term, localised, neutral and imperceptible. Impacts on climate, it is noted that there will be some increase in CO₂ emissions as a result of additional traffic, but this amounts to an insignificant percentage of the EU CO₂ targets, and the overall potential impact is concluded to be negative, long-term and imperceptible. Reference is also made to the energy efficient and water saving measures built into the design. Mitigation measures in relation to dust control measures are set out in the EIAR (and also within the OCEMP). The residual effects on air quality from dust emissions are likely to be short-term, negative, localised and imperceptible at nearby receptors. No significant residual impacts are predicted, having regard to other air quality factor and having regard to climate and human health, and no significant cumulative impacts are expected.
- 9.4.35. EIAR Chapter 13 addresses Microclimate (Sunlight/Daylight) and Chapter 14 addresses Microclimate- Wind. The Board is referred to the above assessment in Section 8.3 of this report (in respect of the design and layout of the proposed development), Section 8.5 of this report (in respect of internal daylight and sunlight standards) and in Section 8.7 (in respect of potential impacts on residential amenities) which summarises the EIAR findings on these matters and considers relevant issues raised in observer submissions. No significant impacts are predicted, including cumulative impacts.
- 9.4.36. I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to air and climate would be avoided

managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air and climate.

Material Assets, Cultural Heritage, The Landscape

- 9.4.37. EIAR Chapter 15 addresses Landscape and Visual impacts and Chapter 9 addresses Material Assets: Traffic and Transport. The Board is referred to Section 8.3 of this report which considers the potential impacts on visual amenities, and Section 8.4 of this report which considers transport issues, both of which summarise the EIAR findings and consider relevant issues raised in observer submissions. No significant impacts are predicted, including cumulative impacts.
- 9.4.38. Chapter 17 considers Architectural Heritage, and I refer the Board to Section 8.3 of this report which considers same, with reference to the conclusions of the EIAR. EIAR Chapter 16 considers Cultural Heritage – Archaeology. It is noted the site comprises the grounds of Mount Errol House, a protected structure, and previously formed part of the RTE Campus. There are no recorded monuments within the subject site. The zone of notification relating to the site of a burial mound is located approximately 40m to the north, with the site itself lying further to the north-east. The site is also located c. 170m southeast of the zone of archaeological potential for the historic settlement at Donnybrook (DU018-060/ DU022-082). Reference is made within the EIAR to a previous programme of archaeological test trenching carried out on the site in 2010, which did not reveal any evidence of archaeological remains. It is concluded that while the site has been subject to disturbance, there low potential for small or isolated previously unrecorded archaeological deposits or artefacts to survive within the subject site. With mitigation, which includes monitoring at construction stage, with additional mitigation put in place if features of archaeological potential are found, such as preservation by recorded or preservation in situ (which will require approval of the National Monuments Service, no residual impacts on archaeology are predicted, either at construction or operational phases, and no cumulative impacts are predicted.
- 9.4.39. Chapter 8 of the EIAR addresses Material Assets: Built Services with regard to impacts on the material assets of water supply, surface water drainage, wastewater

services, electrical supply, gas supply and telecoms in the vicinity. No significant impacts are predicted, including cumulative impacts, noting in particular the proposed development would contribute less than 0.1% of the population equivalent of the total catchment of the Ringsend WWTP, will have an imperceptible impact on the wastewater capacity at Ringsend.

9.4.40. Chapter 10 of the EIAR considers Waste Management. This chapter outlines the potential for waste at both construction stage and operational stage. Of note is the generation of approximately 95,000 m³ of material that will require excavation, with the majority of this material moved off site. At construction and operational phase, in the absence of mitigation, inappropriate waste products from the site, could lead to both short-term and long-term, significant, negative impacts on the local and regional environment. Mitigation measures, at construction stage include adherence to the project specific Resource and Waste Management Plan (RWMP) [Appendix 10.1 of the EIAR], as well as appropriate classification of, and treatment of, excavated material from the site. At operational phase, the mitigation measures as set out in the Operational Waste Management Plan (OWMP) will be implemented. No significant residual impacts are expected, at construction or operational phases, and no significant cumulative impacts are expected.

9.4.41. I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Material Assets, Cultural Heritage, and Landscape would be avoided managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Material Assets, Cultural Heritage and Landscape.

9.5. **Cumulative Impacts and Interactions**

9.6. Each topic chapter in the submitted EIAR has considered cumulative impacts and interactions. Chapter 19 addresses interactions and cumulative impacts as a stand-alone topic. Within this chapter, the relevant interactions of topics are reiterated (i.e. the interaction of 'Population and Human Health' with Air Quality and Noise, Noise and Vibration, Landscape and Visual Impact and Cultural Heritage, at construction stage, being an example of same). Where relevant, these interactions are

considered here. Of note, the EIAR concludes that the provision of new homes, a hotel, a creche and open space, would have a positive effect for existing and future residents, and the architectural and landscape quality of the development would have a positive, significant and long-term effect on the surrounding townscape (interaction of 'Population and Human Health with 'Landscape and Visual Impact'). The proposed tree planting on site is predicted to have a positive, significant and long-term amenity and biodiversity effect (interaction of 'Landscape and Visual Impact' with 'Biodiversity'). It is noted that the physical condition of Mount Errol House and stable building would be significantly improved, and its value as a townscape asset enhanced by its incorporation into the public park, with positive and long-term effects (interaction of 'Architectural Heritage' and 'Landscape and Visual Impact'), although it is concluded in Section 19.4.14 that no significant effects resulting from interactions with Architectural Heritage are identified. With mitigation in place, no other significant impacts as a result of interactions are expected.

- 9.7. In terms of cumulative effects, a list of relevant existing, planned and permitted development in the vicinity of the site is set out, and Figure 19.1 maps these developments in relation to the proposed development site. The delivery of housing, in combination with other residential projects, is concluded to be a significant, long-term and positive effect. In relation to other possible cumulative impacts, it is concluded within the EIAR, that with the implementation of the mitigation measures as set out in the EIAR, no significant negative cumulative impacts are likely to arise during the construction or operational phases of the proposed development.
- 9.8. Further to the above, I note that the land uses proposed under this application are in keeping with the zoning objectives relation to the site, and the proposed development is generally within the provisions of the relevant plan, the Dublin City Development Plan 2022 to 2028.
- 9.9. I am of the opinion therefore that that the culmination of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment, other than those that have been described in the EIAR and considered in this EIA.
- 9.10. **Reasoned Conclusion on the Significant Effects**

9.10.1. Having regard to the examination of environmental information set out above, including the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and public in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Population and Human Health – There will be residual significant positive impacts on population and human health due to the increase in housing stock within the local area.
- Material Assets, Cultural heritage and the Landscape – Long term significant negative impacts on Mount Errol (a Protected Structure) and associated Stable Building have been mitigated by appropriate protections in place during the construction stage and by the overall design strategy proposed for the site, which seeks to preserve the setting of same. There will be residual significant positive impacts on visual amenity resulting from views towards the development from particular viewpoints. Furthermore, there will be residual significant positive impacts on architectural heritage resulting from the refurbishment and reuse of Mount Errol and the Stables Building, and the opening up of views towards Mount Errol from Stillorgan Road.
- Biodiversity – There will be a residual short-term, significant, negative impact on particular habitats (dry meadows and grassy verges, broadleaf and broadleaf/conifer woodland and hedgerow habitat) until the proposed planting and landscaping becomes established, subsequent to which there will not be any long term significant impacts on habitats. Other potential significant impacts have been avoided through mitigation measures including measures to protect water quality at construction stage, replacement planting and pre-construction surveys (in relation to badgers).
- Land, Soil and Water - Potential significant impacts at construction stage have been avoided through mitigation measures as set out in the EIAR and the Outline Construction Management Plan including measures to protect water quality at construction stage and measures in to the handling, storage and disposal of water.

- Micro-Climate (Wind) – Potential significant wind impacts on the café terrace adjacent to Block 5 have been avoided through mitigation measures as set out in the EIAR, including wind canopies on Blocks 5 and 9.

9.10.2. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described, and assessed. Any negative environmental impacts identified are not significant over the long-term and would not require or justify refusing permission for the proposed development or require substantial amendments.

10.0 Appropriate Assessment

10.1.1. 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

10.1.2. 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).

10.1.3. The applicant has submitted an Appropriate Assessment Screening Report (September 2022) and a Natura Impact Statement (September 2022). Both documents have been prepared by Scott Cawley Ltd, on behalf of the applicants.

10.1.4. The Screening Report is underpinned by desk-based assessments as well as ecological surveys, which are as described in Section 9 of this report.

- 10.1.5. A description of the development is set out in the Screening Report and of note, for the purposes of AA Screening, is that the proposed development site currently drains via the surface drainage network to the River Dodder. The proposed development will discharge to the existing surface water network at Ailesbury Close, and will ultimately discharge to the River Dodder. Peak discharge from the proposed development will be restricted to a peak rate of 17.1 l/s (Qbar). In relation to foul drainage, the waste water from the proposed development will be drained by a separate system to that of the surface water drainage system, and will drain by gravity to existing sewer on Ailesbury Close. The proposed development will result in an overall increase of 2485.3 PE (population equivalent). Foul water will ultimately be treated at Ringsend WWTP, prior to discharge into Dublin Bay. It is noted within the Screening Report that Ringsend WWTP is currently operating overcapacity, and is therefore non-compliant with the limits set out in its licence. However, and with reference to the EPA Annual Environmental Report for Ringsend WWTP (2020), the Screening Report notes that the discharge from this plant is not having an observable negative impact on water quality of Dublin Bay.
- 10.1.6. Habitats on the site consist of amenity grassland (improved) GA2; Dry meadows and grassy verges (GS2); (Mixed) broadleaved woodland WD1; Mixed broadleaved/conifer woodland WD2; Hedgerows WL1; Ornamental/non-native shrub WS3; Buildings and artificial surfaces BL3; Spoil and bare ground ED2 and Stone walls and other stonework BL2. It is noted that none of the habitats corresponds with Annex 1 habitats. Of these habitats, Dry meadows and grassy verges GS2, Mixed) broadleaved woodland WD1 and Mixed broadleaved/conifer woodland WD2 were classified as ‘Habitats of Local Importance (Higher Value) due to these habitats providing foraging and commuting resources, including for bats as well as a resource for breeding birds and mammals. The remaining habitats were classified as ‘Habitats of Local Importance (Lower Value). While a number of non-native invasive species were recorded on the site, none of these are listed on the Third Schedule of the Habitat Regulations S.I. 477 of 2011 (which imposes restrictions on such species). The site was not considered to be suitable for otter (although potential indirect source-pathway connections to Otter in the Wicklow Mountains SAC are noted and considered in the AA Screening Report, and are as discussed below).

10.1.7. In relation to breeding birds, the majority of birds within or flying over the site were green listed species although amber were also observed including Goldcrest, Greenfinch and Willow warbler. In relation to wintering birds, low numbers of herring gull and curlew were recorded feeding on the amenity grassland within the proposed development site, with a peak count of 12 herring gull recorded on one occasion, and a single curlew recorded on one occasion. Other wintering birds were observed flying over the site including but not limited to curlew, light-bellied brent geese and herring gulls, although it is summarised that the site does not represent an important inland *ex situ* site or habitat for wintering herring gull, curlew or any other SCI species. It is also set out, in the AA Screening Report, that the extent of suitable habitat for wintering birds (amenity grassland) is small (c0.4ha) and is less favourable due to the nature of the site with features that act as concealment for predators, as well as the developed nature of the site and its surroundings.

10.1.8. The nearest watercourse is the River Dodder located c100m to the north-west. This discharges to the River Liffey, approximately 3.2km downstream of the proposed development site at Grand Canal Docks. The Water Framework Directive (WFD) water quality status for the River Dodder for the period 2013-2018, the latest is 'Moderate' to 'Poor' and the WFD risk status is 'At risk', and the WFD status of the Liffey Estuary is 'Good' and the WFD risk status is 'At risk'. The Screening Report sets out that the River Dodder is a known salmonoid river and provides an important foraging habitat for otter. Records of brown trout and otter exist within 2km from the development site. The most recent water quality information for Dublin Bay coastal waterbody indicates that it is 'unpolluted' with the WFD status being 'Good' and 'Not at risk' of achieving good status. No significant groundwater connections are highlighted due to the low permeability of the soils underlying the site (tills) and the distance between the site and the coast. Some soil contamination was confirmed during soil quality analysis (as summarised in Section 9 of this report).

10.1.9. The AA Screening Report identifies European Sites that lie within the Zone of Influence of the proposed development, utilising the Source-Path-Receptor method. Hydrological connections to Dublin Bay, and the European Sites therein (South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006) are identified via existing and proposed surface water connections that flow via the surface water

drainage system from the site, discharging to the River Dodder, and eventually discharging to the River Liffey Estuary and into Dublin Bay. Given the River Dodder is listed as being important for otter, and the proximity of the site to same (c100m), and noting the nearest European Site for which otter is a QI, the Wicklow Mountains SAC, located c9.6km south-west of the site, and given tributaries of the Dodder are located within the Wicklow Mountains SAC, there is an ecological link identified between the otter population in the River Dodder, and that of the otter population in the Wicklow Mountains SAC. While not set out in the AA Screening Report, the EIAR notes that the foraging range for male otters can be up to 24km. The AA screening reports concludes that any contamination of the surface water environment may therefore have a significant effect on the QI population of otter. While other sites were potentially within the Zone of Influence of the project (including Rockabill to Dalkey Island SAC (003000) and Dalkey Islands SPA (004172) the proposed surface water design and the distance to these sites was concluded to rule out any potential for significant effects on same. No other European Sites were found to be within the zone of influence of the project.

Screening for AA

- 10.1.10. In Screening for AA, I have had regard to the applicant's AA Screening Report, and NIS, as well as other relevant information on file, including that set out in the EIAR. In determining the zone of influence of the project I would note that the site is not within or immediately adjacent to a Natura 2000 site. In identifying potential impact sources and pathways connecting the development to Natura 2000 site, identification of possible impact pathways should determine same (source-pathway-receptor method). Having regard to same, I am of the view that the sites within the zone of influence of the project are those sites that are entirely within the Dublin Bay Waterbody, that is South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA (004006), as a result of the hydrological link with the Dodder River, which eventually discharges River Liffey, which in turn discharges to Dublin Bay. A hydrological link to Dublin Bay is also present via the Ringsend WWTP, which discharges to the Dublin Bay, with wastewater from the site being treated at Ringsend WWTP. The site is also within foraging range for waders and wintering birds which also provide a source-pathway-connection.

- 10.1.11. There is a potential further source-pathway-receptor link to the Rye Water Valley/Carton SAC (18.2 km from the proposed development site) as both sites lie over the same groundwater body (Dublin Groundwater Body). The Rye Water Vally/Carton SCA has QI's which are groundwater dependant.
- 10.1.12. I concur with the AA screening report that there is a source-pathway-connection link to the Wicklow Mountains SAC, for the reasons as set out above, and I have considered this link in greater detail below.
- 10.1.13. There is a potential further source-pathway-receptor link to the Rye Water Valley/Carton SAC (18.2 km from the proposed development site) as both sites lie over the same groundwater body (Dublin Groundwater Body). The Rye Water Vally/Carton SCA has QI's which are groundwater dependant. However, as set out in the AA Screening Report the site lies down gradient of the Rye Water Valley/Carton SAC, and is a substantial distance away, and therefore the proposed development site cannot influence groundwater conditions in the Rye Water Valley/Carton SAC.
- 10.1.14. I have set out further details of the sites that I consider to be within the zone of influence of the project in Table 1 and I have considered the likelihood of significant impacts on these same sites below.

Table 1

Site (site code)	Distance from site	Qualifying Interests	Conservation Objectives;
South Dublin Bay and River Tolka Estuary SPA (004024)	1.4km east	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130]	To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests for this SPA. Grey Plover is proposed for removal from the list of Special Conservation Interests for South Dublin

		<p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Roseate Tern (Sterna dougallii) [A192]</p>	<p>Bay and River Tolka Estuary SPA. As a result, a site-specific conservation objective has not been set for this species.</p>
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		<p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>	
<p>South Dublin Bay SAC (000210)</p>	<p>1.4km east</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140].</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	<p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>
<p>North Bull Island SPA (004006)</p>	<p>5.5km north-east</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p>	<p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special</p>

		<p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p>	<p>Conservation Interests for this SPA.</p>
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		<p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p> <p>Redshank (Tringa totanus) [A162]</p> <p>Turnstone (Arenaria interpres) [A169]</p> <p>Black-headed Gull (Chroicocephalus ridibundus) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	
North Dublin Bay SAC (000206)	5.6km north-east	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals</p>	To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

		<p>colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>	
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<p>Wicklow Mountains SAC (002122)</p>	<p>9.4km south-west</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Natural dystrophic lakes and ponds [3160]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Calaminarian grasslands of the Violetalia calaminariae [6130]</p> <p>Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain</p>	<p>To maintain or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC.</p>
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		<p>areas, in Continental Europe) [6230]</p> <p>Blanket bogs [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Otter (Lutra lutra) [1355]</p>	
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Habitat degradation as a result of hydrological impacts

10.1.17. At construction phase, I share the view as set out in the applicant's AA Screening Report that hydrological pathways exist to the Dublin Bay sites as described above.

As such there is potential for contaminated surface water to enter the surface water network, at construction stage, and eventually enter Dublin Bay. In considering the likelihood of significant effects, I have considered the proximity of the site to the River Dodder (c100m), and to the Dublin Bay sites via the hydrological network (approximately 5km downstream), the scale of the project proposed (as per the development description), and the duration of the works (approximately 36 months) and the nature of the potential contaminants. In relation to potential contaminants, I note, in particular, that contaminated soil is present on the site, albeit in relatively small quantities - as set out in Section 10 of this report, and the practice of groundwater dewatering, in particular, may result in significant contamination of surface water). Having regard to these factors, I concur with the conclusion as set out in the applicant's screening report that a pollution event, at construction stage, of sufficient magnitude, has the potential to undermine the conservation objectives of those sites within Dublin Bay. While, generally speaking, best practice construction measures are not considered mitigation for the purposes of AA, each case is considered on an individual basis. In this instance, given those factors as set out above, and given that there are specific measures set out in the Outline Construction Management Plan that relate to the maintenance of water quality in Dublin Bay (termed 'NIS measures' within this document), I am of the view that, in this instance, such measures could be deemed mitigation for the purposes of AA. In the absence of such measures, and applying the precautionary principle, I am not of the view that the likelihood of significant effects on the Dublin Bay sites referred to above, can be ruled out, and therefore an Stage 2 Appropriate Assessment is required. For other marine Natura 2000 sites located at distances greater from the site than the above sites, I am in agreement with the view as set out in the Screening Report that, having regard to the distance between the proposed development site (which is at least 9 km to Rockabill to Dalkey Island SAC and greater for other sites) and having regard to the marine buffer between the point of discharge of the River Liffey and these sites, there is no likelihood of significant effects on these sites.

10.1.18. In relation to the issue of otters, and the potential for habitat degradation as a result of surface water contamination at construction stage I note the following. The River Dodder is an important habitat for otters, as set out in the application documentation. The Dodder is hydrologically (and therefore ecologically) connected to the Wicklow

Mountains SAC via as the source of the River Dodder lies within the Wicklow Mountains SAC, and is located approximately 11.9km upstream. The otter is a qualifying interest of the Wicklow Mountains SAC. Otter territories are up to 21km for male otters. Therefore there is potential for otter, associated with the Wicklow Mountains SAC, to utilise this pathway to forage up to and beyond the point of the surface water discharge from the site into the River Dodder. Any degradation of water quality, arising from a pollution event of significance, emanating from the site at construction stage, has the potential to impact on the river itself, impacting on the otter itself, through direct contact, and fisheries within the river, therefore impacting on the food source of the otter. Therefore, having regard to those factors as outlined above (the proximity of the site to the River Dodder. the scale of the project proposed, and the duration of the works, the nature of the potential contaminants (noting, in particular, that contaminated soil is present on the site), I am not of the view that the likelihood of significant effects on otter, can be ruled out. For the same reasons as described above, I am of the view that measures at construction stage to maintain surface water quality, would be considered mitigation measures in this instance. I conclude then, that given that otter is a QI of the Wicklow Mountains SAC, the likelihood of significant effects on the Wicklow Mountains SAC cannot be ruled out, having regard to the Conservation Objectives of same, and therefore a Stage 2 Appropriate Assessment is required.

10.1.19. In relation to surface water impacts at operational stage, I am satisfied that the proposed surface water drainage measures as outlined in the application documentation, including the EIAR, will serve to limit the quantity and improve the quality of surface water runoff. These include interception storage measures with on site-attenuation during heavy rainfall events. It is also proposed to restrict outflows from the site. These SuDS measures are proposed to reduce the quantity of surface water discharge from the site, and to improve discharge water quality. I note that any contaminated soil on the site would have been removed at the construction stage, with the risk of construction stage relating in particular to groundwater dewatering, which will not occur at operational stage. SUDS measures are required by the Greater Dublin Strategic Drainage Study (GDSDS) to be incorporated in all new developments in order to mitigate the impact of the development on the surface water/marine environment, with limited exceptions that do not apply in this instance.

The surface water installations have not been introduced to avoid or reduce an effect on any effect on any Natura site, and as such are not mitigation measures with the context of screening for appropriate assessment, and would be introduced as a standard measure on such housing developments, regardless of any direct or indirect hydrological connection to a Natura 2000 site. They constitute the standard approach for residential developments in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to the protect the receiving local environment and the amenities of the occupants of neighbouring land, regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. As such, I am satisfied that the surface water design features proposed at operational stage will ensure the quality of surface water run-off will be sufficient so as not to result in any likely significant effects on the Dublin Bay Sites referred to above, on the Wicklow Mountains SAC, or any other Natura 2000 sites, having regard to the sites' conservation objectives.

Foul Water

10.1.20. The waste water from the proposed development will be drained by a separate system to that of the surface water drainage system, and will drain by gravity to existing sewer on Ailesbury Close. The proposed development will result in an overall increase of 2485.3 PE (population equivalent). Foul water will ultimately be treated at Ringsend WWTP, prior to discharge into Dublin Bay.

10.1.21. I am of the view that the effluent volumes from the proposed development (would be insignificant given the overall scale of the Ringsend WWTP facility⁵ and would not alter the effluent released from the WWTP to such an extent as to have a measurable impact on the overall water quality within Dublin Bay. I note also and therefore would not have an impact on the current Water Body Status (as defined

⁵ As cited in the EIAR, the proposed development would contribute less than 0.1% of the population equivalent of the total catchment of the Ringsend WWTP and will have an imperceptible impact on the wastewater capacity at Ringsend.

within the Water Framework Directive). I note also the conclusion of the applicant's AA Screening Report which states that while the Ringsend WWTP is currently operating overcapacity, and is therefore non-compliant with the limits set out in its licence. However, and with reference to the EPA Annual Environmental Report for Ringsend WWTP (2020), the Screening Report notes that the discharge from this plant is not having an observable negative impact on water quality of Dublin Bay.

10.1.22. On the basis of the foregoing, I conclude that the proposed development will not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay.

Habitat Loss and Fragmentation/Habitat Alteration/Disturbance

10.1.23. Specifically in relation to habitat loss and fragmentation, I note the site does not overlap with the boundary of any European Site. Having regard to the entirety of information on file, including that in the AA Screening Report, the NIS and the EIAR, and noting specifically the comprehensive bird surveys carried out as detailed in the EIAR and the AA Screening Report, I am satisfied the proposed site does not support populations of significance of any fauna species that are qualifying interests or special conservation interests of any European Site. I am satisfied therefore that the proposed development will not result in habitat loss or fragmentation within any European Site, or nor will it result in a loss of any *ex-situ* foraging or roosting site for qualifying species of European sites in the wider area.

10.1.24. In relation to the potential for Habitat Alteration, as a result of the spread of invasive species from the site, I note that there are no invasive plant species which are listed on the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011 (as amended) recorded on the site (as discussed in Section 9). As such there is no risk of any such plant material reaching any Natura 2000 site downstream of the proposed development site.

10.1.25. Habitat disturbance/*ex-situ* impacts are ruled out, as there is no suitable habitat of significance on the site for any species which are qualifying interests for any Natura site, including otter and wintering birds and wildfowl. In relation to otter, the site lies beyond 10m riparian buffer of the River Dodder considered to comprise

the foraging/hunting range of otter either side of watercourses, as noted in the AA Screening Report. In relation to birds that are SCI species, I noted that curlew are an SCI of the North Bull Island SPA, located approximately 5.5km to the north-east of the proposed development site. The bird surveys recorded a single curlew feeding on the site, which equates to 0.1% of the wintering SPA population. The AA Screening Report concludes that that the site does not represent an important inland *ex-situ* site or habitat for wintering herring gull, curlew or any other SCI species. It is also set out, in the AA Screening Report, that the extent of suitable habitat for wintering birds (amenity grassland) is small (c0.4ha) and is less favourable due to the nature of the site with features that act as concealment for predators, as well as the developed nature of the site and its surroundings. I have no evidence before me to contradict the conclusions of the AA Screening Report, and as such I am satisfied that *ex-situ* impacts, on SCI bird species, as a result of habitat loss, degradation or disturbance can be rule out.

Bird Mortality/Collision

10.1.26. It is set out in the applicant's screening report that there is potential for birds associated with the South Dublin Bay and River Tolka SPA, located approximately 1.4km from the site, to collide with the higher elements of the proposed development. However, evidence is put forward in relation to collision risk modelling (as relates to onshore wind turbines) which sets out that gulls have a very high avoidance rate in relation to same (over 99%). It is set out that the collision risk is even less with a static, clearly detectable building. It is also set out that, in the Dublin context, gulls navigate an urban environment with built structures on a daily basis. It is concluded therein that the proposed building would not pose a collision risk to any SCI species such that would have any population level effects or change in distribution of any species. I have no evidence on file, or from any documentation on the NPWS website in relation to Dublin Bay Natura 2000 site, that would warrant a different conclusion, and as such I concur with the conclusions of the AA Screening Report, as relates to the potential for bird mortality as a result of collision.

In-Combination Impacts

10.1.27. In relation to in-combination impacts, given the negligible contribution of the proposed development to the wastewater discharge from Ringsend WWTP, I

consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded.

10.1.28. Furthermore, other projects within the wider Dublin Area, including those within the administrative area of Dublin City Council, which can influence conditions in the marine environment, via rivers and other surface water features, are also subject to AA and governing development plans are subject to regional policy objectives and SEA as well as their own local objectives in relation to the protection of European sites and water quality.

10.1.29. Having regard to the considerations discussed above, I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any likely significant effect to Natura 2000 Sites within the zone of influence of the proposed development

AA Screening Conclusion

10.1.30. In terms of the Natura sites with the potential to be impacted, I conclude that only Natura 2000 sites where there is potential for likely significant effects are South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122), for the reasons set out above.

Stage 2 – Appropriate Assessment

10.1.31. The submitted NIS sets out the relevant Qualifying Interests (Qis) and associated conservation objectives of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122). The conservation objectives are generally to maintain or restore the favourable conservation condition of each habitat or species of qualifying interest. The NIS considers how a deterioration in surface water quality could affect each of the various habitats or species within the relevant SPA/SAC, noting that an accidental pollution event of sufficient magnitude, either alone or cumulatively with other pollution sources, could potentially have long-term effects on the quality of some habitats of qualifying interests within the Dublin Bay SAC Sites, could affect the quality of intertidal/coastal habitats that support feeding or roosting SCI species within the Dublin Bay SPA sites, or potentially affect the otter population through

direct contact with pollutants or a decline in fish prey. I am satisfied that the NIS has considered all of the potential significant effects on each of the Natura 2000 sites.

10.1.32. Mitigation measures are set out in Section 7.1.8 of the NIS, with reference to the mitigation measures that are set out in the project specific Outline Construction and Environmental Management Plan (OCEMP). Measures to protect surface water quality during construction include specific measures to mitigate against the release of hydrocarbons, polluting chemicals, sediments and silts and contaminated waters. In relation to the pumping of groundwater, where it is necessary to discharge same to the local surface water drain, it will be treated onsite to ensure it complies with relevant water standards. In relation to the removal of contaminated soil from the construction site, this will be transported to an appropriate licence facility in accordance with the Waste Management Act, and in accordance to best practice and guidelines. The NIS sets out mitigation measures as relates to water quality at operational stage, but I am not of the view that these are mitigation measures for the purposes of AA, having regard to the considerations of same above.

10.1.33. In terms of residual impacts, the NIS sets out that the mitigation measures as described in the document, will eliminate the risk of negative impacts on water quality during the construction phase, and hence ensure that that the conservation objectives of 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) and the Wicklow Mountains SAC (002122) will not be negatively affected by the proposed development. It is concluded that the proposed development does not proposed a risk of adversely affecting (either directly or indirectly) the integrity of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122).

10.1.34. The potential for in-combination effect are ruled out in Section 8.1 of the NIS, and it is set out that there is no potential for any other plans or projects to act in combination with the proposed development to adversely affect the integrity of any other European Sites.

10.1.35. I generally concur with the conclusions in the NIS, save for the need for the application of specific mitigation measures as relates to water quality at operational

stage, and there is no scientific evidence either on file, or within the public domain, that would warrant different conclusions. I am satisfied that the detailed mitigation measures as set out within the NIS will serve to protect surrounding surface water quality during the construction stage so not to adversely affect the integrity of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122), in view of the sites' Conservation Objectives.

AA determination – Conclusion

- 10.1.36. The proposed residential development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 10.1.37. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have likely significant effects on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122), having regard to the sites' conservation objectives.
- 10.1.38. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of this site in light of its conservation objectives.
- 10.1.39. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122), in view of the sites' Conservation Objectives.
- 10.1.40. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project, including proposed mitigation measures, in relation to the Conservation Objectives of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122).

- An assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and the Wicklow Mountains SAC (002122).

11.0 Conclusion and Recommendation

11.1. The proposed development is acceptable in principle at this site with regard to the relevant zoning objectives of the Dublin City Development Plan 2022-2028. The proposed development would result in a significant contribution to the housing stock, in a time of housing need. The provision of a development of the nature and scale of proposed development at this location is desirable having regard to its location on a main thoroughfare into the city, close to Donnybrook Village, and within 3.5km of the City Centre. The scale of development is appropriate also having regard to the site's proximity to high, frequency, high capacity bus services, and having regard to the existing pedestrian and cycle infrastructure facilities. In addition, the site is located within an area with a wide range of employment opportunities and social infrastructure facilities. I am satisfied that the height, bulk and massing, detailed design and layout of the scheme are acceptable, and that furthermore, the proposed development would result in significant positive impacts on visual amenity of the area, when viewed from particular locations, and would result in significant positive impacts on architectural heritage, as a result of the proposed refurbishment and reuse of Mount Errol (a Protected Structure) and associated Stables building, as well as from the opening up of views toward same from Stillorgan Road. Overall, I am of the view that the proposal complies with those performance criteria as set out in Tables 3 and 4 of Appendix 3 of the Dublin City Development Plan 2022-2028, and that it also complies with the additional 'exceptional circumstances' criteria that apply to taller landmark buildings proposed on sites such as this one. The proposed development also complies with the performance criteria as set out in Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018). I am also satisfied that the development would not have any significant

adverse impacts on the amenities of the surrounding area. The future occupiers of the scheme will also benefit from a high standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable and I am satisfied that there will be no significant adverse effects on the surrounding road network. I am satisfied the future occupiers of the scheme will not be at risk from flooding, and the proposal will not increase the risk of flooding elsewhere.

11.2. Having regard to the above assessment, I recommend that permission be GRANTED for the proposed development, subject to conditions, for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to

- a) The site's location on lands with a zoning objective for residential development;
- b) The policies and objectives in the Dublin City Development Plan 2022 – 2028, including, but not limited to, the performance criteria (as relates to height and density) as set out in Appendix 3 of the Dublin City Development Plan 2022-2028;
- c) The nature, scale and design of the proposed development;
- d) The existing and emerging pattern of development in the area;
- e) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- f) Sustainable Urban Housing: Design Standards for New Apartments, 2020
- g) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- h) The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009);

and

- h) The submissions and observations received;

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities

of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Recommended Order

Appeal by (1) Brian and Orla Murphy, (2) Ailesbury Apartments Management Company Limited, (3) Republic of Austria, (4) Sharon Mullin, (5) Pat Desmond and Others and (6) ARADAG against the decision made on 13th day of December 2022 by Dublin City Council to grant, subject to conditions. a permission to Cairn Home Montrose Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development:

The development will consist of:

The demolition of the former RTÉ Sports and Social Club (c.1,233 sq.m.), all structures associated with the former Fair City set (c.604 sq.m.), extensions to Mount Errol House and adjacent stable building (c.100 sq.m.) (a Protected Structure, RPS Ref. 7846), 1 no. shed (c.31 sq.m.) and removal of 1 no. security hut (c.5 sq.m.) to the north west of the site and associated ancillary structures. 1 no. 1.5 metre high wall running east-west adjacent to the internal road is proposed to be taken down and re-used for the construction of entrance piers at Ailesbury Close. All car existing car parking on site is to be removed.

The proposed development comprises a Large-scale Residential Development of 688 no. apartments comprising of 272 no. Build to Sell units and 416 no. Build to Rent units, 1 no. hotel (with 192 no. rooms and associated restaurant and ancillary facilities); 1 no. childcare/creche facility; 2 no. residential amenity areas, 1 no. management suite, 2 no. parcel collection facilities; and 7 no. substations. The total gross internal floorspace area of the proposed development is c.91,646 sq.m. which is comprised of c.79,963 sq.m. of residential floorspace and c.11,683 sq.m. of commercial floorspace. The proposed blocks will consist of:

Block 1 (4 – 5 storeys) comprises 29 no. residential units (4 no. studio units, 8 no. 1-bed units, 15 no. 2-bed units and 2 no. 3-bed units), residential amenity area (c.657 sq.m.) over ground floor and 1st floor levels to include parcel collection area, bicycle store (c.71 sq.m.), bin store (c.50 sq.m.), plant room (c.27 sq.m.) all at ground floor level and solar photovoltaic panels at roof level with a max. height of 17.3 metres (31.1 metres OD);

Block 2 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 3 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 4 (5 – 8 storeys) comprises 76 no. residential units (4 no. studio units, 31 no. 1-bed units, 36 no. 2-bed units and 5 no. 3-bed units), bicycle store (c.76 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 26.3 metres (40.875 metres OD);

Block 5 (9 – 16 storeys) comprises 80 no. residential units (64 no. 1-bed units and 16 no. 2-bed units), 1 no. hotel (c.10,276 sq.m.) with 192 no. rooms and associated restaurant and ancillary facilities, gym (c.394 sq.m.) over basement and ground floor levels, bin store (c.37 sq.m.) and plant room (c.68 sq.m.) at ground level, provision of telecommunications infrastructure comprising 4 no. steel support pole frames allowing for 24 no. broadband panel antennas, 30 no. Ø0.3m and 10 no. Ø0.6m microwave links all at roof level, together with associated ancillary equipment and cabinets; and plant and solar photovoltaic panels at roof level with a max. height of 55.6 metres, (70 metres OD);

Block 6 (4 – 6 storeys) comprises 36 no. units (20 no. 1-bed units and 16 no. 2-bed units), residential amenity area (c.667 sq.m.) over ground floor and 1st floor levels, bicycle store (c.55 sq.m.), bin store (c.33 sq.m.) and plant room (c.29 sq.m.) at ground floor level, and solar photovoltaic panels at roof level with a max. height of 20.45 metres (34.85 metres OD);

Block 7 (6 – 10 storeys) comprises 103 no. residential units (6 no. studio units, 39 no. 1-bed units, 52 no. 2-bed units and 6 no. 3-bed units), bicycle store (c.60 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 32.75 metres, (48.4 metres OD);

Block 8 (6 – 10 storeys) comprises 103 no. residential units (6 no. studio units, 39 no. 1-bed units, 52 no. 2-bed units and 6 no. 3-bed units), bicycle store (c.60 sq.m.) and plant room (c.29 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 32.75 metres, (48.4 metres OD);

Block 9 (6 – 10 storeys) comprises 94 no. residential units (38 no. 1-bed units, 51 no. 2-bed units and 5 no. 3-bed units), residential amenity area (c.180 sq.m.) comprising management suite, meeting room, parcel collection area, store and WC, childcare/creche facility (c.418 sq.m.), bicycle store (c.54 sq.m.), bin store (c.9 sq.m.), plant room (c.27 sq.m.) at ground floor level, and solar photovoltaic panels at roof level with a max. height of 33.35 metres, (48.85 metres OD); and

Block 10 (2 – 3 storeys) comprises 15 no. Age Friendly residential units (13 no. 1-bed units and 2 no. 2-bed units), bin store (c.11 sq.m.), plant room (c.27 sq.m.) consultation room (c.15.5 sq.m.) and treatment room (c.9.8 sq.m.) at ground floor level and solar photovoltaic panels at roof level with a max. height of 10.85 metres (23.45 metres OD).

A single level basement of c.18,919 sq.m. accessed from the Stillorgan Road (R138) Airfield junction to provide 457 no. car parking spaces, 490 no. cycle parking spaces and 20 no. motorcycle spaces and other ancillary services for residential and other uses in the scheme including gym (basement level), bin stores, comms rooms, plant rooms, sprinkler plant/tanks, water tanks, compactors, boiler/CHP plant areas, air source and heat pump plant room, stores, generator rooms, hotel back of house areas (BOH), hotel plant/sprinkler and water tank areas. At surface level and within the public areas with access from the Stillorgan Road (R138) Airfield junction, 21 no. car parking spaces are provided (5 no. car parking spaces adjacent to the proposed crèche, 13 no. car parking spaces for Blocks 2-4, and 3 no. car parking spaces for the hotel and associated coach set-down). At surface level with access from Ailesbury Close, a total of 12 no. parking spaces are provided for Mount Errol House and Block 10 (7 no. car parking spaces and 1 no. accessible parking space for the

Age Friendly Living units at Block 10, and 1 no. accessible parking space and 3 no. visitor parking spaces at Mount Errol House). 679 no. cycle spaces are provided at surface level with 89 no. visitor cycle spaces to be provided throughout the public areas at ground level in the form of Sheffield stands adjacent to the entrances to the various blocks.

The proposed development delivers a new urban neighbourhood with c.9,727 sq.m. of public open space across two main landscape areas within the Cairn landholding and other ancillary services for residential and other uses in the scheme. A change of use is sought for Mount Errol House (a Protected Structure, RPS Ref. 7846) from commercial offices and studios to a restaurant and café (c.449 sq.m.). It is intended to refurbish the associated stable building adjacent to Mount Errol House to provide a change of use to 1 no. artisan food shop (c.146 sq.m.).

Vehicular and pedestrian entrances to the site are provided via the Stillorgan Road (R138) Airfield junction, which will be the main entrance to the proposed scheme, with pedestrian/cyclist access and limited vehicular access from Ailesbury Close to the serve the Age Friendly Living units in Block 10 and Mount Errol House and stable building (a Protected Structure, RPS Ref. 7846). Two pedestrian/cyclist entrances are also provided to the south along the Stillorgan Road (R138) with 2 no. further pedestrian-only entrances located between Blocks 7 and 8 and adjacent to the Stillorgan Road (R138) Airfield junction. The proposed development includes an upgrade to the existing 150mm diameter sewer at Ailesbury Close to a 225mm diameter sewer to facilitate a foul drainage connection from the proposed development. Amendments and upgrades to the shared access road from the Stillorgan Road (R138) Airfield junction to the south east including provision of a kerbed carriageway of 5.5 metres width and the provision of a 2.5 metres wide footpath along the northern boundary. The proposed development includes the removal of part of the boundary wall on the western side of the Airfield junction to facilitate landscaping and signage, all enabling and site development works, landscaping, play areas, lighting, green roofs, services and connections, boundary treatments, signage, waste management and all other site ancillary works.

Decision:

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

Matters Considered

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

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

- i) The site's location on lands with a zoning objective for residential development;
- j) The policies and objectives in the Dublin City Development Plan 2022 – 2028, including, but not limited to, the performance criteria (as relates to height and density) as set out in Appendix 3 of the Dublin City Development Plan 2022-2028;
- k) Nature, scale and design of the proposed development;
- l) Pattern of existing development in the area;
- m) The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- n) Sustainable Urban Housing: Design Standards for New Apartments, 2020;
- o) The Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- p) The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009);
- q) Submissions and observations received; and
- r) The inspectors report

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would,

therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that European Sites South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and Wicklow Mountains SAC (002122) were the only European Sites in respect of which the proposed development has the potential to have significant effects.

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) and Wicklow Mountains SAC (002122), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) the mitigation measures which are included as part of the current proposal, and
- iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment

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

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

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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

Reasoned Conclusions on the Significant Effects

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment and the results of the examination set out in the Inspector's Report. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect

effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Environmental Management Plan is the overarching general mitigation relevant to the project design and delivery for the construction stage.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

Population and Human Health – There will be residual significant positive impacts on population and human health due to the increase in housing stock within the local area.

Material Assets, Cultural heritage and the Landscape - Long term significant negative impacts on Mount Errol (a Protected Structure) and associated Stable Building have been mitigated by appropriate protections in place during the construction stage and by the overall design strategy proposed for the site, which seeks to preserve the setting of same. There will be residual significant positive impacts on visual amenity resulting from views towards the development from particular viewpoints. Furthermore, there will be residual significant positive impacts on architectural heritage resulting from the refurbishment and reuse of Mount Errol (a Protected Structure) and the Stables Building, and the opening up of views towards Mount Errol from Stillorgan Road.

Biodiversity – There will be residual short-term, significant, negative impacts on particular habitats (dry meadows and grassy verges, broadleaf and broadleaf/conifer woodland and hedgerow habitat) until the proposed planting and landscaping becomes established, subsequent to which there will not be any long term significant impacts on habitats. Other potential significant impacts have been avoided through mitigation measures including measures to protect water quality at construction stage, replacement planting and pre-construction surveys (in relation to badgers).

Land, Soil and Water - Potential significant impacts at construction stage have been avoided through mitigation measures as set out in the EIAR and the Outline Construction Management Plan including measures to protect water quality at construction stage and measures in to the handling, storage and disposal of water.

Micro-Climate (Wind) – Potential significant wind impacts on the café terrace adjacent to Block 5 have been avoided through mitigation measures as set out in the EIAR, including wind canopies on Blocks 5 and 9.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is acceptable in principle at this site with regard to the relevant zoning objectives of the Dublin City Development Plan 2022-2028. The proposed development would result in a significant contribution to the housing stock, in a time of housing need. The provision of a development of the nature and scale of proposed development at this location is desirable having regard to its location on a main thoroughfare into the city, close to Donnybrook Village, and within 3.5km of the City Centre. The scale of development is appropriate also having regard to the site's proximity to high, frequency, high capacity bus services, and having regard to the existing pedestrian and cycle infrastructure facilities. In addition, the site is located within an area with a wide range of employment opportunities and social infrastructure facilities. The Board was satisfied that the height, bulk and massing, detailed design and layout of the scheme are acceptable, and that furthermore, the proposed development would result in significant positive impacts on visual amenity of the area, when viewed from particular locations, and would result in significant positive impacts on architectural heritage, as a result of the proposed refurbishment and reuse of Mount Errol (a Protected Structure) and associated Stables building, as well as from the opening up of views toward same from Stillorgan Road. Overall, the Board was the view that the proposal complies with those performance criteria as set out in Tables 3 and 4 of Appendix 3 of the Dublin City Development Plan 2022-2028, and that it also complies with the additional 'exceptional circumstances' criteria that apply to taller landmark buildings proposed on sites such as this one. The proposed development also complies with the performance criteria as set out in Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018). The Board was also satisfied that the development would not have any significant adverse impacts on the amenities of the surrounding area, subject to conditions. The future occupiers of the scheme will also benefit from a high standard of internal amenity. The overall provision of car parking and cycle parking is considered acceptable and I am satisfied that there will be no significant adverse effects on the

surrounding road network, subject to conditions. The Board also concluded that the proposed development was acceptable in all other respects.

14.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.</p> <p>Reason: In the interests of proper planning and sustainable development.</p>
3.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
4.	<p>The development shall be revised as follows:</p> <p>a) Privacy screens using obscure glazing or an alternative material and of a minimum height of 1.8m shall be provided to balconies on the side (east and west) elevations of Blocks 1, 2, 3, 4 and 10 where potential overlooking issues arise in relation to adjacent residential properties.</p> <p>b) The balcony railings to the first floor rear apartments of Block 10 shall be replaced with obscure glass panels.</p>

	<p>Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Prior to the commencement of the Build-to-Rent element of the development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the Build-to-Rent units permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual Build-to-Rent residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.</p> <p>Reason: In the interests of proper planning and sustainable development of the area.</p>
7.	<p>Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation the Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.</p> <p>Reason: In the interests of orderly development and clarity.</p>
8.	<p>The communal resident facilities shall be occupied as part of the development and shall not be occupied as separate, commercial facilities.</p>

	<p>Details of the management and operation of same shall be submitted and agreed with writing with the planning authority prior to the operation of the facilities.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays, 0800 to 1400 on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.</p> <p>Reason: To protect the residential amenities of property in the vicinity.</p>
11.	<p>Proposals for the development name and dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
12.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning</p>

	<p>authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p>Reason: In the interests of amenity and public safety.</p>
13.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
14.	<p>The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.</p> <p>Reason: In order to ensure the satisfactory development of the public and communal open space areas, and their continued use for this purpose.</p>
15.	<p>Open Space Management</p> <p>a) The applicant/developer shall be responsible for maintenance and management of the public open spaces. The public open spaces will operate as public park/public realm in perpetuity, with public access and use operated strictly in accordance with the management regime. rules and regulations including any byelaws for public open space of the Planning Authority at all times.</p> <p>b) Tree Bond</p> <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted by the planning authority to secure the protection of existing trees to be retained on or adjacent the site and to</p>

	<p>make good any damage caused by construction, coupled with an agreement empowering the planning authority to apply such security or part thereof, to the satisfactory protection of any trees adjacent or on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species, or to apply to new tree planting in the local area. The amount of the security shall be determined by the Helliwell or Cavat method by the developer's arboriculturist. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of an agreement, shall be referred to An Bord Pleanala for determination.</p> <p>c) Tree Protection</p> <p>Prior to the commencement of development, the developer will retain the professional services of a qualified Arboriculturist throughout the life of the site development works. The Arboriculturist will advise and supervise all works associated or in proximity to the existing trees to ensure their retention and condition. All trees shown to be retained on the site and adjacent to the site, shall be adequately protected during the period of construction as per BS 5837, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier and as recommended in the tree survey report and associated plans: (The tree protection measures shall have regard to the Guidelines for Open space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division).</p>
16.	<p>Transport</p> <p>a) Prior to commencement of development, and on appointment of the demolition contractor, a Demolition Management Plan shall be submitted to the planning authority for written agreement. This plan shall have regard to Mitigation Measures outlined in the Environmental Impact Assessment Report, the Outline Construction Environmental Management Plan and the Outline Construction Traffic Management Plan and shall provide details of</p>

<p>intended demolition practice for the development including traffic management, hours of working, noise, dust and drainage management measures and off-site disposal of construction/demolition waste. All HGV and general demolition traffic shall use the R138 Stillorgan Road, Airfield junction.</p> <p>b) Prior to commencement of development and on appointment of a contractor, a Construction Environmental Management Plan having regard to Mitigation Measures outlined in the Environmental Impact Assessment Report, the Outline Construction & Environmental Management Plan and the Outline Construction Traffic Management Plan shall be submitted to the planning authority for written agreement. This plan shall include intended construction practice for the development including phasing and programme, hours of working, construction compound and materials storage, dust, noise and drainage management measures, waste management and off- site disposal, and all construction mitigation measures, and incorporate a construction traffic management plan. All HGV and general construction traffic shall use the R138 Stillorgan Road Airfield junction.</p> <p>c) The applicant shall undertake to implement the measures outlined in the Mobility Management Plan including the Car Parking and Cycle Management Plan and to ensure that future tenants of the proposed development comply with these strategies. A Mobility Manager shall be appointed to oversee and co-ordinate the plan.</p> <p>d) The applicant/developer shall liaise with NTA throughout the final design and construction process to ensure the development is compliant with and integrated with proposed Bray to City Centre Core Bus Corridor (CBC) along the Stillorgan Road.</p> <p>e) The development shall be carried out on a phased basis, in accordance with a phasing scheme, which shall be submitted to, an agreed in writing with the planning authority prior to commencement of development. 1) Cycle parking shall be secure, conveniently located, sheltered and well lit.</p>
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	<p>Electric bike charging facilities shall be provided. Key/fob access should be required to bicycle compounds.</p> <p>g) Prior to the commencement of development, all works proposed on the public road, and any areas to be taken in charge shall be agreed in writing with the Environment & Transportation Department. The applicant is advised that, in the event of a grant ,all works to the public road shall be at the applicant's own expense. All works shall be fully completed prior to occupation of the residential and commercial units.</p> <p>h) Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub-let or leased to other parties.</p>
17.	<p>Conservation</p> <p>a) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works relating to the protected structure on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained buildings and facades, structure and/or fabric.</p> <p>b) All works to the protected structures shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.</p> <p>c) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.</p> <p>d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.</p>

	<p>e) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structures and their setting.</p> <p>f) The fabric from the historic garden wall shall be incorporated into the new development in line with the recommendations in the Architectural Heritage Impact Assessment.</p> <p>Prior to commencement of development the applicant shall submit details, including relevant drawings, for agreement in writing with the Planning Authority, indicating how these requirements have been complied with.</p> <p>Reason: To safeguard the special architectural interest of the protected structure on the site.</p>
18.	<p>Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Irish Water for such works and services.</p> <p>Reason: In the interest of public health and to ensure a satisfactory standard of development.</p>
19.	<p>The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
20.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
21.	<p>All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.</p> <p>Reason: To comply with the Councils taking in charge standards.</p>
22.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts</p>

	<p>or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
23.	<p>The applicant/developer shall notify the Irish Aviation Authority of intention to commence crane operations with a least 30 days prior notification.</p> <p>Reason: In the interests of aviation safety.</p>
24.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
25.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an</p>

	<p>agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
26.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge</p>
27.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure, open space and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such</p>

	<p>agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion of 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.

Ronan O'Connor
Senior Planning Inspector

05th May 2023