



An
Bord
Pleanála

Inspector's Report

ABP-315672-23

Development

Permission is sought for 78 senior residential living apartments within an integrated retirement community development comprising three new blocks in the curtilage of 'Sybil Hill House', a Protected Structure (RPS Ref. No. 7910), the use of 'Sybil Hill House' for associated communal uses & facilities to support the integrated retirement community together with all associated site works. An NIS is submitted with this appeal case.

Location

'Sybil Hill House', Sybil Hill Road, Raheny, Dublin 5, D05 AE38.

Planning Authority

Dublin City Council North.

Planning Authority Reg. Ref.

5155/22.

Applicant(s)

Tetrarch Residential Limited.

Type of Application

Planning Permission.

Planning Authority Decision

Refused.

Type of Appeal	First Party.
Appellant(s)	Tetrarch Residential Limited.
Observer(s)	<ul style="list-style-type: none"> • Raheny National School. • Denice Harvey. • Jana Kleinerova. • Clontarf Residents Association. • Margaret O'Connor. • Leslie McLindon. • No. 1 Sybil Hill Owners Management Company. • Julia Ruiz & Tom McGauran.
Date of Site Inspection	3 rd day of July & 9 th day of August, 2024.
Inspector	Patricia-Marie Young.

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Appendix 1: Appropriate Assessment (Stage 1 and Stage 2)

Appendix 2: EIA Pre-Screening

Appendix 3: EIA Preliminary Assessment

1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a given site area of c1.57ha and it is comprised of the reduced curtilage on which the Protected Structure of Sybil Hill House (RPS Ref. No. 7910) sits. The site is situated in the north Dublin city neighbourhood of Raheny/Clontarf East, circa 5km to the north of Dublin's city centre, as the bird would fly. The site's westernmost boundary aligns with the eastern side of Sybil Hill Road (R808). With this boundary at its nearest point located circa 130m to the south of its junction with Howth Road (R105) and circa 470m to the north of Vernon Avenue.
- 1.2. The original building of Sybil Hill House survives as an attractive detached T-Plan three-bay and highly symmetrical in presentation Georgian period two-storey gentleman's residence with a central two storey in height canted entrance bay to its principal façade. On either side of its principal elevation there are bow shaped side elevations that stand proud of the eastern and western elevations. The main external finish is lime render, carved granite detailing through to sash timber windows and door openings. The front door is reached by a set of granite steps that are flanked on either side by a low wall. The main building of Sybil House dates to circa 1750 and would have originally been set in a larger designed parkland setting.
- 1.3. Since its construction, Sybil Hill House has been subject to alterations and additions. The most notable additions occurred to its original rear elevation in circa 1810. At this time, a two-storey extension sympathetic to this building's original architectural design intent but of a more subservient built form and detailing was added. This elevation is not highly legible when viewing the principal elevation of Sybil House from the sweeping driveway that serves it and provides connection to Sybil Hill Road. From this driveway the ground levels rise to where it meets its front elevation and level out alongside the western elevation.
- 1.4. Sybil Hill House was also added to in circa 1940s. During this time, the building was extended to its northeast with a simpler in design and of limited architectural merit two storey extension.
- 1.5. Despite the additions made to it in 1810 and the 1940s the main interior space associated with the circa 1750s structure is internally highly intact containing notable internal features through to has maintained largely intact its historical division of spaces. With its key reception room positioned on the westernmost bay of the

principal elevation with views over what remains of the sweeping driveway, the ha-ha feature to the south and a mature parcel of woodland located between it, its driveway, and Sybil Hill Road.

- 1.6. Over time the landscaped parkland grounds that comprised the original curtilage of Sybil Hill House has reduced. With the land to the immediate south containing school buildings (St. Pauls College), the lands to the east containing former St. Pauls College playing pitches and the lands to the north as well as northeast being predominantly residential in its function (Note: Ardilaun Court, The Meadows and No.s 1 to 2 Sybil Hill Road).
- 1.7. There are surviving garden features of historical importance. In particular, what remains of the previously mentioned sweeping driveway through to a sunken curvilinear ditch with granite walls. This feature is referred to in this assessment as a 'Ha-Ha'. This garden feature is situated towards the southern portion of the site and its original function was to provide a vertical barrier whilst preserving an uninterrupted view from the principal elevation southwards.
- 1.8. The reduced curtilage contains mature trees and planting that provides a green backdrop surrounding and screening Sybil Hill House. There are two pockets of woodlands situated to the west and east of the main house, a mature orchard as well as mature tree and other planting within the site area.
- 1.9. The entrance serving Sybil Hill House also appears to be in shared use as one of the entrances serving Saint Paul's College. The subject entrance is located to the northeast of signalised pedestrian crossing and on the opposite side of Sybil Hill Road is the Sacred Heart Residence - Little Sisters of the Poor'. This facility main building is four storeys in its height and dates to circa 1970s. Of note it contains an 86-bed accommodation for persons 65 and over as well as 26 independent living apartments.
- 1.10. To the northwest of the site, on the opposite side of Sybil Hill Road and occupying a corner position with frontage onto Howth Road is St. Brigid's Boys' National School. Additionally, the entrance to Saint Anne's Park is located to the immediate south of the Saint Paul's College complex. This is Dublin City Council's second largest municipal park containing 97ha of mainly green spaces. To the immediate east of the former Saint Pauls College playing pitches and The Meadows residential schemes cul-de-sac terminates alongside the northeastern boundary of the site.

- 1.11. At the time of inspection Sybil Hill House was in use as an institutional residence and administrative building by the Vincentian Order. Historically Sybil Hill House was also used as a school by this religious order. With the Order also in ownership of the Saint Pauls College complex located to the south of the site.
- 1.12. The adjoining stretch of Sybil Hill Road is a wide tree lined road. It caters for two-way traffic and at the time of my inspection of the site I observed that there was *ad hoc* parking along it, particularly alongside its eastern side. Despite this the width of the carriageway was such that it did not result in any obstruction to the free flow of traffic. The nearest Dublin bus stops to the site are in proximity of the entrance serving the adjoining residential scheme of The Meadows (Bus Stop 532 and 605) on Howth Road. With these stops serving Dublin Bus Routes 6, H1, H2 and H3. The site is also located c460m to southwest of Harmonstown Dart Station and c670m to the east of Killester Dart Station, both as the bird would fly. The area around the site and St. Anne's Park could be described as having a strong established residential character.

** Note: Ha-Ha was first used by author Dezallier d'Argenville's in his book The Theory and Practice of Gardening, dated 1709, in which he explains that hâ-hâ or saut de loup derives from the exclamation of surprise that viewers would make on recognising the optical illusion of this feature).*

2.0 Proposed Development

- 2.1. This application relates to both Sybil Hill House, a Protected Structure (RPS Ref. No. 7910), and its circa 1.57ha curtilage and it can be summarised as follows:
- Demolition of a shed and removal of shipping container (Note: 80m²).
 - Construction of residential development consisting of 3 no. mainly residential in use blocks ranging in height from 2 to 5 storeys (Block A is 4 to 5 storeys, Block B is 3 storeys and Block C is 2 storeys) in which it is proposed to accommodate 78 no. Senior Residential Living Apartments within an Integrated Retirement Community development, comprising 55 no. 1 bed units and 23 no. 2 bed units, with balconies / terraces provided for each of the proposed units.
 - Provision of residential amenity and community space at ground and first floor levels of Sybil Hill House and at first floor level of Block A.
 - Widening of the existing Sybil Hill Road vehicular entrance.
 - Provision of new internal access road and pedestrian pathways.

- Provision of 51 no. car parking spaces, 156 no. bicycle parking spaces, bin and bike stores are proposed.
- PV panels to be provided at roof level of the proposed three proposed new blocks.
- This proposal also includes associated lighting, site services (foul, surface water drainage and water supply), all site landscaping and boundary treatment works.

2.2. The proposed floor area of buildings to be retained on site is given as 1,164.46m², the proposed floor area of new buildings is given as 6,156m² and there is a provision of 244m² of amenity/community space proposed in Sybil Hill House. Additionally, the proposed plot ratio is given as 1.0.52; site coverage is given as 16.3%; and density is given as 49.7n/ha. I also note that the description of the proposed development indicates that no physical works are proposed to the Protected Structure of Sybil Hill House.

2.3. According to the accompanying Planning Report the Integrated Retirement Community scheme would secure the retention of the established used by the Vincentian Order on the subject site but in the context of the constraints of the Protected Structure with the facilities within the proposed scheme available to them together with more accessible and fit for purpose accommodation. With regards to the Integrated Retirement Community scheme, it is indicated that the applicant has observed a need for housing accommodation for the elderly in this locality with the proposed scheme designed to provide a specialised age friendly downsizing tenure option with lifestyle, wellbeing and support services in the heart of an established urban community. There are no specific details provided on the operations and management of the scheme as a whole.

2.4. Accompanying this application is the following documentation:

- Cover Letter
- Consent from the Landowner
- Architectural Design Statement
- Design Rationale
- Existing & Proposed Accommodation Schedule
- Car & Bike Parking Schedule
- Part V Provision Schedule

- Apartment Schedule
- Apartment Housing Quality Schedule
- Archaeological & Cultural Heritage Assessment
- Draft Section 47 Agreement (Note: that this development would serve over 65's population only).
- Outline Construction Management Plan
- Engineering Services Report
- Transport Assessment
- Appropriate Assessment Screening
- Sustainability Report

2.5. Other:

The documents provided by the First Party in their appeal submission include a Daylight & Sunlight Assessment; Appropriate Assessment Screening; Natura Impact Assessment (NIS) and an Ecological Impact Assessment (EclA). Also, includes amendments to the design and layout of the scheme. The revised design results in a reduction of apartment numbers to 75 units, a loss of two parking spaces to the front of Sybil Hill House through to additional tree planting.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. By order dated 22nd day of December, 2022, the City Council issued a notification decision to **REFUSE** permission for the following stated reasons:

“1. The applicant has not adequately demonstrated that the proposed development is in compliance with the zoning objective ‘To protect and provide for community uses and social infrastructure’ and has not provided a masterplan as required for development within Z15 zoned lands. The assessment of the proposed development indicates that the existing community uses/social infrastructure within the Sybil Hill House site may not be protected/retained and may not provide for further community uses and social infrastructure as required under the zoning objective. The applicant has not demonstrated that the proposed development is not a material contravention of the Z15 zoning objective under the Dublin City Development Plan 2022-2028. The

proposed development is therefore considered to be contrary to Section 14.7.14 of the Dublin City Development Plan 2022-2028 and contrary to the proper planning and sustainable development of the area.

2. *Having regard to the site constraints and the scale, massing, height and layout of the proposed residential development, the proposed development has not been sensitively sited and designed and will therefore have an adverse impact upon the setting and curtilage of the Protected Structure, Sybil Hill House and would negatively impact its special character and appearance. The proposed development would require the removal of mature trees, particularly those to the east of the site which are considered within the curtilage of Sybil Hill House and are of historical importance. The proposed development is therefore contrary to Policy BHA2 of the Dublin City Development Plan 2022-2028. Furthermore, the applicant has not adequately demonstrated that the proposed public and communal open space will be of sufficient quality and quantum as a large woodland area will be largely inaccessible and will not provide meaningful public open space contrary to Section 15.8.6 of the Dublin City Development Plan 2022-2028. The proposed communal open space does not comply with the requirements of the Sustainable Urban Housing Design Standards for New Apartments, 2020 and Section 15.9.8 of the Dublin City Development Plan 2022-2028 which indicates such spaces should be, secure and usable outdoor space and should provide a clear distinction between public and communal open space and shall be for the use of residents only. The proposed development would therefore, by itself and by the precedent it would set for other development, be contrary to Ministerial guidelines issued to planning authorities under section 28, be contrary to the provisions of the Dublin City Development Plan 2022-2028 and be contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **Planning Officers report**, which is dated the 22nd day of December, 2022, is the basis of the Planning Authority's decision.

- Since this application was lodged a new Development Plan has adopted which has substantially altered the criteria for development on 'Z15' zoned lands.

- There is no indication the extent of the number of units to be solely used by the Vincentian Order or whether any proportion of it would be for their long-term use.
- The proposed development is not considered to be a residential institutional use.
- The proposed development is 'residential' in its nature and therefore a Masterplan would be required for it as well as demonstration that 25% of the site would be retained for open space and/or community and social facilities.
- Proposed apartment units do not accord with the Apartment Design Guidelines.
- The open space provision is not meaningful, accessible, or useable with substantial areas overshadowed.
- This development is piecemeal in nature given that other lands within the 'Z15' lands were dependent on the retention of the subject lands.
- The rezoning of adjoining site to the east as 'Z9' under the current Development Plan places more pressure on the protection of 'Z15' zoned lands.
- There is a lack of clarity provided on waste collection and management.
- The density of 49.7uph reflects the constraints of this site.
- No Architectural Heritage Impact has been provided.
- This application fails to demonstrate that the proposed development would not result in negative impact on Sybil Hill House's special character, appearance and curtilage. Block B would have an overbearing impact on the Sybil Hill House. The proposed development a result would be contrary to Policy BHA2 of the Development Plan.
- There is concern in relation to whether adequate light would be achieved for the proposed units.
- There is concern that the proposed development would diminish daylight penetration and would give rise to undue overshadowing of residential properties in its vicinity. In relation to these concerns, it is noted that no daylight and sunlight assessment has been provided with this application.

- Given that the housing units are intended for older persons they would not generate additional demand on schools or childcare facilities in the area. On this basis it is a Community and Social Audit is not required with this application.
- Further improvements are required to reduce overlooking of properties in its vicinity.
- No Climate Action Energy Statement and Building Lifecycle Audit provided.
- Further opportunities for permeability should be explored.
- Having carried out an Appropriate Assessment Screening of the proposed development it is considered that progression to Stage 2 is necessary.
- A bat and badger surveys should have accompanied this application.
- Concludes with a recommendation of refusal.

3.3. Other Technical Reports

- **Parks (16.12.2022):** Concludes with a request for **further information**. It includes the following comments:
 - The historic designed landscape was present in older mapping and most of its grounds have been lost. In its current state the house sits in a lawn with a well-developed woodland area framing the house and contains a 'Ha-Ha' boundary as well as some other tree planting. This landscape setting forms part of this Protected Structure.
 - Concerns are raised in relation to the accuracy and completeness of the tree survey provided.
 - The layout of the three proposed buildings causes direct loss to existing trees and buildings. The proposed buildings could be repositioned to further avoid tree loss.
 - A woodland management plan is required to ensure successful conservation and renewal of the woodland area.
 - Interpretation of the 'Ha-Ha' should be provided.
 - Active recreation space should be provided.
 - A green roof plan is required.

- Concerns are raised that the Appropriate Assessment screening does not consider the proposed development site is immediately adjacent to St. Paul's an *ex-situ* feeding site for the Light Bellied Brent Goose which are qualifying interest of nearby Natura 2000 Special Protection Area's (SPA) (Note: North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA). The removal of several trees and natural screening from the proposed development site along the boundary with St. Paul's playing fields could create visual and noise disturbance during construction phase as well as visual disturbance during operation. Therefore, a Stage 2 Natura Impact Statement is required.
- An EclA has not been provided yet the adjacent site of St. Anne's Park has five different bat species recorded. Additionally, other EclA surveys are required for small mammals (hedgehog and pygmy shrew), bird nest and invasive alien species.
- An assessment carried out in 2019 noted the presence of commuting Soprano pipistrelle and Leisler's bats within the site of the proposed development. Therefore, a full bat survey is required.
- An ecologist should assess the lighting plan for this development.
- There is an important population of breeding badgers within St. Anne's Park.
- **Transportation (01.12.2022):** Concludes with a request for **further information**. It includes the following comments:
 - Reference is made to the LRD development on the adjoining lands (Note: LRD6002/22-S3/Foxland's). This was refused but is subject to appeal. There is a concern that this development in tandem with development to the east could give rise to piecemeal access arrangements through the site to Sybil Hill Road.
 - It is unclear where the applicant derived their Traffic and Transport Assessment (TTA) analysis.
 - Applicant should explore opportunities to provide direct pedestrian/cyclist route from the northwest corner of the site onto Sybil Hill Road.
 - The access road could become a drop off/collection point for St. Paul's College.
 - A quality audit as per the requirements of Section 5.4.2 of DMURS required.

- The number of car parking spaces contravenes the maximum standard for residents, staff, and visitors for this type of residential use set out in the Development Plan.
- Given the nature of the use exceeding the number of accessible car parking spaces is recommended, clarity on the management of the car parking provision, location, and provision of EV charging, 5% motorcycle spaces is required.
- Concern is raised that there is no car sharing provision.
- Bicycle spaces exceed minimum requirements but lack detail.
- No operational Waste Management Plan or Construction Management Plan provided.
- **Drainage (06.12.2022):** Concludes with a request for **further information**. It includes the following comments:
 - The surface water management details for the proposed development are not satisfactory.
 - All four critical objectives of SuDS are to be met, i.e. water quality, quantity, biodiversity, and amenity.
 - They are not in favour of underground attenuation.
 - A suitable infiltration assessment and measures are required.
 - Recommends a minimum of 5mm interception storage to be provide for each sub-catchment within the site.

3.4. Prescribed Bodies

An Taisce (02.12.2022): This submission includes the following comments:

- The curtilage of the Protected Structure should not be overdeveloped, and development should respect its historic surroundings.
- Principle of residential use is welcome.

3.5. Third Party Observations

- 3.5.1. 50 no. Third Party Observations were received by the Planning Authority. These I have read, and they are attached to file. In a similar manner to the Third Party Observations received by the Board it is requested that the proposed development be refused for several reasons. In particular on the basis of adverse built heritage, residential amenity impact, visual amenity impacts through to ecological, and biodiversity impacts on the site and its setting, which are considered to be such that the proposed development would be contrary to the proper planning and sustainable development of the area. I consider that the substantive issues raised in these submissions correlate with those raised by the Third-Party Observers in this appeal case. These I have summarised under Section 6.3 of this report below.

4.0 Planning History

4.1. Site:

- **P.A. Ref. No. 1899/00:** Permission was **granted** for a two-storey extension to rear/side of Protected Structure, internal alterations, and external refurbishments. Decision date: 16.09.2000.

4.2. Other:

- **ABP-300559-18 (SHD)**

Site (Southern portion of the site) and Setting (St. Pauls College former pitches bounding the site to the east.

Permission was **granted** for the demolition of existing prefab classroom structure, construction of 536 no. units, widening and realignment of an existing vehicular access onto Sybil Hill Road to facilitate the proposed access road together with associated site works. Decision date: 03/04/2018.

4.3. Setting

- **ABP-315183-22/ P.A. Ref. No. LRD6002/22-S3 (Foxland's Scheme)**

Location: Lands to the east of Sybil Hill House and overlapping with part of the southern portion of the site, Raheny, Dublin 5)

Concurrently with the Board as a Large-Scale Residential Scheme.

This LRD Foxland's application scheme sought permission for the construction of a residential development set out in 7 no. blocks, ranging in height from 4 to 7 storeys to accommodate 580 no. apartments, residential tenant amenity spaces, a crèche, and a 100-bed nursing home. The site would accommodate 520 no. car parking spaces, 1574 no. bicycle parking spaces, storage, services, and plant areas. Landscaping would include extensive communal amenity areas, and a significant public open space provision.

This proposal also includes widening and realignment of what is described as an existing vehicular access onto Sybil Hill Road to facilitate the construction of an access road with footpaths and on-road cycle tracks from Sybil Hill Road between Sybil Hill House and St Paul's College incorporating new accesses to Sybil Hill House and St Paul's College. Additionally, the provision of new wall and railing boundary treatment along the new road and new pedestrian/vehicular gates to the new and existing accesses to Sybil Hill House and St Paul's College. To facilitate this new access road, it is proposed to demolish an existing prefabricated building.

This application was accompanied by an Environmental Impact Assessment Report (EIAR) and a Natura Impact Statement (NIS). Of note, on the 28th day of October, 2022, the Planning Authority refused permission for the above development for the following stated reason:

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

The status of ABP-315183-22 is: 'Stay On Decision'.

- **P.A. Ref. No. 2857/18 - Adjoining lands to the north:** Permission was **granted** subject to conditions for amendments to the permitted development (ABP Ref. PL29N.246250 (P.A. Ref. No. 4242/15) and as amended by ABP Ref. PL29N.249043

(P.A. Ref. No. 2977/17) at a 0.53ha site at Sybil Hill Road, Raheny Dublin 5. The proposed amendments included but was not limited to an increase in density, building height through to the number of dwellings it would contain.

Decision date: 20.06.2018.

- **ABP-305680-19/ABP-307444-20 (SHD) - Adjoining lands to the north:** This appeal case relates to a decision of the Board to **grant** permission for the construction of 657 no. apartments, creche and associated site works under ABP-305680-19. This grant of permission was challenged by way of judicial review in the High Court in June, 2020. The High Court remitted the application back to the Board for a new decision under ABP-307444-20, and permission was granted on the 20th day August, 2020. Their decision was again challenged by way of judicial review and was subsequently quashed by the High Court in May, 2021.

- **ABP-301482-18 - Saint Pauls College (adjoining lands to the south):** Permission was **refused** on appeal to the Board for a proposed sports facilities infrastructure for the following stated reasons:

“Notwithstanding that the grass pitch on the appeal site and adjoining former pitches were recorded in the Natura Impact Statement prepared on 9th August 2016 as being one of the most important ex-situ feeding grounds for Light Bellied Brent Geese in Dublin, and having regard to the recent changed characteristics of the former pitches resulting in a possible reduction in the overall availability of grasslands for feeding purposes due to increased sward height, together with the absence of any up-to-date survey information present with the planning application relating to the current usage of the site itself and immediately adjoining lands by Light Bellied Brent Geese as a feeding resource, or by any other Special Conservation Interest species for any other purpose, the Board is not satisfied that the usage of the site by any such species can be accurately determined at this time. The Board, therefore, cannot establish, beyond all reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the North Bull Island SPA (Site Code: 004006), the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the Baldoyle Bay SPA (Site Code: 004016), the Malahide Estuary SPA (Site Code: 004025), and the Rogerstown Estuary SPA (Site

Code: 004015), or any other European site in view of these sites' conservation objectives."

Decision date: 06/02/2020.

5.0 Policy Context

5.1. Development Plan

5.1.1. The **Dublin City Development Plan, 2022-2028**, is the operative plan, under which the site forms part of a larger parcel of land zoned 'Z15 - Community and Social Infrastructure'. The stated objective for 'Z15' zoned land is: *"to protect and provide for community uses and social infrastructure."* Permissible land uses include 'residential institution' and 'assisted living/retirement home'.

5.1.2. Appendix 15, Section 1.0 of the Development Plan provides the following land use definitions:

Assisted Living/ Retirement Home: *"Semi-independent housing accommodation specifically designed to meet the needs of older people and persons with disabilities in which dining, recreation, hygiene and health care facilities can be shared on a communal basis".*

Residential Institution: *"A building, or part thereof, or land used as a residential institution and includes a monasteries and convents".*

Residential: *"The use for human habitation of a building, or part thereof, including houses, apartments, studios and residential mews buildings. The definition of house and habitable house in Section 2 of the Planning and Development Act 2000 (as amended) shall apply".*

5.1.3. Section 14.7.14 of the Development Plan sets out in detail the vision for 'Z15' zoned land and provisions for what is deemed to be appropriate development thereon. It indicates that the Council are: *"committed to strengthening the role of Z15 lands and will actively discourage the piecemeal erosion and fragmentation of such lands. The following paragraphs sets out the criteria for: A) Development on Z15 lands B) Development Following Cessation of Z15 use"*. The following is noted:

- A: Development on Z15 Lands: *"Limited residential/commercial development on Z15 lands will only be allowed in highly exceptional circumstances where it can be demonstrated by the landowner/applicant that the proposed development is required in order to maintain or enhance the function/ operational viability of the primary institutional/social/community use on the lands. The following criteria must also be adhered to:*

- *In proposals for any limited residential/commercial development, the applicant must demonstrate that the future anticipated needs of the existing use, including extensions or additional facilities would not be compromised.*
- *Any such residential/commercial development must demonstrate that it is subordinate in scale to the primary institutional/social/community use.*
- *Where appropriate, proposals should be subject to consultation with the relevant stakeholder e.g. Department of Education/Health Service Executive.*
- *The development must not compromise the open character of the site and should have due regard to features of note including mature trees, boundary walls and any other feature(s) as considered necessary by the Council.*
- *In all cases, the applicant shall submit a statement, typically in the form of a business plan, or any other relevant/pertinent report deemed useful and/or necessary, as part of a legal agreement under the Planning Acts, demonstrating how the existing institutional/social/community facility will be retained and enhanced on the site/lands.*
- *In all cases the applicant shall be the landowner or have a letter of consent from the landowner".*
- *Of further note: the Development Plan indicates that the above criteria do not apply to residential institution use or assisted living/retirement home.*

- B: Development Following Cessation of Z15 Use: The Development Plan states: *“the cessation of an existing Z15 institutional/social/community use on a site or change in land ownership does not extinguish/ negate the purpose of these lands for community and social infrastructure use. It is the objective of the Council that such lands should be retained for a use in accordance with the zoning objective unless exceptional circumstances prevail”*. It also states: *“in such circumstances, (i.e. cessation of use on a Z15 site or disposal of all or part of a Z15 site), a variation or material contravention to the development plan will be required to develop such lands for residential/commercial purposes”*.
- Masterplan Requirement: The Development Plan states: *“in either scenario A or B, it is a requirement that for sites larger than 1ha that a masterplan is provided. The masterplan must set out the vision for the lands and demonstrate that a minimum of 25% of the overall development site/lands is retained for open space and/or community and social facilities. This requirement need not apply if the footprint of existing buildings to be retained on the site exceeds 50% of the total site area”*. It also states: *“the 25% public open space shall not be split up, unless site characteristics dictate otherwise, and shall comprise mainly of soft landscaping suitable for recreational and amenity purposes and should contribute to, and create linkages with, the strategic green network. Development proposals must incorporate landscape features that contribute to the open character of the lands and ensure that public use, including the provision of sporting and recreational facilities which would be available predominantly for the community, are facilitated”*.

5.1.4. Section 15.8.6 of the Development Plan under Table 15-4 sets out the public open space requirements for residential development for 'Z15' zoned lands at a minimum shall be 25%. It also describes such open space being accessible to the public and local community for the purposes of active and passive recreation as well as can provide for visual breaks between and within residential areas through to facilitates biodiversity and the maintenance of wildlife habitats.

5.1.5. Section 15.9.8 of the Development Plan deals with the matter of Communal Amenity Space and states that: *“all new apartment developments are required to provide for communal amenity space externally within a scheme for the use by residents only. Communal open space provision is in addition to any private or public open space requirements”*. It states that: *“communal amenity space must be clearly defined and*

distinguished within a scheme and clearly identified as part of any planning application. The communal amenity areas should be of high landscape quality and provide for adequate daylight and sunlight access throughout the year. The communal amenity area should be functional and usable to a range of activities". In relation to refurbishment or infill sites it sets out a requirement of up to 0.25 ha communal amenity space. However, it indicates that the communal amenity requirements may be relaxed on a case-by-case basis. Additionally, this section of the Development Plan also states in relation to private amenity that the minimum areas are set out in Appendix 1 as well as Section 4.10 to 4.12 of the Sustainable Urban Housing: Design Standards for New Apartments.

- 5.1.6. Section 15.13.7 of the Development Plan deals with the matter of 'Nursing Homes' and 'Assisted Living'. It also sets out the factors that should be considered in determining such applications.
- 5.1.7. Chapter 11 of the Development Plan deals with the matter of Built Heritage and Policy BHA 2 of the Development Plan sets out that the City Council will conserve and enhance Protected Structures as well as their curtilage. Alongside it will ensure that any development proposals will have appropriate regard to the Architectural Heritage Guidelines for Planning Authorities, 2011.
- 5.1.8. In relation to External and Internal Works Section 11.5.1 states: "*City Council will manage and control external and internal works that materially affect the architectural character of the structure through the development management process.*"
- 5.1.9. The following policies are also relevant:
 - BHA4: Sets out that regard will be had to the NIAH.
 - BHA5: Section 11.5.4 (and Policy BHA21) of the Development Plan on the matter of Retrofitting, Sustainability Measures and Addressing Climate Change.
- 5.1.10. Policy BHA24 of the Development Plan states that: "*City Council will positively encourage and facilitate the careful refurbishment of the historic built environment for sustainable and economically viable uses and support the implementation of the National Policy on Architecture as it relates to historic buildings, streetscapes, towns and villages, by ensuring the delivery of high quality architecture and quality place-making*".

- 5.1.11. Dublin City Council under Policy CA6 of the Development Plan seeks *“to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible.”*
- 5.1.12. Policy QHSN10 of the Development Plan sets out that the Planning Authority will seek to promote sustainable densities with consideration for design standards and the surrounding character. It refers to Appendix 3 of the Development Plan which it sets out provides guidance on urban density, compact growth, building height, plot ratios and site coverage.
- 5.1.13. Section 4.5.3 of the Development Plan states that: *“there will be continued consolidation of the city to optimise the efficient use of urban land”; “the goal is to provide for a compact city with attractive mixed-use neighbourhoods, a variety of housing types and tenure, adequate social and community infrastructure and adaptable housing, where people of all ages will choose to live as a matter of choice”; and: “there will also be an increased focus on creating an enhanced green infrastructure network as a key mechanism for addressing climate change and providing for quality recreation, biodiversity, sustainable drainage and decarbonisation as an integral part of the city form and structure”.*
- 5.1.14. In keeping with this Policy SC11 of the Development Plan seeks to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands which are appropriate to their context and respect the established character of the area.
- 5.1.15. Policy SC12 of the Development Plan states: *“to promote a variety of housing and apartment types and sizes, as well as tenure diversity and mix, which will create both a distinctive sense of place in particular areas and neighbourhoods”.*
- 5.1.16. The Development Plan includes several policies addressing and promoting apartment developments. These include policies: QHSN36, QHSN37, QHSN38 and QHSN39.
- 5.1.17. Section, 4.5.4 and Policy SC15 to SC17 of the Development Plan sets out the Planning Authority’s strategy and criteria when considering building heights. It includes regard to the performance-based criteria contained in Appendix 3.
- 5.1.18. Chapter 3 of the Development Plan deals specifically with the matter of Climate Action.

5.1.19. Section 15.7.3 of the Development Plan sets out that developments in excess of 30 or more residential units or 1,000 sq. m. or more of commercial floor space, or as or as otherwise required by the Planning Authority, will be required to include a Climate Action Energy Statement.

5.1.20. Section 15.9.14 of the Development Plan states out that: *“all residential developments should include a building lifecycle report that sets out the long term management and maintenance strategy of a scheme”*.

5.1.21. Other relevant sections of the Development Plan include the following:

- Section 9.5.1 – Water Supply and Wastewater.
- Section 9.5.4 – Surface Water Management and Sustainable Drainage Systems.
- Section 15.4 – Key Design Principles.
- Section 15.5 – Site Characteristics and Design Parameters.
- Section 15.9 – Apartment Standards.
- Section 15.9.15 – Operational Management and Maintenance.

5.2. Local Other

- **An Integrated Economic, Cultural and Social Vision for Sustainable Development, 2007.**
- **Dublin City Council Development Contribution Scheme, 2023-2026.**

5.3. Regional

5.3.1. ***Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019:*** The primary statutory objective of the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority is to support the implementation of the NPF. I note:

- Section 9.1 of RSES sets out that over its lifetime population growth and changing demographics will require a policy response to ensure positive health outcomes for older people.

- RPO 9.1 states: *“local authorities shall ensure the integration of age friendly and family friendly strategies in development plans and other relevant local policy and decision making, including provision for flexible housing typologies, buildings and public spaces that are designed so that everyone, including older people”*.
- Section 9.3 states that: *“there is a need to incentivise mobility in the housing market, to address social isolation among older people and to offer more choice by way of an increased supply of accommodation for all life stages”*.
- Section 9.7 sets out that local authorities by way of their designation of Protected Structures enable places of architectural value to be protected and that: *“good heritage management should be incorporated into spatial planning”*.

5.4. National

5.4.1. The following policy documents are relevant to the proposed development:

- Architectural Heritage Protection Guidelines for Planning Authorities, (2011).
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.
- Project Ireland 2040 – National Planning Framework, (2018).
- Housing for All – A New Housing Plan for Ireland, 2021.
- Housing Options for Our Ageing Population, 2019.
- National Standards for Residential Care Settings for Older People in Ireland, (2016).
- National Quality Standards for Residential Care Settings for Older People in Ireland, 2009.
- Building For Everyone: A Universal Design Approach.
- Sustainable Urban Housing: Design Standards for New Apartments, as amended 2023.
- Irelands 4th National Biodiversity Action Plan (NBAP), 2023 to 2030.
- Climate Action Plan, 2024.

- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).
- Environmental Impact Assessment Guidelines, (2018).
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (2018).
- National Sustainable Mobility Policy, 2022.
- Regulation of Commercial Institutional Investment in Housing Guidelines, (2021).

5.5. Other

- EU Biodiversity Strategy, 2030.
- *'How to develop a Housing with Support Scheme for Older People Framework Toolkit'* - Arising from the learning from Phase 1 and Phase 2 of the Dublin City Age Friendly Housing with Support Model, The Housing Agency, 2022.
- *'Guidelines for the Treatment of Badgers Prior to Construction of National Road Schemes, (Environmental Series on Construction Impacts), National Roads Authority'*.
- Multi-Unit Developments Act, 2011.

5.6. Natural Heritage Designations

- 5.6.1. The subject site is not located within any designated site. According to the NPWS maps North Bull Island SPA (Site Code: 004006) and North Dublin Bay SAC (Site Code: 000206) are situated to c1.4km to the east as the bird would fly. Additionally, the site is located just over c1.6km to the north of South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) as the bird would fly with several Natura 2000 designated in Dublin Bay beyond.

5.7. Built Heritage

- 5.7.1. **National Inventory of Architectural Heritage (NIAH)** is of relevance. In this regard, I note that Sybil Hill House is included in the NIAH survey of Ireland (NIAH Reg. No. 50030086) where it is given a 'Regional' rating and its categories of special interest is listed as 'Architectural', 'Artistic' and 'Historical'. The NIAH description reads: *"Detached T-plan three-bay two-storey house, built c. 1750, having central full-height canted entrance bay to front (south) elevation, bow bays to side elevations, L-plan*

return and extensions to rear added c. 1810, and extensions to northeast added c. 1940. Hipped slate roof with central rendered chimneystacks and terracotta pots to front range and return behind balustraded granite and render parapet, central projection having moulded render cornices over canted-bay. Moulded render cornices to rear. Cast-iron rainwater goods and hipped slate roofs to return and extensions. Lined-and-ruled rendered walls, render quoins and plinth course, decorative render panels having foliate swags over to side elevations of first floor of entrance bay, with render eaves course. Square-headed window openings, having painted masonry architrave surrounds, granite sills, cornice and panelled apron over ground floor windows and eight-over-eight pane timber sliding sash windows. Six-over-six pane timber sliding sash windows to west and rear elevations, tripartite timber sliding sash windows and four-over-four pane timber sliding sash windows to rear, windows to north elevation of extension to northeast lacking surrounds, and having render sills and some windows having steel grilles. Six-over-six and three-over-three pane timber sliding sash windows and replacement windows to east elevation with render sills. Square-headed door opening to front with double-leaf half-glazed timber panelled door, leaded over-light, panelled render pilasters supporting fascia and cornice, and granite paved platform and nosed granite steps flanked by curved rendered dwarf walls with granite capping. Square-headed door opening to extension to north, with half-glazed timber panelled door and over-light. Segmental-headed door openings to rear with moulded render architrave surrounds and keystones, half-glazed timber battened doors, with sidelight to door to west. Granite-walled ha-ha to front. Set within mature parkland, ornamental trees to front and west elevations, sharing grounds with recent school building to south. Oval-plan entrance hall to interior, plastered walls and ceiling, carved curved timber architraves to doors and with shutters to main door. Round-headed niches flanking main entrance, stone paved floor. Star rosette to ceiling. Imperial staircase opposite entrance hall, having scrolled balusters and decorative tread-ends. Sited in own grounds, shared with recent school building, with mature gardens, lawned areas and trees, curved avenue leading to entrance on Sybil Hill Road".

The NIAH appraisal reads: "The well-balanced façade is enhanced by subtle render and carved granite detailing, which lend textural and visual variation to the façade and attest to the skill and craftsmanship of stone masons and builders at the time of its

construction. A pleasing sense of symmetry is created by a central canted-bay, central chimneystacks and bow bays to the side elevations. The house retains much of its early form and fabric, adding considerably to its historic character and significance. As one of the earliest houses in the area and with a strong connection to the historical personages who influenced the development of Raheny and the surrounding area, this building makes an especially significant contribution to the built heritage of the area”.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of this First Party Appeal seek that the Board overturn the decision of the Planning Authority on the basis that the proposed development accords with the proper planning and sustainable development of the area. It can be summarised as follows:

- This submission includes several modest revisions to the proposed development which includes a reduction in unit number to 75 alongside a number of modest amendments to the design and layout of the scheme.
- The Planning Authority are too limited in their consideration of what assisted living comprises of.
- 8 no. of the units within the scheme would be for the use of the Vincentian Order and this would supplement their en-suite living accommodation in Sybil Hill House.
- This type of development and residential use is permissible on ‘Z15’ zoned lands.
- It is reasonable to provide dining and hygiene facilities within self-contained units alongside communal facilities. This allows for a greater degree of privacy and independence for future occupants of the scheme.
- The integrated aspect of the living concept proposed under this development includes lifestyle, wellbeing, other supports as well as integrated connections within the wider community.
- A Masterplan is provided which is described as including a variety of existing uses including educational, ecclesiastical, residential, childcare and café uses.

- The revised scheme exceeds Development Plan requirements for public and communal open space. Additionally, this site is in proximity to St. Anne's Park which provides access to a high quality public open space.
- This development is not intended for solely or primarily residential institution use.
- The proposed buildings are consistent with those in its setting.
- The proposed development to be respectful of Sybil Hill House.
- Sybil Hill House is not visible from the public realm, and it will play an integral role in this development.
- The existing and proposed landscaping will visually buffer Block 'A'.
- Compensatory planting overcomes the loss of natural features arising from the proposed development and it is indicated that they would not object to a condition requiring preparation as well as compliance with a Woodland Management Plan.
- No undue overshadowing of properties in the vicinity would arise.
- The access arrangements are clarified.
- This development has been sensitively designed to integrate with its setting.
- This proposal provides needed senior independent/assisted living units for this community.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. The Board received observations from the following Third Parties:

- Raheny National School (27.02.2023)
- Denice Harvey (27.02.2023)
- Jana Kleinerova (27.02.2023)
- Clontarf Residents Association (27.02.2023)
- Margaret O'Connor (27.02.2023)

- Leslie McLindon (27.02.2023)
- No. 1 Sybil Hill Owners Management Company (27.02.2023)
- Julia Ruiz & Tom McGauran (27.02.2023)

On the basis of these submissions containing a number of overlapping concerns I have decided to summarise them under the following broad headings:

Procedural

- The appellants appeal submission contains substantial documentation and makes changes to the development from that which is lodged. It is therefore raised as a concern that this has prejudiced other interested parties from making comment.
- The public notices do not include the change of use sought to the Protected Structure.

Planning Authority Decision

- The refusal of permission is supported.

Nature of the Proposed Development

- The proposed development is not institutional living but residential.
- The term assisted living describes nursing and retirement homes where individuals receive external support for activities of daily living. It is for individuals who are not able to live independently but do not require full-time nursing and are often co-located with HSE day care facilities.
- The common thread of assisted living/retirement home is that they have 24/7 staffing to aid and support to residents whereas this proposal relates to an age restricted development that is re-packaged as 'assisted living' with no staffing aids for residents.

Planning Provisions

- Residential development is only permitted on 'Z15' zoned lands in exceptional circumstances. No exceptional circumstances have been provided, and this development is not consistent with the types of development permitted on such land. Nor has a Masterplan been provided.
- The Masterplan provided with the appeal submission is illustrative only.

- Ardilaun Court was the once-off allowable residential development permissible under the previous masterplan for this parcel of 'Z15' zoned lands. The Board in their decision to grant permission for Ardilaun Court development under ABP Ref. No. PL29N.246250 essentially accepted the Masterplan that was provided with it.
- This proposal does not meet the standards for public or communal open space.
- The car parking space provision is excessive and exceeds the Development Plan requirements for this type of development.

Built Heritage

- No expert report provided on the impact of this development on the Protected Structure.
- The use of Sybil Hill House would be changed under this proposal with the works required to facilitate the changes to create the communal spaces and facilities not indicated.
- The parkland setting of Sybil Hill House is integral to its appreciation. The proposed development would adversely encroach and overwhelm Sybil Hill House in its already significantly reduced and redeveloped setting.
- This development would be visually obtrusive and overbearing in the context of Sybil Hill House.
- The appeal case ABP-315183-22 includes access to be routed through Sybil Hill House lands. Yet this application and this concurrent appeal case provides no details of this route and whether it would impact on the surviving 'Ha-Ha' feature.
- The modern architectural approach is not sympathetic to Sybil Hill House.
- The proposed car parking is insensitively placed in relation to Sybil Hill House and underground parking solutions would have been preferable in this context.
- The omission of two car parking spaces in the amended design does not overcome the damaging impact of the excessive ground car parking provision within the curtilage of Sybil Hill House as well as surviving features within its parkland setting.
- The Board has refused permission in the past for development in the vicinity of Sybil Hill House based on adverse impacts to it.
- Sybil Hill House is the last of the great house's in Raheny.

- The Daylight and Sunlight Assessment provided shows that Sybil Hill House would be adversely overshadowed by the proposed development.
- The Archaeological and Cultural Impact Assessment provided recommends a buffer zone of 25m between Sybil Hill House and yet this was not adhered to.

Natural Heritage

- The curtilage of Sybil Hill House is one of the remaining landbanks of the Guinness St. Anne's Estate and is bound by mature trees and vegetation. This development is insensitive to its oasis setting and would erode the open character of this site.
- There is a lack of clarity in relation to actual number of trees to be felled.
- Woodland Area 1 to the west of Sybil Hill House is an integral part of its landscape setting. Yet it would be substantially lost under this proposal.

Standard of Amenity for Future Occupants

- The external as well as internal communal areas are substandard.
- No clarity is provided on whether there would be a live in medically assistance.
- Details of how this facility would be managed is unclear.
- The apartment units do not comply with current Apartment Design Guidelines or the industry standards for assisted living/nursing homes. Additionally, they are not designed for persons with mobility or other disabilities to live in nor are they flexible for future adaption for this type of occupancy.
- The kitchen in Sybil Hill House is small and unsuitable for the number of residents proposed to be accommodated in this scheme.
- It is not clear what assisted living services would be provided in the other blocks.

Residential Amenity Impact on Properties in the Vicinity

- Residential amenities of properties in the vicinity of this development would be diminished by way of undue overlooking, overshadowing and overbearance.
- The placement of rubbish bins in proximity to a creche facility operating in Ardilaun Court as well as in proximity of neighbouring dwellings within this scheme would result in undue nuisances, particularly odours and pests.

- During construction phase the dust and noise would be harmful, including for children using the playground of the adjoining childcare facility.
- The proposed access gate will give rise to security issues for Ardilaun Court.

Road Safety/Traffic Hazard/Access

- The internal roads are insufficient in their width to cater safely for two-way traffic.
- Vehicle, pedestrian, and cycle permeability with the lands to the east are unclear.
- This development would give rise to an overspill of car parking outside of the site.

Biodiversity/Natura 2000 Impact

- The Natura 2000 Impact report has limited the scope of its survey.
- There is a lack of surveying of birds, mammals through to amphibians in an area of recognised ecological and biodiversity sensitivity. A full mammal and bat survey is required to assess the impacts of the proposed development.
- The adjoining lands contain an active badger sett.

Sundry Comments

- No. 18 The Meadows for residential institutional use by the Vincentian Order.
- Proposal fails to take account for any future expansion needs of St. Paul's College.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. I have examined the application details and all other documentation on file, including those submitted by the First Party Appellant as part of this appeal case, the documentation provided by Third Party Observers in their submissions to the Board through to the further responses received by the Board. Alongside I have had regard to relevant local through to national planning policy provisions as well as guidance where relevant.
- 7.1.2. I have also carried out an inspection of the site context and its setting which included access to the interior spaces of note inside Sybil Hill House, a period building that is listed as a Protected Structure (RPS Ref. No. 7910) under the Dublin City Development Plan, 2022-2028.

- 7.1.3. This period building is also included in the NIAH survey of Ireland (NIAH Reg. No. 50030086) (See: Section 5.7 of this report above). I note that during this inspection this building was in residential institutional use and related administrative use by the Vincentian Order who are indicated as the owners of the site at the time this application was made.
- 7.1.4. I also note to the Board that at the time this assessment was prepared that there is a concurrent Large Residential Development Scheme with the Board for its determination on the lands to the immediate east of the site, i.e. ABP-315183-22 (P.A. Ref. No. LRD6002/22-S3/Foxland's). The Foxland's LRD application in summary relates to permission being sought for the construction of a residential development set out in 7 no. blocks, ranging in height from 4 to 7 storeys to accommodate 580 no. apartments, residential tenant amenity spaces, a crèche, a 100-bed nursing home through to ancillary works and services.
- 7.1.5. I consider that this concurrent case with the Board is of relevance to the proposed development sought under this application for several reasons. Including the proposed development is described as including widening and realignment of what is described as an existing vehicular access onto Sybil Hill Road to facilitate the construction of an access road with footpaths and on-road cycle tracks from Sybil Hill Road between Sybil Hill House and St Paul's College. Additionally, this proposal is indicated to include the provision of new wall and railing boundary treatment alongside a new/part realigned road and new pedestrian/vehicular gates to the new and existing accesses to Sybil Hill House and St Paul's College.
- 7.1.6. These proposed works appear to overlap with the site area subject to this appeal case. Though the documentation with both applications indicating that there has been dialogue in the provision of permeability for vehicle, pedestrians, and cyclists through part of this site and the adjoining St. Pauls College complex which is in ownership of the Vincentian Order. I consider that these works are provided in a disjointed manner in the two applications. With I note that access and egress from the public domain for the Foxland's LRD scheme being dependent in part on access through the southern portion of the site. I note that the Planning Authority refused permission for the Foxlands LRD (See: Section 4.3 of this report above). I consider that the Board in its determination of this proposed development should have regard to this concurrent appeal case.

- 7.1.7. The Third Parties in this appeal case raise biodiversity, ecological and environmental concerns in relation to the proposed development. In this regard they consider that the information including that provided by the Appellant with their appeal submission is inadequate to make an informed decision on these matters given the locational sensitive of the site, including in terms of the local Badgers, Bats and European Eel populations. Though the Appellant consider that these concerns are unfounded, and they provide an Appropriate Assessment Screening & Natura Impact Statement and an Ecological Impact Assessment (EclA) as part of their appeal submission.
- 7.1.8. I consider that the substantive issues for assessment that arise in this appeal case can be assessed under the following broad headings:
- Procedural & Civil Issues
 - Principle of the Proposed Development
 - Compliance with the Development Plan
 - Built Heritage
 - Residential Amenity
 - Ecology
 - Other Matters Arising
- 7.1.9. The matters of Environmental Impact Assessment and Appropriate Assessment also require assessment. These I propose to examine under Section 8 and 9 of my report below.
- 7.1.10. I am satisfied that having examined the application as lodged that other issues that arise can be dealt with by way of standard and/or appropriately worded conditions. For clarity purpose I note to the Board that my assessment below is based on the proposed development subject to the modest amendments to the design included by Appellant in their appeal submission to the Board. This is decision is based on the modest qualitative improvements to the overall design and layout through to the more adequate details that are provided to make a more informed determination on the merits of the proposed development against the proper planning and sustainable development of the area.

7.2. Procedural & Civil Issues

- 7.2.1. My first procedural concern relates to the issue of whether or not the public notices provide an accurate brief description of the proposed development in relation to the Protect Structure of Sybil Hill House and its curtilage.
- 7.2.2. On this point I note that the public notice that is provided refers to the proposed development as including: *“residential amenity and community space will be provided at ground and first floor levels of Sybil Hill House (a Protected Structure)”* with this forming part of an overall development that seeks: *“to accommodate 78 Senior Residential Living apartments within an Integrated Retirement Community development”*.
- 7.2.3. In terms of Sybil Hill House its existing functional use, can in my view be described as being residential institutional. With this including the current owners, i.e. the Vincentian Order, associated use of this building as their regional headquarter. As such it can be described as containing an element of administrative as well as residential institutional use in its current function.
- 7.2.4. In comparison the proposed development sought under this application consists of a commercially operated senior living/integrated retirement community for which there would be ancillary lifestyle, wellbeing and support services for use by the occupants of the residential units that are described as age friendly downsized tenure options targeted at the over 65s within this established urban locality.
- 7.2.5. The documentation provided with this application and as shown in the amended design option indicates that part of these ancillary services would be provided within the first and second floor levels of Sybil Hill House. While I accept that there is a level of ambiguity in the documentation provided in terms of which land use would be the primary land use and which would be the secondary use in quantitative terms of the proposed integrated retirement community scheme. With this lack of clarity also arising from the lack of detail in terms of the operational management of the scheme if it were to be permitted and how the residential institutional use would function alongside the integrated retirement community. Notwithstanding, it is clear that this proposed development, including when regard is had to the amended design option, would give rise to a material change of use to floor area within the Protected Structure of Sybil Hill House.

- 7.2.6. As a precaution I also note that the documentation included with this application, and as indicated in the amended design option, indicates that there would be no physical works would be carried out to Sybil Hill House as part of the proposed development. Notwithstanding, as discussed in the assessment below I raise concerns that this would be the case for several reasons. Including as an illustrative example to make the interior space of Sybil Hill House suitable for universal access adaptations, particularly given the nature of the use proposed. However, this concern I consider is outside of the remit of the proposed development on the basis that the proposed development does not include any physical works to Sybil Hill House as it survives. With this included in the public notice description through to the architectural drawings accompanying the proposed development as lodged to the Planning Authority and as presented in the amended design option submitted to the Board.
- 7.2.7. I note that the Planning Authority did not raise any concern with the public notices at validation stage of this proposed development or in its determination of this application. I am also cognisant that validation of a planning application falls under the Planning Authority's remit. Notwithstanding, I consider that this is a '**New Issue**' in the context of this appeal case. Particularly in the circumstance if the Board were minded to overturn the Planning Authority's decision and grant permission for the proposed development. With I note the change of use to the interior spaces of this Protected Structure not one that could be considered exempted development under Section 57 of the Planning and Development Act, 2000, as amended.
- 7.2.8. The second procedural concern arises from the Appellant providing an amended design option and additional documentation including an Appropriate Assessment Screening & Natura Impact Statement and Ecological Impact Assessment with their appeal submission. On this matter the Third-Party observers raise procedural concerns that the amendments and the scope of documentation provided by the Appellant has the potential to disenfranchise other interested Third Parties from making comment. They note that during the determination of this application by the Planning Authority they received a substantive number of Third-Party observations objecting to the proposed development. With these submissions containing a wide range of concerns to the proposed development.
- 7.2.9. I note that the documentation provided with this Appellants appeal submission includes an Appropriate Assessment Screening & Natura Impact Statement as well as

an Ecological Impact Assessment. These documents seek to demonstrate that the Planning Authority concerns raised in relation to potential effects from this proposed development on Natura 2000 sites is without basis and that the proposed development would effectively provide a barrier that would physically contain the former St. Pauls College playing pitches and St. Anne's Park beyond. In relation to these adjoining and neighbouring lands they recognise that they host several protected species and that these documents seek to provide clarity and assurance in terms of potential impacts alone and in-combination with other plans and projects.

- 7.2.10. With this being a concern raised by the Planning Authority that there was a lack of clarity on this matter particularly in relation to the Light Bellied Brent Geese and the potential for an indirect impact to Natura 2000 sites where this bird species is a Qualifying Interest by virtue of their use of the adjoining lands to the east as an *ex-situ* feeding site. A matter that is discussed in more detail in the assessment below and accompanying Appropriate Assessment attachment.
- 7.2.11. In the context of these additional documents I consider that their provision is reasonable. This is on the basis of the substantive concerns raised by the Planning Authority in relation to the potential effects of the proposed development on biodiversity, alone and in combination with other plans and/or projects, in particular to Natura 2000 sites in the marine environment of Dublin Bay to the east. Further, the provision as part of the appeal process new public notices were provided with these indicating the provision of an Appropriate Assessment Screening & Natura Impact Assessment.
- 7.2.12. Additionally, the Third Parties observers to this appeal noted the content of these documents in their submission to the Board.
- 7.2.13. The Appellant in their appeal submission to the Board include a number of modest amendments to the design and layout of the proposed development. They indicate that the objective of these changes is to address and overcome the Planning Authority's grounds for refusal of permission.
- 7.2.14. In relation to the amended design option, I note to the Board that these revisions include but are not limited to a revised minor repositioning of the proposed blocks (Note: Block 'A', 'B' and 'C'). They also include a reduction in the number of residential units to 75 No. Senior Living/Assisted Living units (Note: 52 No. 1-Beds and 23 No. 2-

Beds). This is a reduction in three independent residential units in comparison to the scheme as lodged with the Planning Authority. With this reduction in unit number arising from revisions to Block B whose scale has been reduced by omitting units on each level of its northernmost end.

- 7.2.15. Additionally, the amendments include revisions to the landscaping scheme. This seeks to demonstrate that the scheme includes the required provision of communal open space and a reduction in car parking to the front of Sybil Hill House (Note: 2 car parking spaces). Further an additional pedestrian access onto Sybil Hill Road is proposed. This is positioned in the northern end of the roadside boundary.
- 7.2.16. As said the Board requested new public notices as part of their determination of this appeal case and I note that the Third-Party observers include comments on the amended design option. Further, having examined the amended design option against the proposed development as lodged I consider the overall changes to be modest in terms of the nature, scale, and extent of the proposed development. With the amended design option being less people intensive than the original proposal.
- 7.2.17. The documentation and amended design option provided by the Appellant with their appeal submission is not uncommon given that the purpose of their appeal is to overturn the Planning Authority's decision to refuse permission. As part of doing so they have sought to address the various concerns raised by the Planning Authority in relation to the proposed development as part of demonstrating that their development is one that accords with the proper planning and sustainable development of the area. In this case I am satisfied that the suite of documents provided by the Appellant with their appeal submission has not resulted in any disenfranchisement of any Third Party. Furthermore, I am satisfied that they do not raise any new issues to those raised by the Planning Authority or indeed Third-Party observations received by the Planning Authority during the course of its determination of the proposed development.
- 7.2.18. In matter of the Third Party's observers concerns in relation to the Planning Authority's procedural handling of the proposed development I note that the Board does not have an ombudsman role on such matters. For clarity purposes I note that the Boards remit in this appeal case is the '*de novo*' consideration of the proposed development. That is to say that the Board considers this subject application having regard to the same

planning matters to which a Planning Authority is required to have regard to when deciding on a planning application in the first instance.

7.2.19. In relation to the civil and procedural concerns raised by Third Party's in this appeal case they relate to the contention that the Vincentian Order's legal interest extends beyond that demarcated in the accompanying Site Layout Plans and other documentation. That is to say that they have excluded their legal interest in No. 18 The Meadows which adjoins the northern boundary of the site. As such it is raised as a concern that the site's landowners legal interest in lands relative to the redline area of the site has not been accurately presented in this application.

7.2.20. On this matter I am cognisant that the Board does not validate planning applications, and should the Board be minded to grant permission it could seek that this matter be clarified by way of a further information request should it deem that to be prudent. I note, however, that this proposed development does not include No. 18 The Meadows as part of the proposed development. I also consider that there is no evidentiary proof provided by the Third Parties that would support the Vincentian Order are in the ownership of No. 18 The Meadows. However, this is not indicated by First Party as being an untrue statement of fact made by the Third Parties. While I consider that there are potential synergies between the current and the proposed residential institutional use of Sybil House with No. 18 The Meadows, notwithstanding, they are unclear and as said the proposed development sought does not include No. 18 The Meadows as part of its nature, extent and scope.

7.3. Principle of the Proposed Development

7.3.1. The appeal site which consists of the curtilage of Sybil Hill House forms part of a larger plot of urban land subject to the 'Z15' land use zoning objective under the Dublin City Development Plan, 2022-2028. It reads: "*to protect and provide for community uses and social infrastructure*".

7.3.2. The proposed development as lodged with the Planning Authority in summary consists of permission for 78 senior residential living apartments within an integrated retirement community development comprising three new blocks in the curtilage of 'Sybil Hill House', a Protected Structure, and the use of 'Sybil Hill House' for associated communal uses & facilities to support the integrated retirement community together with all associated site works which include but are not limited to widening of the

existing entrance serving the site onto Sybil Hill Road. The proposed development as amended consists of a reduction of 75 senior residential living apartments within the proposed integrated retirement community scheme as well as modest changes which are set out under Section 2 of this report above. Both residential institutional and 'Assisted Living/Retirement Home' are listed as permissible land uses on 'Z15' zoned land subject to safeguards.

- 7.3.3. Additionally, the Development Plan under Policy QHSN23 supports the concept of independent living and assisted living for older people. The Development Plan also supports as well as promotes the provision of specific purpose-built accommodation including retirement villages to promote opportunities for older people to avail of options to downsize within their community in a manner that aligns with higher planning policy provisions and guidance.
- 7.3.4. Moreover, Section 15.13.7 of the Development Plan which deals specifically with 'Nursing Homes/Assisted Living' indicates that the Planning Authority recognise that there is a continuing and growing need for nursing homes due to the aging population and it sets out that suitable locations for such facilities include those with high quality public transport links through to the provision of good footpath links. In relation to the site's location, I am satisfied that it is one that is well served by public transport with the public realm in the vicinity including qualitative active linkage to the bus stops in the vicinity through to at further reach Harmonstown Dart Station (Note: most direct route is 650m on foot).
- 7.3.5. Notwithstanding, as discussed, the subject site forms part of a parcel of 'Z15' zoned land. In this regard, Section 14.7.14 of the Development Plan, in relation to residential and commercial developments on such lands indicates that this type of development is only permitted in limited exceptional circumstances.
- 7.3.6. Against this consideration I raise the Planning Authority in their first reason for refusal was not satisfied that the applicant had demonstrated that the existing community uses/social infrastructure within Sybil Hill House would be protected and/or retained.
- 7.3.7. Alongside the Planning Authority considered that the proposed development may not provide for further community uses and social infrastructure as required under this land use's zoning objective under the Development Plan in future. As such there is a requirement for development on 'Z15' zoned land to demonstrate compliance with the

types of development deemed to be acceptable on such zoned lands and if necessary to provide exceptional circumstances where they do not.

- 7.3.8. Conclusion: I consider that it would be appropriate for the Board to consider the proposed development on its merits having regards to the proper planning and sustainable development of the area. With particular regard to the development requirement considerations for 'Z15' zoned lands, including but not limited to Section 14.7.4 of the Development Plan.

7.4. Compliance with the Development Plan

- 7.4.1. In this section I propose the various components of the proposed development and its compliance with the Development Plan. In relation to the impact of the proposed development on the Protected Structure this I propose to assess in detail separately under Section 7.5 of this report below.

7.4.2. Demolition:

As part of this proposal permission is sought for the demolition and removal of a shipping container and demolition of a shed. The amended scheme submitted to the Board on appeal similarly seeks these works with the total area of these two structures given as 80m².

These structures are illustrated in the submitted drawings as being sited within the curtilage of Sybil Hill House. Which I again note is a designated a Protected Structure under the Dublin City Development Plan, 2022-2028, and a period building as well as setting that is rated as being of 'Regional' significance in the National Inventory of Architectural Heritage (NIAH) (Note: RPS Ref. No. 7910 and NIAH Ref. No. 50030086).

In the submitted drawings they are shown as modest in built-form single storey structures positioned towards the eastern portion of the site. Their use is indicated as ancillary storage for the established residential institutional use of the site.

There is a general presumption against demolition or substantial loss of any building or other structure assigned a 'Regional' rating or higher by the NIAH under the Development Plan (Note: Policy BHA5). Through to Development Plan policies including Policy BHA11 advocate against demolition where possible and practical based on climate resilience. Additionally, for similar reasons Chapter 3 of the

Development Plan support the rehabilitation and reuse of existing older buildings where appropriate.

In this case I consider that neither of these structures forms part of the historic building layers of interest for this Protected Structure given their overall design through to construction materials. In my view these structures also do not positively contribute to their setting as part of the surviving reduced curtilage of this Protected Structure. Nor do they lend themselves towards reuse beyond their existing function.

I therefore consider that the demolition and removal from site of these structures is a positive outcome of the proposed development, *albeit* the shipping structure appears to be already removed from the site at some point since this application was made. This is on the basis that in essence they result in the removal of non-sympathetic manmade interventions within the curtilage of this Protected Structure. This outcome is consistent with Policy BHA2 of the Development Plan. With this Development Plan policy seeking that development in such an architectural and built heritage sensitive to change setting conserve and enhance Protected Structures as well as their curtilage. Further subsection (g) of this Development Plan policy provides for the protection of historic landscapes associated with a Protected Structure from inappropriate development.

I also consider that the demolition works involved in this component of the proposed would not give rise to any substantive planning issues including in terms of residential or visual amenity impact. Additionally, it would not give rise to any exceptional nuisance and any nuisance that would arise would be of limited duration. It is also standard practice for such works to be managed as part of a Construction & Environmental Management Plan.

Conclusion: I am generally satisfied that that this component of the proposed development is acceptable, subject to standard safeguards.

7.4.3. General Principle of Proposed Development to Sybil Hill House and its Curtilage

In relation to this component of the proposed development as said the proposed development as lodged and as amended includes no physical works to this historic building but does include significant man-made built insertions through to alterations to its curtilage.

The Development Plan in a manner consistent with Section 6.8.8 of the Architectural Heritage Guidelines advocates keeping such buildings in active use, ideally in its original use.

The proposed development does seek a change of use to this building which on the face of the information provided proposes no implications for the fabric and special character of this structure.

This outcome I consider is consistent with both the Development Plan, in particular subsection (e) of Policy BHA2 which seeks to ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the Protected Structure. It is also consistent as said with the Architectural Heritage Protection Guidelines.

However as discussed in Section 7.5 of this report below there is a concern in relation to the level of change to this Protected Structure's curtilage and whether it has the capacity to absorb this change without any undue impact on this Protected Structure's special interest which in part is informed by its surviving reduced curtilage.

Conclusion: I consider that the built heritage impact of the proposed development requires more detailed assessment. This is provided in Section 7.5 of the report below.

7.4.4. Section 14.7.14 of the said Development Plan

This section of the Development Plan describes 'Z15' zoned land as often consisting of long-established complexes of institutional/community buildings and associated open grounds. It also sets out that the existing uses on these lands generally include community, social or institutional development such as schools, colleges, sports grounds, residential institutions and healthcare institutions, such as hospitals and it states that: *"such facilities are considered essential in order to provide adequate community and social infrastructure commensurate with the delivery of compact growth and the principle of the 15-minute city"*.

Against this Section 14.7.14 of the Development Plan states that it is the policy of the City Council to: *"promote the retention, protection and enhancement of the city's Z15 lands as they contribute to the creation of vibrant neighbourhoods, healthy placemaking and a sustainable well-connected city"*. With this policy placed in a

context where the Development Plan recognises that in recent years its 'Z15' zoned lands have come under increased pressure for residential development.

Further Section 14.7.14 of the Development Plan indicates that its an objective of the City Council will protecting and facilitating the ongoing use of these lands for community and social infrastructure, through to that the City Council are committed to strengthening the role of Z15 lands and it states that it: "*will actively discourage the piecemeal erosion and fragmentation of such lands*".

Therefore Section 14.7.14 of the Development Plan identifies two different development scenario types for 'Z15' zoned lands. They are: "*Development on Z15*" ('A') and "*Development Following Cessation of Z15 use*" ('B').

7.4.5. **Scenario 'A' criteria**

The Development Plan indicates under Section 14.7.14 that under scenario 'A' limited residential/commercial development on 'Z15' zoned lands will be allowed in highly "*exceptional circumstances*". It also states: "*where it can be demonstrated by the landowner/applicant that the proposed development is required in order to maintain or enhance the function/operational viability of the primary institutional/social/community use on the lands*".

In relation to this particular scenario the documentation on file appears to suggest that the established residential institutional use of Sybil Hill House would be maintained, if permission were granted, as lodged or as amended. With it indicating that 8 of the proposed independent apartment units from the amended reduced in number integrated retirement community development scheme of 75 independent units would be for the use of the Vincentian Order.

The information provided with the appeal does not indicate what type of unit in terms of bedroom numbers this would relate to.

It also does not clarify where these units would be located in relation to the three residential blocks proposed. Moreover, it does not indicate as part of the operation of the scheme what would be the type of tenure these particular units. This is a point that is also unclear in relation to the other 67 independent units proposed under the amended scheme.

Further the letter of consent provided by the Vincentian Order simply sets out their consent for Tetrarch Residential Limited (the Applicant) to the making of this application and it does not indicate any other involvement with the proposed development should permission be granted.

That is to say it makes no mention of the eight apartment units. In addition, it does not provide any clarity on any agreements with the applicant in terms of how the Vincentian Orders residential institutional use would be integrated into what appears to be a residential commercial led development. Nor is there any clarity on the management and operations of overall scheme in the short to long-term.

This is also against the context where the submitted accompanying proposed internal layout drawings of Sybil Hill House simply providing a coloured distinction between: “existing rooms not subject to change in this application” and “existing rooms subject to change of use only”. Yet it would appear to be in the context of the Vincentian Order no longer maintaining any ownership of part of Sybil Hill House and its surviving curtilage on the basis of the information provided. Nor would it appear from the basis of the information provided that the Vincentian Order as the residential institution established on this site would be actively involved in the short to long term management of the integrated retirement community and that this would be alongside maintaining their residential institutional use at this site if permission was granted and if implemented.

I consider that the Draft Section 47 agreement provided with this application provides some insight to the question of what the relationship might be between the Vincentian Order and the applicant post grant of permission, construction through to operational phases. It indicates that the applicant’s intention consequent to a grant of permission would be: “*the Applicant [is the registered owner/is the party entitled to be the registered owner] of the property more particularly described in the Schedule hereto (the “Property”)*”. With this clarified as the lands comprised in the Folios which relate to the lands subject of this application.

Of concern, however, the documentation omits a copy of the folio maps. The provision of these maps would have provided some visual aid in setting out quantitatively the exact extent of lands and/or buildings to which this draft agreement relates. It does

however appear to suggest that the property is Sybil Hill House and the c1.57ha area to which this application relates.

The Draft Section 47 also appears to have been provided for the purposes of providing a level of certainty as part of the planning application documents that if permission were to be granted that the development would: *“remain as an over 65’s integrated retirement community for the purposes of which is to provide suitable step-down housing, amenities and supports to the over 65’s to include, without limitation, lifestyle, wellbeing and support services to support people’s independence and aspirations TO THE INTENT AND PURPOSE that this Agreement shall bind the Residential Units from the date of the Grant”*. This does not civilly intertwine in a tangible manner the suggested 8 independent residential units or parts of Sybil Hill House that is indicated as not being subject to any change of use. In my considered opinion it does not provide any assurance that any existing residential institutional use by the Vincentian Order would be maintained as a secondary functional land use element of the proposed development if permitted.

In addition to the above concerns, it is also of note that the proposed development appears to be in addition to the recently implemented Ardilaun Court residential scheme (See: I refer the Board to Section 4 of the report above). This was permitted on ‘Z15’ zoned lands adjoining the northern boundaries of the site. Of note the lands relating to this private residential scheme was at the time its planning application was lodged in the legal interest of the Vincentian Order.

Less recently ‘The Meadows’ residential scheme which adjoins part of the northern and northeastern boundary of the site was in the ownership of the Vincentian Order prior to it being granted permission. It is of note that Sybil Hill House prior to the granting of this scheme appears to have been served by its historical driveway that continued northwards to where it provided access onto the Howth Road.

Having examined the information provided with this application and on appeal I am not satisfied that the applicant has demonstrated any exceptional circumstances for the residential/commercial development sought or that the proposed development is required in order to maintain or enhance the function and operational viability of the primary institutional use of these subject ‘Z15’ zoned lands. With as discussed, the

institutional use associated with Sybil Hill House in the past having two phases of significant residential redevelopment on what was part of its larger historical curtilage.

Additionally, under Section 14.7.14 of the Development Plan for scenario 'A' sets out that the following criteria "must" be adhered to. I therefore propose to examine these criteria in turn as follows:

- ***In proposals for any limited residential/commercial development, the applicant must demonstrate that the future anticipated needs of the existing use, including extensions or additional facilities would not be compromised.***

I refer the Board to the considerations above in that there is ambiguity in the documentation provided that the proposed development is one that whilst suggesting to have 8 of the proposed independent residential units maintained for use by the Vincentian Order and 6 of the existing en-suite bedrooms in Sybil Hill House, that the scheme itself which substantially redevelops the remaining curtilage of this historic building would not compromise the future of the existing residential institutional use in the short to long-term.

In the amended scheme, the Vincentian Order's residential use of the reduced in number independent dwelling units proposed, would be 6% of the total units.

I also note that in the existing situation Sybil Hill House is indicated as having 9 bedrooms equating to a floor area of 184.99m² with combined floor area of ground and first floor of this period building having a total floor area of 1,164m².

In the context of the proposed development as lodged, and as amended, the retained residential floor area for use by the Vincentian Order as bedroom space within Sybil Hill House would be reduced to 152.49m². With this for example equating to 2.38% of the 6,400m² total floor area of all the proposed buildings as lodged. The appeal documentation suggests the amendments result in a reduced total gross floor area of 5,837m² for Blocks A, B and C. Alongside an additional 112m² in bin and bike stores. Thus, 5,949m² total floor area of all buildings as amended.

Therefore, in relation to Sybil Hill House and the resulting proposed development as amended this would give rise to a 2.56% of its floor area maintained for residential use by the Vincentian Order. With it being unclear in my view how the remainder of its

space within Sybil Hill House would be maintained exclusively to support the Vincentian Orders but in separate ownership.

Further, as a precaution I also note that the blue line area extends to the south of this site to include St. Pauls College educational facility.

These lands are indicated as being in the legal interest of the Vincentian Order. Yet the documentation provided with this application as lodged and as provided with this First Party appeal does not make it clear what relationship currently exists between these two land parcels. Further, the documentation provides in my view does not make it clear what would be the future outcome of the proposed development if permitted as lodged or as amended on any future expansion of these existing educational facilities. This I consider is a factor that also needs to be considered under the Scenario A criterion.

Conclusion: I am not satisfied that the applicant has demonstrated that this first criterion has been met. That is to say that I consider that the applicant has not satisfactorily demonstrated that the proposed development as lodged or as amended proposes limited residential / commercial in nature and use development for this established residential institutional in use site. I am also not satisfied that there is adequate detail that demonstrate that the future needs of the established residential institutional use of this site through to that the proposed development would also not adversely impact upon the future anticipated needs of the Vincentian Order's landownership at this location which as said is indicated as including the educational facility of St. Pauls to the south.

- ***Any such residential/commercial development must demonstrate that it is subordinate in scale to the primary institutional/social/community use.***

I consider that my assessment in relation to the previously discussed criterion overlaps with the question of whether or not any such residential/commercial development is subordinate in scale to the primary institutional use that would arise if the proposed development as lodged or as amended was permitted. This assessment in my view supports that this proposed development is primarily a residential / commercial led redevelopment of Sybil Hill House and its curtilage. There is no documentation provided that supports otherwise, including from the Vincentian Order the residential institutional owners and occupants of this site.

To this I note that Sybil Hill House in its existing state has a combined floor area of 1,164m². As said it is set in a site area of 15,700m² with this mainly comprised of mature manicured gardens with the two ancillary structures to which this application relates having a combined area of 80m².

The documentation indicates that in relation to the existing site area that Sybil Hill House occupies a modest 3.4% of the subject site area. With most of its floor area appearing to be associated with religious, residential, and administrative functions associated with Vincentian Order which operate their provincial headquarter also at this location.

The proposed development as lodged would result in a new and retained total floor area of 6,400m² and a site coverage of 16.3%. With the new buildings comprised of three building blocks which are referred to as Block 'A', Block 'B' and Block 'C' (Note: this block is also referred to as Block '1'). The proposed buildings range in their overall height from two storey to five storey (Note: Block 'A' is part four to part five storeys; Block 'B' is part three storeys and Block 'C' is two storeys) and would be surrounded by additional hard surfaced areas, ancillary building and spaces, with limited manicured green space remaining around the new and retained buildings.

I consider that these ancillary spaces are not reflected in the site coverage figure given. With the parkland setting of Sybil Hill House substantially eroded by the buildings and their associated spaces including but not limited to additional accessways, at ground level car parking provisions and the like. As such what is largely a passive parkland open space setting containing two significant woodland pockets as well as mature trees and manicured lawns that surrounds Sybil Hill House would be significantly eroded to function as spaces to support the integrated retirement community development sought.

The proposed development as lodged contains 78 independent apartment units with a net residential land use floor area of 4,627.2m². I note the breakdown of the proposed units consists of 55 one-bedroom units and 23 two-bedroom units within the three proposed blocks. With the residential use of Sybil Hill House appearing to be omitted from this given figure. I also note that the en-suite bedrooms that are to be retained within Sybil Hill House consequent to a grant of permission are not illustrated with their bedspace provision. I consider that it is highly probable that the 6 no. en-

suite bedrooms to be retained would be used as one bedspace rooms despite their spatial dimensions and sizes given the nature of this site's established residential institution use.

Irrespective of the occupancy of these bedrooms in comparison the proposed scheme as lodged it would equate to 101 bed spaces and unlike what appears to total 9 existing bedspaces within Sybil Hill House these are designed to be suitable for independent use. That is to say they include living space, kitchen areas, bathrooms through to bedroom spaces within one independently accessed unit with private amenity space provision.

The proposed scheme also contains additional wellbeing, and amenity supports within Block A and Sybil Hill House to further support residents of the independent units. With the retained 6 en-suite bedrooms within Sybil Hill House on the basis of the information provided on file appearing to be dependent on the communal spaces including but not limited to communal/shared dining facilities and living spaces provided within the proposed scheme.

Alongside irrespective of what combination the proposed eight apartment units that are indicated in the appellants submission to the Board that are intended to be used by the Vincentian Order out of the amended design option containing a reduces number of 75 units independent residential units this would still leave 67 apartment self-contained units within this scheme. The scheme as lodged and as amended is not subordinate in scale and land use function to the primary institutional use of Sybil Hill House as it currently presents.

It could also be argued that this lack of subservience in use is reflected in the substantial additional floor area sought under this application as lodged and as amended relative to Sybil Hill House. Through to the built forms of Blocks A and B in particular are not subordinated to the two-storey built form of Sybil Hill House and they present forward of this historic building's principal building line that has a southerly orientation.

Conclusion: Having regards to the above I am not satisfied that it has been demonstrated that this development, if permitted, would be subordinate in scale to the Vincentian Order's primary institutional use of the subject site.

- ***Where appropriate, proposals should be subject to consultation with the relevant stakeholder e.g. Department of Education/Health Service Executive.***

As previously noted in the assessment above the Vincentian Order are indicated as being in ownership of the adjoining lands associated with St. Pauls College to the south but not their former playing pitch grounds to the east of the site. The adjoining former playing pitch grounds of St. Pauls College appear to be in Third Party ownership.

There is no documentation on file that would support that the applicant as part of their preparation of this application engaged with the Department of Education in relation to the education facilities of St. Pauls College or indeed in terms of clarifying educational capacity constraints within this neighbourhood. As also discussed, there is no clarity provided on what role the Vincentian Order have in the day-to-day operations and management of this educational facility despite these adjoining lands being outlined in blue in the accompanying Site Layout Plans.

It is therefore unclear what tangible connections are in place in terms of the operations of the educational facilities at St. Pauls College either in terms of the Vincentian Order or the Department of Education. As such it is unclear whether the Department of Education are or are not a relevant stakeholder.

Conclusion: The information is not available to make an informed conclusion on this criterion.

- ***The development must not compromise the open character of the site and should have due regard to features of note including mature trees, boundary walls and any other feature(s) as considered necessary by the Council.***

One of the characteristics of this Protected Structure as it survives is its significantly reduced 1.57ha curtilage by incremental development over time is that the existing structures are limited to a modest 3.4% site coverage. With the remaining setting have a strong sylvan character as a result of the many trees and the woodland groups it contains. To facilitate the proposed development removal of existing mature trees, woodland and shrub features are proposed to accommodate the three new buildings and their associated hierarchy of spaces and ancillary structures.

Though the documentation provided indicates that the resulting site coverage from the proposed development would be 16.3% and the residential density that would arise as amended would be 49.7 units per hectare, I consider that these figures in isolation does not reflect the importance of the reduced parkland setting and the two surviving features it contains arising from the addition of Block 'A', 'B' and 'C'. Together with their supporting at ground hierarchy of accessways, at grade parking provision through to ancillary open spaces that would support future occupants of the proposed scheme.

The result of the proposed development would be the erosion of this Protected green / parkland setting. With this setting including man-made features of interest that contribute to its special character and legible authenticity as it survives. A matter that is discussed in more detail under Section 7.5 of this report below.

Conclusion: I am not satisfied that the proposed development as lodged, or as amended in the appeal submission, would not adversely and materially compromise the open character of Sybil Hill House's sensitive to change surviving curtilage. With this conclusion supported by the assessment of built heritage impact contained under Section 7.5 of this report below.

- **In all cases, the applicant shall submit a statement, typically in the form of a business plan, or any other relevant/pertinent report deemed useful and/or necessary, as part of a legal agreement under the Planning Acts, demonstrating how the existing institutional/social/community facility will be retained and enhanced on the site/lands.**

The documents provided with this application suggest that the applicants interest in this site is its purchase in its entirety from the Vincentian Order should permission be granted for the proposed development. The information provided does not include any pertinent detailed information on how the proposed development, if permitted and if implemented, would be managed, or operated as an integrated retirement community alongside any retention of residential land use by the Vincentian Orders in the short, medium to long term. I am therefore not satisfied that the information provided with this application and on appeal demonstrates compliance with this criterion.

- ***In all cases the applicant shall be the landowner or have a letter of consent from the landowner.***

The applicant has provided the written consent of the landowner for the making of this application.

7.4.6. Overall conclusions in relation to Scenario 'A' criteria:

As said the Development Plan sets out that in the case of Scenario 'A' that the criteria which I have examined must be adhered to. Having regard to the individual comments in relation to each of these criteria I consider that the proposed development does not adhere to these criteria and to permit the proposed development would on this basis alone be contrary to the proper planning and sustainable development of 'Z15' zoned land.

To this I note for clarity that Section 14.7.14 of the Development Plan indicates that the above criteria are not applicable to: *"residential institution use, including ancillary staff accommodation or assisted living/retirement home"*.

I therefore consider it incumbent to examine whether or not the proposed development could be excluded from Scenario 'A' criteria on the basis of the resulting land use proposed under this application.

I consider that the proposed integrated retirement community scheme containing independent residential units does not align with any of the various land use definitions set out in Development Plan. As set out under Section 5 of this report it does include a definition for: *'semi-independent housing accommodation'*. With this being defined as being: *"specifically designed to meet the needs of older people and persons with disabilities in which dining, recreation, hygiene and health care facilities can be shared on a communal basis"*. The Development Plan also defines 'residential institution as: *"a building, or part thereof, or land used as a residential institution and includes a monasteries and convents"* and 'residential' as: *"the use for human habitation of a building, or part thereof, including houses, apartments, studios and residential mews buildings. The definition of house and habitable house in Section 2 of the Planning and Development Act 2000 (as amended) shall apply"*.

Having regards to these definitions I note that the proposed development as lodged and as amended seeks permission for what are described as independent senior residential living apartments within an integrated retirement community that would provide associated communal uses and facilities. It includes no specific support services, including in-house support through to medical assistance for its future

occupants and none of the associated communal uses and facilities outside of the requirement of this scheme to provide appropriate levels of communal and public open space are necessary for any occupant of the proposed apartment units irrespective of the fact that it is indicated that these units would be targeted at the over 65's.

Alongside as discussed and as required under Scenario A demonstration of how the proposed development would protect and facilitate the ongoing use of these lands for community and social infrastructure. Through to how the development would preserve, maintain, or enhance the existing social and community function(s) of the lands subject to the development proposal.

In relation to these matters I consider that the proposed development as lodged, and as amended, whilst it would provide a level of housing choice within this neighbourhood that would align with the definition of residential given that the units proposed are all designed to be independent. With these provided within what appears to be a residential commercially led enterprise for private profit. It would not in my view fall under the brackets of what is taken to mean community and social infrastructure.

Nor does there appear to be any apparent social and community function currently being carried out on this site under its present function that would appear to be carried forward as part of the proposed development sought.

Furthermore, if it is to be accepted that the residential institutional land use is to be carried forward as part of the proposed development despite the absence of satisfactory details based on the areas that are indicated to be retained for the residential use of the Vincentian Order it would be significantly subservient to the integrated retirement community proposed. Through to as said there is no tangible connection indicated that the residential institutional use would be carried forward as part of the overall management and operations of the proposed scheme.

Moreover, the likelihood that the six maintained en-suite bedrooms to function as qualitative residential institutional accommodation for the Vincentian Order is questionable.

Against this context there is no exceptional circumstance provided by the applicant on behalf of the Vincentian Order that the proposed development is required in order to

maintain or enhance the function/ operational viability of their primary institutional use of the subject lands.

In these circumstances I concur with the Planning Authority in relation to their concerns in relation to the proposed use of the development sought and that it would be contrary to the land use objective of 'Z15' zoned lands.

7.4.7. Scenario 'B' criteria

Scenario B as set out under Section 14.7.14 of the Development Plan relates to the: *"cessation of an existing Z15 institutional/social/community use on a site or change in land ownership does not extinguish/ negate the purpose of these lands for community and social infrastructure use"*. It further states under Section 14.7.14 that in such circumstances the objective of the Council is that such lands should be retained for a use in accordance with the zoning objective unless exceptional circumstances prevail. This section of the Development sets out that the cessation of use on a Z15 site or disposal of all or part of a Z15 site, a variation or material contravention to the development plan will be required to develop such lands for residential/commercial purposes. As set out above though the documentation appears to indicate that the residential institutional land use would be carried forward as a subservient use to the integrated retirement community scheme sought; nonetheless it is clearly indicated that it is the intention of the applicant to acquire Sybil Hill House, and its curtilage should planning permission be permitted. Therefore, it is appropriate to examine the matter of material contravention of the Development. This I propose to examine under the subheading below:

7.4.8. Material Contravention: Scenario B Section 14.7.14 of the Development Plan

I firstly note that the Planning Authority's first reason for refusal considered the applicant had not satisfied their concerns that the proposed development would not be a material contravention of 'Z15' zoning objective of the site and that the proposed development would be contrary to Section 14.7.14 Development Plan.

On the matter of material contravention, I am cognisant of the provisions of Section 37(2)(b) of the Planning Act, 2000, as amended, provides where a Planning Authority has decided to refuse permission on the grounds that the development materially contravenes the development the Board may only grant permission where it considers one or more of four specified criteria are met.

In this relation to these criteria having examined this application in detail, alongside having carried out an inspection of the site and setting, had regard to relevant local through to national planning provisions as well as guidance through to had regard to the pattern of development which includes existing provisions for older persons on the opposite side of Sybil Hill Road, with regard to the planning history of the surrounding area, I am satisfied that the proposed development:

- Is not of strategic or national importance.
- That the objectives in the Dublin City Development Plan, 2022-2028, are clearly stated and are not conflicting in their nature or purpose.
- There is no imperative in the regional planning guidelines for this site and location nor are there any other guidelines through to Government policy which would support the proposed development.
- The pattern of development and permissions granted in the area since the making of the Development Plan have not altered the site or its setting. Though there is as said a concurrent LRD Foxland's application for the adjoining lands to the east of the site. This application has not been granted at the time this report has been prepared. Further there is no exceptional demonstratable specific housing need provided under the Development Plan as part of its Housing Strategy for this type of residential development provision within this particular location and/or neighbourhood setting.

Conclusion: On the basis of the above, I am of the view that the Board is precluded from a grant of permission in this particular circumstance.

7.4.9. Community and Social Facilities/Infrastructure

Section 14.7.14 and Table 15-1 of the Development Plan requires a 'Community and Social Infrastructure Audit' for the nature and extent of the development sought under this application at this 'Z15' zoned location. That is to say such an audit is required for 50 or more residential units in any type of development. I note that Section 15.8.2 of the Development Plan sets out in detail what this audit should contain but in summary it notes that it should assess the provision of community facilities and infrastructure within the vicinity of the site. As well as identifying the need to provide additional facilities to cater for the proposed development.

Notwithstanding, I note that the Planning Authority's Planning Officer considered that this was not necessary in relation to the proposed development sought. The basis for this conclusion by the Planning Authority related to the type of residential development sought, i.e. target at over 65's. It thereby considered that the nature of this development is one that would not generate any significant community and social demands on existing and future community and social infrastructure.

I consider that the Planning Authority's conclusion would have merit if the proposed development was to be maintained solely for the predominant use proposed, i.e. as a predominantly integrated retirement community scheme with ancillary residential institutional use.

Notwithstanding, I raise a concern that should a change of residential use arise and given that the apartment units are designed to be fully independent dwelling units. Alongside it is contended that they are designed to accord with the required standards for apartment units as provided for under local through to national planning provisions and guidance. In this regard the proposed development as lodged consisted of 78 independent apartment units, and as amended a reduction in this number to 75, there is a potential in this circumstance for these units to generate a higher demand on community and social infrastructure in this locality over and above that where the occupation of the independent units is for the over 65's and above.

Should the Board be minded to grant permission for the proposed development as lodged or as amended there is a need to provide a measure of certainty that the proposed development would not give rise to any undue demand on community and social infrastructure. I therefore consider it would be reasonable for the Board to include a condition that requires the developer/applicant to enter into an agreement restricting or regulating the development as well as its future use by way of a Section 47 agreement. With this condition including that the details of which are to be agreed in writing with the Planning Authority and in default with the Board.

On this point I note to the Board that the documentation submitted with this application includes a draft Section 47 agreement. As such I consider that on this basis there appears to be a willingness by the applicant to enter into a Section 47 agreement should permission be granted.

I further note to the Board that this draft Section 47 reads in part as follows: *“in accordance with Section 47 of the Planning Acts the Residential Units only to be constructed in accordance with the Grant shall remain as an over 65’s integrated retirement community the purposes of which is to provide suitable step down housing, amenities, facilities and supports for the over 65’s to include, without limitation, lifestyle, wellbeing and support services to support people’s independence and aspirations TO THE INTENT AND PURPOSE that this Agreement shall bind the Residential Units from the date of the Grant”*.

Conclusion: Should the Board be minded to grant permission I recommend that it includes a section 47 agreement in the interest of ensuring that the residential use of the proposed units does not place an undue demand on community facilities and social infrastructure in this locality.

7.4.10. Section 14.7.14 Master Plan Requirement

This section of the Development Plan sets out that in either scenario ‘A’ or ‘B’ developments that there is a requirement that in relation to development sites larger than 1ha that a masterplan is provided. I note that the site area is given as c1.57ha and as such it exceeds the threshold area for which a Masterplan is required. I note however that as lodged this application was not accompanied by a Masterplan however one is provided by the Appellant as part of the documentation accompanying their appeal submission.

On this point I consider it is a concern that the design and layout concept of this proposed development has not been informed by any previous or proposed Masterplan or with any dialogue to adjoining landowners.

The Masterplan that is provided with this application has been submitted with the First Party’s appeal submission to the Board. While I consider that its submission provides improved consistency of the proposed development relative to the local planning provision requirements for development on these lands, notwithstanding, at this point they are in my view an afterthought. This is on the basis that they seek to retrospectively demonstrate that an already formulated proposed development would not give rise to further piecemeal, uncoordinated, and fragmented development of the larger parcel of ‘Z15’ zoned land it forms part of.

I am not satisfied that this what is generally accepted a Masterplan to be. That is to say I consider that they are in planning terms a comprehensive and cohesive spatial plan which sets out a long-term vision through to conceptual layout guiding future growth for 'Z15' landbank at this locality. Such plans also provide a framework based on careful consideration of the constraints and potentials that inform its future growth and development alongside how it sustainably spatially integrates with its receiving neighbourhood environment in a manner that is consistent with local through to national planning provisions and guidance.

As such it should provide a strategic vision for the creation of sustainable, cohesive, functional through to aesthetically pleasing environment as opposed to a fragmented plan for different 'Z15' plots of lands to suit the narrative of their respective proposed developments and as such provide an inwardly site focused plan.

Against this context I am not satisfied that the Masterplan as submitted with the Appellants appeal submission meets the requirement of Section 14.7.14 of the Development Plan. That is to say it provides a vision for the lands as opposed albeit this site may be the last available lands within the context of this parcel of Z15 zoned lands at this locality. Through to what cognisant was had to the proposed developments deviation from the Masterplan provided for the lands associated with the Ardilaun Court development to the north of this site.

The Ardilaun Court development was the subject of two appeal cases to the Board (Note: I refer to Section 4 of this report above (PL29N.246250 and PL29N.249043)) and was permitted on foot of a Masterplan which accompanied the development of these lands. This accompanying plan justified the positioning of the most southerly blocks within this scheme with limited lateral separation distance from what is now the boundary between the two sites. This limited separation was on the basis of the lands associated with the curtilage of Sybil Hill House were to be maintained as open space/green space in terms of their envisioned future use. With these lands also forming part of the Vincentian Order's landownership at this location prior to its development.

I therefore raise it as a concern that the Masterplan submitted with this appeal is at odds with the Masterplan that accompanied the documentation accompanying the Ardilaun Court development which is the most recently permitted development on

'Z15' zoned land. Section 14.7.14 of the Development Plan actively discouraging the piecemeal erosion and fragmentation of lands subject to the 'Z15' zoning including in terms of allowing only limited residential/commercial development in highly exceptional circumstances. As said no exceptional circumstances have been provided for this current residential/commercial development sought under this application. The permitted scheme of Ardilaun Court is a residential development for private gain on 'Z15' zoned lands which are recognised as being under increased pressure for residential development. As well as is a type of development that is out of character with the predominant land uses of 'Z15' zoned lands which are given under Section 14.7.14 as: "*schools, colleges, sports grounds, residential institutions and healthcare institutions*".

Section 14.7.14 of the Development Plan also indicates that the Masterplan must set out a vision for the lands and demonstrate that a minimum of 25% of the overall development site/lands is retained for open space and/or community and social facilities. This requirement need does not apply if the footprint of existing buildings to be retained on the site exceeds 50% of the total site area. The footprint of buildings on this site does not exceed 50% of the total site area and on this point, I note that when the retained and new floor area is calculated as a percentage of the total site area it is significantly less at 16.3%.

In relation to the minimum of 25% of the overall development being retained for open space and social facilities. I note that the amended does appear to modestly exceed this quantitative minimum provision of open space. In this regard I note that the amended scheme is indicated to include 26.3% of the site as public open space as well as c10.2% as communal space. However, this space does not appear to be highly useable as passive or active recreational amenity. Alongside it is unclear how the public open space would be managed if permission were to be granted.

Additionally, I raise a concern that these open spaces within the overall design and layout of the proposed development both as lodged and as amended are fragmented. Of concern also is that in places their functional quality as active and passive amenity is further diminished by the overshadowing of built and natural features.

Further, Section 14.7.14 of the Development Plan sets out that the public open space shall not be split up and shall comprise of landscaped spaces that are suitable for

recreational and amenity purposes as well as that they should contribute to as well as create linkages with strategic green network. It is also indicated that they should contribute to the open character of the lands including the incorporation of landscape features.

Critically and as discussed in further detail under the assessment of built heritage impact in the report below Section 14.7.14 of the Development Plan indicates that the minimum 25% of public open space is the minimum provision unless the site characteristics dictate otherwise. I note that this percentage also aligns with Table 15-4 of the Development Plan.

I also note that Section 15.8.6 of the Development Plan provides that: *“public open space is an external landscaped open space which makes a contribution to the public domain and is accessible to the public and local community for the purposes of active and passive recreation, including relaxation and children’s play. It also sets out that public open space also provides for visual breaks between and within residential areas and facilitates biodiversity and the maintenance of wildlife habitats”*.

This I note accords with Section 5.3.3 of the Compact Settlements Guidelines for Planning Authorities in relation to residential schemes refers to the open spaces that form part of the public realm within a residential development. With this being distinct from a public park. It states that: *“open spaces provide for active and passive recreation, nature conservation, pedestrian and cycle connection and provide an important visual break between streets and buildings”* and that: *“there is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity”*.

Within this context I consider that the provision of 26.3% public open space. Whilst I accept that this modestly exceeds the minimum public open space provision, notwithstanding, as a space it is fragmented, is of limited quality as passive and/or recreational open space for future users. Additionally, there is an absence of clarity on how this space would be managed and operated as part of the overall development if permission were to be granted. With the design as amended appearing to provide gated access via a shared entrance located on the southern end of the roadside

boundary and a pedestrian/cyclist access located towards the northern end of the roadside boundary.

Of further concern and as discussed in more detail under the matter of built heritage is the role of the curtilage of Sybil Hill House in contributing to its intrinsic character and its appreciation as it survives. Additionally, within this space this curtilage contains surviving man-made and natural features of interest. With the latter contributing to the biodiversity and ecology of this setting. In this context the open space provision quantum of 25% arguably does not reflect the special attributes of this Protected Structure and its now reduced in size curtilage. On this point I note that the Masterplan requirements as set out under Section 14.7.14 of the Development Plan indicates that 25% public open space is not applicable in circumstances where the site characteristics dictate otherwise. Further Policy and Objective 5.1 of the Compact Settlement Guidelines for Planning Authorities indicates that in the case of sites that contain significant heritage a higher proportion of public open space may need to be retained.

On the matter of creating linkages there is also a missed opportunity in this scheme to explore opportunities to gain improved access to the strategic green network in this locality. Particularly in a co-ordinated manner with the lands to the east of the site if they were to be developed. This issue in relation to linkage is also reflected in the concerns that I would have in relation to the overall design and layout being one that does not maximise permeability to this adjoining site to the east through to the public domain of The Meadows to the north.

On this point I note that Section 15.4.1 of the Development Plan which sets out the key design principles for healthy placemaking as including but not limited to: *“linkages and permeability to adjacent neighbourhood, facilities and streets.*

This section of the Development Plan also indicates that it is a policy of the City Council under the Development Plan to improve and strengthen permeability: *“by promoting the development of a network of pedestrian routes including laneway connections which link residential areas with recreational, educational and employment destinations to create a pedestrian environment that is safe, accessible to all in accordance with best accessibility practice”* (Policy SMT18).

I also note that under Policy SMT4 it states that the City Council will seek: *“to ensure the integration of high quality permeability links and public realm in tandem with the delivery of public transport services, to create attractive, liveable and high quality urban places”*.

My last point in terms of the Masterplan arguably given that the site is bound by land subject to different land use objectives under the Development Plan that regard was had to this fact in vision it puts forward for the lands. On this point I note that the adjoining lands to the east are zoned ‘Z9’, i.e. *“to preserve, provide and improve recreational amenity, open space and ecosystem services”*. With Section 14.7.9 of the Development Plan indicating that such lands can also form part of the strategic green infrastructure network within the Development Plan area. The adjoining lands to the east are subject to the Foxlands LRD appeal case (Note: I refer to Section 4 of this report above). Alongside these lands adjoin St. Anne’s Park which as said is host to several protected species as well as habitats.

Additionally, the transitional zonal character of the site setting is further added to by the fact that ‘The Meadows’ residential scheme that bounds the site to the north and northeast is zoned ‘Z1 - Sustainable Residential Neighbourhood’ under the Development Plan. The zoning objective for such lands as provided for under the Development Plan seeks: *“to protect, provide and improve residential amenities”*.

Moreover, Section 14.6 of the Development Plan, provides on the matter of transitional in character zoned lands that it is important to avoid abrupt transitions in scale and land-use between zones. In this regard it indicates that it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.

In these transitional zonal circumstances, I consider that a Masterplan would have been appropriate to firstly inform any future development on the subject site through to secondly accompanying this planning application in a compliant manner with Section 14.7.14 of the Development Plan.

Conclusion: Having regard to the above considerations I am not satisfied on the basis of the information provided with this application and on appeal that the proposed development is one that would not materially contravene the land use zoning objectives of ‘Z15’ zoned lands.

7.5. Built Heritage

- 7.5.1. Sybil Hill House is listed as a designated Protected Structure under Volume 4 of the Dublin City Development Plan, 2022-2028, which contains the Record of Protected Structures (Note: RPS No. 7910). The description given for it is simply its name. Sybil Hill House is also included in the National Inventory of Architectural Heritage (Note: NIAH Reg. No. 50030086) where it is given a 'Regional' rating. Alongside its categories of special interest are listed by the NIAH as 'Architectural', 'Artistic' and 'Historical' (See: Section 5.7.1 of this report above for the full description and appraisal).
- 7.5.2. Built as a country house gentleman's residence in circa 1750 and set in a larger formally designed as well as laid out parkland setting this detached T-plan three bay two storey house with a full height symmetrically placed canted bay and bow side elevations was subject to later extensions in c1810. At this point it was extended to the rear by way of an L-plan return placed to the rear. Additionally, in c1940s/1950s it was subject to a further two storey extension also placed to the rear of the earlier building layers.
- 7.5.3. Over time the use of this building has also changed from its original purpose as a family home to during its now residential institutional use which in the past also included its partial use by the Vincentian Order as an educational facility. Additionally, its curtilage over time has also reduced by incremental fragmentation including the construction of St. Pauls College to the south, The Meadows and Ardilaun Court to the north and playing pitches associated with St. Pauls College to the east.
- 7.5.4. I therefore firstly note that a Protected Structure is defined under Section 2 the Planning & Development Act, 2000, as amended: as *'any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure' and in relation to a protected structure or proposed protected structure, the meaning of the term 'structure' is expanded to include: a) the interior of the structure; b) the land lying within the curtilage of the structure; c) any other structures lying within that curtilage and their interiors, and d) all fixtures and features which form part of the interior or exterior of the above structures'.*
- 7.5.5. I consider that the Development Plan reiterates this definition as does the Architectural Heritage Protection Guidelines for Planning Authorities, 2011, as well as under

Chapter 11 of the Development Plan indicates that reference is had to the National Inventory of Architectural Heritage (NIAH) as part of assessing a building for inclusion on its Record of Protected Structures.

- 7.5.6. At the time of inspection though Sybil Hill House shows signs of general wear and tear associated with its age. Notwithstanding, I consider that it is in a good state of structural repair and condition given that its two significant building layers date to the c1750s and c1810 building layers. These period layers internally and externally are a highly intact and legible with most of their key features surviving internally and externally. With this also including important historical internal spaces. The level of intactness for building layers of interest, i.e. c1750s and c1810, adds in my view to this building's rarity value.
- 7.5.7. The submitted documentation with this application suggest that the proposed development would not involve any significant or material alterations to the physical fabric and envelope of Sybil Hill House internally and externally. With the development as indicated in the submitted documentation as lodged and as amended as giving rise to a change of use to part of its ground and first floor levels. The areas that would be subject to the change of use form part of its earliest building layer, i.e. its 1750 internal floor plan. It is also of note that the change of use relates to principal rooms that survive highly intact in the southern and western side of Sybil Hill House including its key reception rooms.
- 7.5.8. The change of use proposed is indicated to relate to the provision of lifestyle, communal, wellbeing and other support related spaces for the future occupants of the proposed integrated retirement residential community sought under this application. The remainder of Sybil Hill House, in particular six ensuite bedrooms at first floor level would be maintained as residential accommodation of the Vincentian Order. It would also appear to be suggested in the submitted documentation that the internal spaces where no change of use is indicated that these rooms and spaces would be used by the Vincentian Order.
- 7.5.9. I generally consider the suggested change of use as suggested without the need for any physical interventions is at face value welcome given the special character of this Protected Structure as it survives as the applicant indicates that no physical interventions are required to Sybil Hill House to accommodate it. It also accords with

Section 11.5.1 that generally the best way to prolong the life of a Protected Structure is to keep it in active use, ideally in its original use. This approach is consistent with Section 6.8.8 of the Architectural Protection Guidelines. However, this may not always be possible and where a change of use is sought it advocates that careful consideration is given to the implications for the fabric through to the character of the structure and its setting.

- 7.5.10. Notwithstanding, I note that Section 11.5.1 of the Development Plan in relation to change of use also states that whilst on occasion a change of use will be the best way to secure the long-term conservation of a structure, however, it states: *“where a change of use is proposed, the building should be capable of being converted into the new use without harmful extensions or modifications”*. I therefore raise concerns that this period building in totality is one that predates disability/universal access requirements through to compliance with Building Regulations and Fire Regulations.
- 7.5.11. On this matter I note that there is no planning record of a Section 57 declaration being sought or determined on the matter of what works would, or would not, in the opinion of the Planning Authority materially affect the character of Sybil Hill House, or any element of this Protected Structure.
- 7.5.12. In the absence of any clarity on such matters within the documentation provided I raise a caution to the Board that there is potential for the following scenarios to arise should permission be granted for the proposed development, as lodged, or as amended. That is to say: the loss of, the removal of, alterations to and/or the damage of surviving built fabric of interest such as to the staircases, doors and doorcases, skirting-boards, decorative plasterwork, alterations to or replacement of floor surfaces; integral floor coverings, integral structural elements and the like on foot of other codes outside of the Boards remit.
- 7.5.13. Given the quality of the two oldest building layers of Sybil Hill House and the very evident high quality of craftsmanship. Together with the high-quality use of materials used throughout them and the evident uniqueness in artistic expression of many of its key features I am of the view that achieving safe access to its interiors and within the building envelope alone would be likely to require some level of physical works / interventions to its surviving period built fabric. With the potential of such works to diminish its surviving authenticity through to has the potential to not only give rise to

diminishment and/or loss of surviving features of interest but also could if not appropriately managed give rise to the use of inappropriate materials and interventions that overtime could cause potential decay to its surviving period envelope.

- 7.5.14. Additionally, I consider that in achieving qualitative and accessible associated spaces within the interior of Sybil Hill House for those not only for the maintained part residential use but also for the future occupants of Blocks 'A', 'B' and 'C', would likely require amendments to the built fabric with this extending to the immediate setting of Sybil Hill House.
- 7.5.15. In this regard, as an example, I note that the use of its principal entrance door would be one of the potential areas where there is a potential for physical interventions. This entrance is positioned on its southern elevation which is the key elevation of this building, and it forms part of a careful balance of its central full height canted entrance bay and its two side elevations with its importance as a key feature also reflected in its physical materials. But also, by the difference in ground levels in comparison to the adjoining driveway to the south of it. With access from the adjoining space to the south via raised granite steps flanked by side walls.
- 7.5.16. This entrance in the absence of any interventions is in my view not one that could be considered as suitable for providing ease of access for mobility impaired persons. It is also my view that the changes that would be required for access alone at this point has the potential to give rise to a loss of this period buildings surviving level of intactness through to visual diminishment of the legibility of its key facade.
- 7.5.17. Internally another example is the very evident changes in ground levels and spaces would also be required. With this including but not limited to the significantly sloping floor levels at the western side of the first-floor level landing and its adjoining hallway that extends in a northerly direction.
- 7.5.18. In my considered opinion there is a lack of certainty on the realistic potential for the associated ancillary spaces associated with the integrated retirement community scheme to be provided without the need for provision improved access. Particularly given that the integrated retirement community use would be the predominant use and with the documentation indicating that the target population would be the over 65's. Therefore, should the Board be minded to grant permission, I recommend that it

include a condition that restricts the scope and extent of physical interventions to the interior and exterior of this Protected Structure.

7.5.19. This I consider is reasonable on the basis that the description of the proposed development including the accompanying documentation indicate that the change of use sought includes no physical works to this Protected Structure.

7.5.20. Also, I consider that such a requirement would be consistent with the requirements of the Development Plan which under Section 11.5.1 states that the City Council: *“will manage and control external and internal works that materially affect the architectural character of the structure through the development management process”* and that *“planning permission is required for any works, including repairs, which would materially affect the character of the structure or its special interest”*. Further Policy BHA 2(b) of the Development Plan states that the City Council will seek to: *“protect structures included on the RPS from any works that would negatively impact their special character and appearance”*.

7.5.21. In relation to the change of use sought under this application for Sybil Hill House I note that under Section 14.7.14 of the Development Plan lists ‘assisted living/retirement home’ as said is a permissible land use in ‘Z15’ zoned lands. With Section 14.3.1 defining a: *“permissible use as one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning considerations, including the policies and objectives outlined in the plan”*.

7.5.22. Further, the proposed development sought under this application seeks to maintain part of Sybil Hill House in residential institutional use by its current occupants. Their maintained residential use within this historic building would appear to be dependent upon the ancillary residential and communal facilities proposed within this integrated retirement community development scheme given that there appears to be no dedicated kitchen, living and other ancillary spaces for their part occupation of Sybil Hill House.

7.5.23. Alongside the Appellant indicates that the scheme as revised in its reduced number of 75 apartment units would include eight of them for use by the Vincentian Order. Therefore, there is likely to be a synergy between these eight apartment units which are designed for independent habitation should they be used in part or in total by the Vincentian Order. This is also against the context that within Sybil Hill House there is

no independent dining, living and other ancillary spaces for the exclusive use of those occupying the retained six ensuite bedrooms at first floor level. On this matter I consider that there is an inadequate clarity given to the requirements of the Vincentian Order in terms of their occupation within the site through to operations of their provincial headquarters from this location as part of the proposed development. Notwithstanding, residential institutional use is also listed as permissible under Section 14.7.14 of the Development Plan. Furthermore, it is generally accepted that the re-use of period buildings like Sybil Hill House can secure their future, subject to safeguards. With Policy BHA2 of the Development Plan stating that the City Council will: “*ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure*”.

7.5.24. Overall, I consider that the general principle of the functional change of use sought under this application for Sybil Hill House is one that is consistent with Section 11.5.1 and Policy BHA2 of the Development Plan. However, given the concerns raised above I raise concerns that there is a lack of certainty in terms of the likely potential impact of the functional change of use to the physical structure of this Protected Structure. With this lack of certainty not in my view overcome by a robust Heritage Impact Assessment accompanying this application. On this point I note that Policy BHA2 of the Development Plan also requires under subsection (c) that any works even be quantified or supported by Heritage Impact Assessment prepared by a suitably qualified and experienced expert in this field. Alongside this Development Plan policy requires regard to be had to the Architectural Heritage Protection Guidelines under sub condition (a). With these guidelines setting out the scope for such impact assessments under its accompanying Appendix B. The accompanying impact assessments provided with this application are not consistent with Appendix B in terms of format and in terms of providing certainty on the potential impacts of the proposed development on this Protected Structure. This is also in the context of as said sub condition (e) of Policy BHA2 requiring that this type of application, i.e. one that includes a change of use, to demonstrate that any new and adapted uses are compatible with the architectural character and special interests of the Protected Structure. This concern is further reinforced by Section 11.5.1 of the Development Plan which states that: “*all planning applications relating to protected structures shall contain the appropriate level of documentation in accordance with Article 23 (2) of the*

Planning and Development Regulations, 2001 (as amended) and Chapter 6 and Appendix B of the Architectural Heritage Protection Guidelines or any variation thereof including where relevant an Architectural Heritage Impact Assessment". I am not satisfied that despite the suggested lack of physical intervention to Sybil Hill House as part of its use within the nature, extent and scale of development sought under this application is consistent with these requirements.

- 7.5.25. In relation to the proposed development and the curtilage of Sybil Hill House, I refer to the definition for a Protected Structure as set out above and also to Section 13.1.1 of the Architectural Heritage Protection Guidelines which defines the curtilage of such structures as follows: *"includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of these guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure"*.
- 7.5.26. I consider that this definition aligns with the Planning & Development Act, 2000, as amended, for Protected Structures and is consistent with Section 15.15.2.3 of the Development Plan states: *"the land lying within the curtilage of the structure, any other structures (and their interiors) lying within that curtilage. The protection also extends to any features specified as being within the attendant grounds including boundary treatments"*.
- 7.5.27. Against this context it is of note that Policy BHA2 of the Development Plan indicates that the City Council will: *"ensure that new development does not adversely impact the curtilage or the special character of the protected structure"*.
- 7.5.28. In determining the curtilage of Sybil Hill House I have had regard to the original design and layout intention of Sybil Hill House as implemented on the basis of historical information provided. It is without doubt that it was set in a more extensive in area formally designed but parkland setting within which there was a hierarchy of spaces and features both manmade and natural. This setting is now reduced to the modest 1.57ha area of this appeal site. With the lands associated with the Ardilaun Court residential scheme and the adjoining lands to the east that consist of the former playing pitches of St. Pauls College appearing to be the most recent fragmentation that appears to have occurred to the curtilage of Sybil Hill House.

- 7.5.29. Additionally, I have had regard to the lands within the ownership of the applicant and the functional land use synergies between them. I note that this includes that related to St. Pauls College to the south of the site. These lands are indicated in blue in the accompanying documentation. I also observed that there is an overlapping use of the sole entrance onto Sybil Hill Road that serves the subject site and St. Pauls College. For clarity I again note that the blue line area is not indicated to include the plot of No. 18 'The Meadows'.
- 7.5.30. On these points I note that there is a lack of a physical boundary between the redline site area and the blue lined adjoining lands that encompass St. Pauls College in their existing state. In my view it is not clear on the basis of the information provided with this application and by parties to this appeal case whether or not there is any involvement between the Vincentian Order and the day-to-day operations/management of the adjoining St. Pauls College educational facility. I did however observe an overlapping use of the entrance serving the appeal site and St. Pauls College though this is not the primary entrance serving it onto the public domain of Sybil Hill Road during my inspection of the site.
- 7.5.31. As a precaution I also note that during the site inspection I observed the presence of a pedestrian sized decorative metal gate in the eastern boundary of the site. I consider that it is probable that this gate in the past provided permeability between Sybil Hill House and the adjoining former playing pitches of St. Pauls College. At the time of inspection there was no visible evidence or otherwise that would support any recent permeability between the subject site and these adjoining lands via this padlocked gate. Also, there is no right-of-way indicated in the accompanying documentation provided with this application or indeed in the recent planning history documents relating to these adjoining lands, including the LRD Foxland's application (See: I refer the Board to Section 4 of this report above).
- 7.5.32. The amended drawings submitted with this appeal indicate that there is a mismatch in terms of the vehicle, pedestrian and cycle connections serving the LRD Foxland's scheme through the southern portion of this site where they overlap with its red line site area.
- 7.5.33. I therefore note a concern in my view that there is no synergy between the LRD Foxland's scheme and the proposed permeability from its lands via the appeal site'

owners land to Sybil Hill Road with the development sought under this application. Particularly given the sensitivity of the site's curtilage and that the remaining historically aligned driveway as well as the ha-ha feature have potential to be adversely impacted by the same. Through to, if the LRD Foxland's scheme were to be permitted, there is potential for ambiguity and greater potential impact on these features that are important to the surviving legibility as well as special character of Sybil Hill House.

- 7.5.34. These concerns in my view add to the failure of this scheme as lodged, and as amended, albeit as amended proposing an additional pedestrian access towards the northern end of the Sybil Hill Road boundary, in maximising permeability with its setting in a manner that accords with Policies SMT4, SMT18 and Objective SMT036 of the Development Plan which essentially seeks enhanced active travel modes within neighbourhoods as part of developments.
- 7.5.35. Further, maximising permeability would arguably be one of the key matters considered as part of any Masterplan vision for these 'Z15' zoned as well as transitionally zoned and lands that have potential for connectivity to the public domain. This approach would align with the Development Plans plan led spatial integration approach for achieving healthy placemaking in a suburban neighbourhood setting like this.
- 7.5.36. Based on the above considerations, I am satisfied that the curtilage of Sybil Hill House for the purposes of this assessment relates to the red line site area only. With this including but not limited to Sybil Hill House the built and natural features of interest it contains and access onto Sybil Hill Road on its southwestern corner. Any modifications to shared boundaries and/or Third-Party lands I consider is a separate civil matter and it would be standard practice to include an advisory note for a site that is landlocked to its north, east and south, the provisions of Section 34(13) of Planning and Development Act, 2000, (as amended). This states that '*a person shall not be entitled solely by reason of a permission under this section to carry out any development*'. Therefore, in the event permission is granted, there may be other legal considerations that apply, and which the landowner may need to address outside of the planning system.
- 7.5.37. In terms of the subject curtilage of Sybil Hill House as it now presents. I consider that it is for the purposes of this application compromised of the green spaces and limited

covering of buildings of the 1.57ha site area which is indicated in red in the accompanying documentation with this application. Additionally, Sybil Hill House is also a period building whose surviving curtilage is recognised by the NIAH as forming an intrinsic part of its surviving special character and interest. Within this curtilage is the surviving stretch of its surviving driveway that in its reduced length provides access to Sybil Hill Road and the surviving granite stone 'ha-ha' feature located to the south of its principal façade. With these built features set into a mature landscaped setting that though much reduced in its size is in part visually contained by its mature tree planting and two woodland pockets to its east as well as west.

- 7.5.38. As such the mature landscape curtilage provides a condensed level of green setting intactness upon which Sybil Hill House's original design, layout and setting intent can in my view be appreciated. Particularly in terms of it as constructed for Mr. John Barlow back in circa 1750 through to its later circa 1810 extension which was purposefully designed to complement the original house. Within this context the views towards Sybil Hill Houses key elevations, i.e. its southern and western elevation, from its sweeping driveway and from its 'ha-ha' feature are key appreciation viewpoints in its curtilage where the original design intents of the earliest building layers can be appreciated. These particular viewpoints have the potential to be significantly diluted by any addition of new buildings, structures and spaces through to any unsympathetic landscaping intervention or loss of surviving man-made features of interest.
- 7.5.39. Additionally, it is of note in my view that Sybil Hill House's site setting is one that could be described as consisting of it being positioned at the westernmost end of a green corridor that extends westwards from Dublin Bay over St. Anne's Park and the adjoining former playing pitches of St. Pauls College. This corridor is recognised under Figure 10-1 of the Development Plan as part of an existing strategic green and blue networks within Dublin City. Within which it is acknowledged to host a variety of protected species and valuable ecologically habitats are present. It is therefore a site and setting that is highly sensitive to change particularly as a result of its built and natural sensitivities, with its natural features potentially being of biodiversity and ecological value.
- 7.5.40. In this context I raise concern that the nature, scale, and extent of the proposed development that is proposed to Sybil Hill House and its curtilage has the potential to materially and adversely impact its appreciation through to diminish its intactness and

the legibility of its original design intent. This is on the basis of the following considerations:

- The curtilage would be compromised by the addition of Block 'A', 'B', 'C', the ancillary structures such as bike and bin storage through to their surroundings including that of Sybil Hill House being modified to accommodate a hierarchy of spaces, accessways and ancillary provisions including parking. These additions cumulatively would materially erode the modest designed landscape that formed part of Sybil Hill House original design intention.
- There is a lack of subservience between Sybil Hill House and Block 'A'. In this regard Sybil Hill House is a period 2-storey building with a parapet height of 7.97m and internal floor area totalling 1,164.46m². Whereas Block 'A' is a part four and five storey building which is double the height of Sybil Hill House at 15.6m and it would also be over double the floor area of Sybil Hill House at 2,855m². Additionally, whilst having an L-shape built form with its southerly most projection having a width of 11.4m, Block A would be visually dominant despite its L-shaped footprint against the original façade of Sybil Hill House. In this regard when the western and eastern bays are taken account of Sybil Hill House's front façade with its bow side elevations has a maximum width of 18.8m. Whereas Block 'A' has an overall width of c51.4m when combined with its northern end. Moreover, Block 'A' which at its nearest point to Sybil Hill House would have a length of 33.8m. This I note excludes the northernmost portion of Block A which further extends beyond the northernmost elevation of Sybil Hill House. Whereas the western façade of Sybil Hill House addressing it has a more modest length of 28.9m and as said the southernmost end of this building would be forward of Sybil Hills House front building line. With Block 'A' being positioned within 25m of the western elevation at its nearest point, the second key elevation of this Protected Structure. With the area in between comprised of largely associated modified spaces such as accessways and parking spaces.
- The provision of Block 'A' would result in the loss of mature trees and manicured green space on site which in its current state provides significant visual screening of Sybil Hill House from the surrounding urban landscape. Though much of the natural features are early mature and not original to the c1750s and later interventions. Notwithstanding, the existing trees, woodland groups and green spaces contribute to the sylvan character of the adjoining stretch of Sybil Hill Road. They also add to the

mature tree planting on either side of this public road which together dilute the level of change that has occurred in the setting of Sybil Hill House, including on what was once part of its larger curtilage.

- The positioning of Block 'A' and 'B' to varying degrees break the main front building line of Sybil Hill House. With this being particularly the case for Block 'B' which significantly projects over 20m further south of the principal façade of Sybil Hill House. These buildings with their heights ranging from three storeys in the case of Block 'B' and part four as well as part five storeys for Block 'A' would cumulatively dominate the more diminutive two-storey built form of Sybil Hill House. In this context I also note that Block 'B' which would be positioned at its closest point within 19.8m of Sybil Hill House has a north south axis that has a length of 46.8m. When taken together with its positioning on site and the positioning of Block 'A' together with the close proximity of these buildings and the intervening spaces largely comprised of ancillary spaces serving the integrated retirement community scheme Sybil Hill House would in my considered opinion no longer be the dominant key built feature within its remaining c1.57ha curtilage.

- In terms of relationship with Sybil Hill Road the proposed development would bring buildings within 15m of this public domain and Block 'A'. With this new building being visible from the public domain of this road. Whereas the existing context is such that there are limited and localised views of Sybil Hill House and what presents to the eastern side of Sybil Hill Road is dense natural features that limit views into its limited curtilage. If the proposed development were permitted as lodged, or as amended, Sybil Hill House as visible from the eastern side of Sybil Hill Road would be a subservient feature recessed back from Block 'A' and the more forward front building of the buildings that comprise the adjoining St. Pauls College educational facility.

- The proposed development includes minimal compensatory planting along the northern boundary of the site to compensate for the loss of Tree Line 1. Thus, the proposed development if permitted, as lodged, or as amended, would diminish Sybil Hill House's current visual and physical detachment from its existing suburbanised surrounding context.

- The key surviving features within the curtilage of Sybil Hill House, in particular the curving alignment of the surviving avenue and the 'ha-ha' garden feature would not be

as visually apparent and legible in proposed layout of buildings, structures and spaces of the proposed development as lodged or as amended. With the alignment of the avenue being also revised to meet the quantum of development proposed. With the design also including additional vehicle access ways with the principal and secondary vehicle accessways aligned with car parking spaces. Within this context together with the provision of pedestrian/cycle ways the surviving avenue alignment legibility would be significantly diluted and would not contribute to the surviving special character of Sybil Hill House. Against this context, historically as previously noted in the assessment above, the driveway continued where it looped behind the rear of Sybil House and continued northwards to where it provided access onto what is now the Howth Road.

- Block 'A' is provided with a more meaningful and quantitative immediate setting in terms of green amenity space, particularly to the south of it, than Sybil Hill House. Additionally Block 'B' is provided with more meaningful and quantitative green space when compared to Sybil Hill House. The immediate setting around Sybil Hill House is not one that as proposed under this development as lodged or as amended that seeks to ensure a level of legibility of Sybil Hill Houses designed connection with a green landscaped parkland designed naturalistic setting. Including the angularity of the driveway to the front which effectively is a turning space for ten car parking spaces. This is at odd with Sybil Hill House's original design intended relationship with the avenue serving it, its associated green spaces through to garden features like the 'ha-ha'. In turn this further erodes the special character of Sybil Hill House, the legibility of its original design intention through to its surviving intactness.
- This proposal seeks to relocate a section of the driveway closer to the western elevation of Sybil Hill House which further erodes its surviving relationship with green spaces that surround it.
- The placement of compensatory planting is one that has the potential to diminish the appreciation of the principal and western elevation of Sybil Hill House from key viewpoints to the southwest. This is by virtue of the placement of tree planting that would block views of these two facades which are the primary elevations of note of this Protected Structure as appreciated in its setting. It is considered also that the placement of tree features also fails to show an understanding of the relationship between the principal façade, its key internal rooms and the ha-ha feature.

- 7.5.41. In addition to these concerns I note that the Planning Authority's second reason shared similar concerns including they considered that the scale, massing, height and layout of the proposed development was not sensitively sited and designed and therefore would have an adverse impact on the setting and curtilage of Sybil Hill House, a Protected Structure. It further considered that it would negatively impact its special character and appearance with the removal of mature trees from the curtilage also raised as a consider. This reason for refusal considered that the proposed development would be contrary to policy BHA2 of the Development Plan.
- 7.5.42. My final comment is that the NIAH notes in its given description of Sybil Hill House its mature parkland, with ornamental trees to the front and west elevations. It also notes its surviving granite walled ha-ha to the front, its mature gardens, lawned areas and trees with curved avenue leading to its entrance onto Sybil Hill Road. I consider that the nature, scale, and extent of buildings, associated structures and spaces that as part of being facilitated on site would necessitate a significant loss of natural features and erosion of Sybil Hill House's mature garden setting. Within which the historic surviving alignment of its curving driveway would be lost and its ha-ha landscape feature together with critically Sybil Hill House itself would be significantly materially and adversely diminished by the significant buildings, structures and hierarchy of new spaces proposed under the development sought under this application. The concerns raised in this section of this assessment which correlate with those raised by the Planning Authority in their notification to refused permission is not overcome by the amended design option proposed which puts forward only modest amendments to its design and layout.
- 7.5.43. Conclusion: On the basis of the above I concur with the Planning Authority's second reason for refusal in that the proposed development, if permitted, would be contrary to Policy BHA2 of the Development Plan which ultimately seeks to conserve and enhance protected structures and their curtilage. However, should the Board be minded to grant permission despite the concerns raised I recommend that it has regard to Section 15.18.6 of the Development Plan. This section of the Development Plan seeks to restrict the provision of such additional structures to buildings in the interest of safeguarding the visual amenities. I therefore recommend that the Board include an appropriately worded condition that restricts the provision of any additional structures ranging from plant, telecommunications, equipment, cables, and other fixings to Sybil

Hill House as well as Blocks 'A', 'B' and 'C'. This is based on not only protecting the built character and integrity of Sybil Hill House but also to limit visual clutter in a manner that accords with Policy BHA2 of the Development Plan. I note that this Development Plan policy seeks in part to conserve the character of this period building as well as its curtilage from developments detrimental to its character and integrity. The provision of such a condition would in my view be appropriate in ensuring the protection of this sensitive to change Protected Structure and in turn it would accord with the proper planning and sustainable development of the area.

7.6. Residential Amenity

7.6.1. Preliminary Comment: The Third-Party observers in this appeal case raise a number of residential amenity impact concerns in relation to the proposed development, if permitted. I note that a wide range of concerns raised in general in these observations. These overlap with other broad headings within this assessment and for clarity I have had regard to the Third-Party observers concerns that have extended beyond residential amenity impact as part of my overall assessment of the merits of the proposed development. I also propose to provide a brief comment on the residential amenity of future occupants of this scheme, if permitted. Therefore, under this section I propose to concentrate on the following residential amenity impact concerns:

- Visual Overbearance & Overlooking
- Daylight, Sunlight & Overshadowing
- Nuisances
- Residential Amenity Impact for Future Occupants
- Depreciation of Property

7.6.2. Visual Overbearance & Overlooking

7.6.2.1 I consider that the subject site forms part of a suburban neighbourhood of Dublin setting where a degree of change is to be expected. Alongside existing development in this neighbourhood is predominantly characterised by a degree of overlooking and visual observance between properties.

7.6.2.2 In recent times the pattern of residential development in this area has resulted in this receiving environment accommodating taller and more dense people

intensive land uses. This aligns with local through to national planning policy provisions which in a consistent manner support more compact, dense, and efficient use of zoned, serviced, and accessible lands, subject to safeguards. The changing pattern of residential development is apparent at the adjoining residential scheme of 'Ardilaun Court' which includes taller and more dense people intensive use buildings that includes multi-unit residential blocks of similar height, mass, and volume to Block A proposed under this application. Whereas the older residential scheme of 'The Meadows' consists of less dense two-storey detached dwellings which are consistent with many of the more established residential schemes that characterise this suburban area.

7.6.2.3 In relation to the concerns regarding the proposed developments visual overbearance on its site and setting, I firstly consider that the proposed development would give rise to the issue in the context of the 2-storey Sybil Hill House.

7.6.2.4 This Protected Structure has a parapet height of 8.8m. Whereas Block 'A' has varying heights of 12.6m to 15.6m with its southernmost elevation forward of this existing building's principal building line. Notwithstanding the height of Block 'A' in my view is consistent with the height of the nearest multi-unit residential blocks in Ardilaun Court located alongside the northern boundary of the site. With these blocks characterised by three, four and five storey building height. With the available details in relation to this residential scheme indicating that the tallest building height alongside the northern boundary of the site is 4.15m above that of the proposed Block 'A' at its highest point.

7.6.2.5 Further the separation distances between opposing windows between Block A and the nearest residential block in Ardilaun Court serving habitable rooms I consider exceeds the minimum standards set out under SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024. These Guidelines set out a separation distance of at least 16 meters between opposing windows serving habitable rooms. In this case the nearest residential block within Ardilaun Court and Block 'A' has a lateral separation distance given as 22.9m. This significantly exceeds the said Guidelines but also modestly exceeds the lateral separation distances set out in the Development Plan which reflect up to recently the traditional standard of 22m in such a context.

7.6.2.6 I am also cognisant that a private individual does not have a right to a view over third party lands and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement.

7.6.2.7 While I acknowledge that the proposed development, particularly Block 'A', would give rise to a significant change in context in relation particularly to Ardilaun Court buildings that are in proximity of the site's northern boundaries, notwithstanding, I am of the view that further visual softening could be achieved by way of additional landscaping, particularly semi-mature tree planting inside the northern site boundary to lessen the visual appearance of Block 'A' when viewed from these blocks where southerly outlook is onto green space including mature natural features.

7.6.2.8 I am also satisfied that this provision is met for Block 'B' and Block 'C'. Though I note that the two-storey in height Block 'C' is positioned towards the northern and northeastern boundary of the site. With its nearest opposing first floor elevation to 'The Meadows' as lodged and as revised having a separation distance of 15.054m. However, none of its opposing first floor level windows are within 16m of the nearest residential properties of 'The Meadows' residential scheme. With the nearest property within this scheme being No. 18 'The Meadows' which as discussed may be in habitable use by the Vincentian Order.

7.6.2.8 I also note that Block 'C' with its flat roof over has a maximum 6.37m height and is also positioned in proximity to the northern boundary. An examination of the planning history of 'The Meadows' suggests that the properties it contains have a ridge height of c7.9m. Though I note the contextual drawing shows a height of c7.4m for 'The Meadows' properties in the vicinity of the northern boundary. Thus, the adjoining The Meadows scheme is between c1.03m to 1.5m taller than Block 'C' and it would appear from inspection of the site setting that there is only a modest difference between the ground levels of the northern portion of the site and the nearest residential units within 'The Meadows' scheme.

7.6.2.9 Irrespective of this minor height difference having regard to the internal layout of Block 'C' and its subservient height to 'The Meadows' I am of the view that it would not give rise to any undue visual overbearance or overlooking.

Further there is solid c2m in height boundaries *in situ* between as well as a number of mature natural features which would be retained as part of the proposed development sought.

7.6.2.10 Additionally, the landscaping scheme also includes new tree planting within the surrounding areas around the three blocks proposed, the ancillary structures and Sybil Hill House. The separation distance between the nearest residential properties in 'The Meadows' and the other blocks within this proposed development as lodged and as amended meet local through to national planning provisions between opposing first floor windows.

7.6.2.11 For clarity I also note that western side elevation of Block 'C' has a blank façade. It is also subservient in its height to the nearest residential block in Ardilaun Court which I further note has a three-storey height to the west of it. There would also be c11m separation between this proposed building and the boundary with this adjoining residential scheme. As well as there is a mature tree positioned within this separation space which is to be retained as part of the proposed development that is sought as lodged and as amended.

7.6.2.12 I am also of the view that Block 'C' would not give rise to overbearing or overlooking concerns to Ardilaun Court residential units within its vicinity. Nor would any visual overbearance or overlooking arise from its principal façade which would have oblique views towards No.s 15 and 16 'The Meadows'.

7.6.2.13 Furthermore, in relation to Block 'B', this three-storey building (Note: c9.6m high) would be located to the south of No.s 15 and 16 'The Meadows' residential scheme. The drawings show a lateral separation distance between these existing properties and proposed Block C at their nearest point would be 20.6m. The drawings also show the proposed block as having a blank façade with no windows and there would be planting along the inside of the boundary between these properties.

7.6.2.14 As such I consider that Block 'B' whilst giving rise to a change in outlook for these two particular properties but lesser so for No. 14 'The Meadows' would result in a graduation of height from two storey to three storey with the height kept to the minimum by the inclusion of a flat roof over as part of its overall built form. I am satisfied that 'Block B' would not be visually overbearing, or that would it give rise to any adverse overlooking on the nearby 'The Meadows' properties mentioned above.

7.6.2.15 Conclusion: Given the urban location of the site, a certain degree of change and overlooking is to be anticipated. While I consider that the capacity of the site and its setting to absorb the proposed development given the sensitivities of this location is a separate matter, I am satisfied that the proposed Blocks 'A', 'B' and 'C' are generally not out of context with the pattern of development in the vicinity.

I also consider that, if permitted, they would not impact upon the existing residential of properties to such an extent that would support a refusal of permission.

Should the Board be minded to grant permission I consider that further visual screening and mitigation measures could be achieved by way of condition that would lessen the level of actual overlooking that would arise, particularly between Block 'A' and Ardilaun Court.

This I note was considered to be a reasonable approach by the Planning Authority should permission be granted with more robust screening measures for example providing less perception of being overlooked by the new units from Ardilaun Court. The relationship between the proposed development and other existing buildings within its setting provided ample lateral separation distance with Building 'B' and Building 'C' both designed to include mitigation measures and design measures to ensure no undue overlooking or visual overbearance arises with The Meadows. With these buildings both having diminutive in building height two and three storey built forms and no opposing windows or amenity spaces that would give rise to any actual overlooking that would be exceptional in this urban setting.

7.6.3. Daylight, Sunlight and Overshadowing

7.6.3.1 The Third-Party Observers raise concern that the overall height, mass, and scale of Block 'A', given its orientation and proximity to the southern residential blocks of the Ardilaun Court would give rise to serious injury of their residential amenity by way of diminished daylight, sunlight, and overshadowing. In relation to this concern they contend that the impact would adversely impact both their internal and external amenity open spaces. I note that a similar concern is raised for the childcare facility located alongside the northern boundary of the site (Note: Karaville Montessori & Childcare). With its outdoor play area positioned in close proximity to the northern boundary of the site.

7.6.3.2 In relation to these concerns, given the pattern of building heights in the surrounding site context, i.e. the building heights of Ardilaun Court and the Little Sisters of the Poor, this proposal does not rely on SPPR 3 of the Building Height Guidelines. Notwithstanding, it is of note that Section 3.2 of these Guidelines indicate that the form, massing, and height of proposed developments, should be carefully modulated so as to maximise access to natural daylight, ventilation, and minimise overshadowing.

7.6.3.3 I am also cognisant that these Guidelines set out that '*appropriate and reasonable regard*' should be had to the quantitative performance approaches to daylight provision outlined in guidelines like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Alongside these Guidelines indicate where a proposal may not be able to fully meet all the requirements of their provisions this must be clearly identified and that in such circumstances that the competent authority 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. Examples given include securing comprehensive urban regeneration through to achieving effective urban design and streetscape interventions.

7.6.3.4 The current Apartments Guidelines also highlight the importance of providing acceptable levels of natural light in new apartment developments, which I consider should be weighed up in the context of the overall quality of the design and layout of the proposed scheme. These Guidelines further advocate the need to ensure an appropriate scale of urban residential development and indicate that regard should be had to BRE or BS standards when quantitative performance approaches are undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.

7.6.3.5 Similarly to the Building Height Guidelines they provide where an applicant cannot fully meet these daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting.

7.6.3.5 I acknowledge that an updated BS EN 17037:2018 'Daylight in Buildings' guide replaced the BS 8206-2: 2008 in May 2019 (in the UK) and an Irish Standard (IS) EN 17037:2018 has also been published. I further note that Appendix 16 of the Development Plan, which specifically deals with sunlight and daylight, indicates that: *"the planning authority understand that, at present, there is some ambiguity in what may be considered the appropriate standard to apply for daylight and sunlight assessments. There is a period of transition at present, during which BS 8206-2 has been superseded, but the relevant guidance within BR 209 has not yet been updated. Thus, both BS 8206-2 and BS EN 17037 have relevance"*. It further clarifies that as an interim measure during this transition period, the Planning Authority will look to receive relevant metrics from BR 209, BS 8206-2, and BS EN 17037. Alongside proposals will continue to be assessed on a case-by-case basis depending on site specific circumstances and location.

7.6.3.6 I also note that Section 5.3.7 of the Compact Settlement Guidelines sets out that in cases where a technical assessment of daylight performance is considered by the Planning Authority to be necessary regard should be had to quantitative performance approaches to daylight provision outlined in the following guides: *"A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context"*.

7.6.3.7 The Daylight & Sunlight Assessment provided with this application concludes that all of the residential units as well as the communal open spaces and amenity space associated with these units meet or exceed the required standards. In this regard it shows that rooms in the proposed residential blocks sought under this application would exceed the minimum recommendations for internal daylight provision as set out in BRE Guide and BS EN17037. However, I note that this assessment does not include an examination of the retained residential amenity of Sybil Hill House. In relation to daylight analysis of the proposed residential units the daylight provision was checked using the target illuminance (E_T) method. In this regard all apartment units and maisonette units were checked. This showed that all rooms tested meted or exceed the BRE's minimum recommendations for internal daylight provision in dwellings. In relation to the communal amenity spaces it indicates that they should receive a greater than 2 hours of sunlight on March 21st (Note: Table 25).

No assessment however is provided in terms of the daylight of the private amenity spaces.

7.6.3.8 In terms of existing buildings, Section 5.2.1 of the assessment firstly examines the potential impact on No.s 16, 17, 18, 19, 20 The Meadows; St. Pauls College and Apartment 1 and 2. In this regard this assessment indicates that they had no access to drawings or images to the rear of these properties, however, planes were drawn from 1.6m above ground level which they considered should correspond roughly to the centre of the windows as these are closest to the proposed development.

7.6.3.9 Using the '25 Degree Line Test' the analysis shows that none of the 25-degree planes cut the proposed development. As such the obstruction angle is less than 25 degrees for all of the properties/windows tested. It therefore considered that the proposed development will have a negligible impact on the diffuse skylight enjoyed by the existing neighbouring dwellings on "*Circular Road*". The mention of Circular Road I consider appears to have been done in error. With all the tables and supplementary details provided within the assessment clearly relating to the site and existing buildings within its immediate setting.

7.6.3.10 The daylight and sunlight assessment provided also seeks to demonstrate that the internal daylight and skylight of the adjoining properties at 'Ardilaun Court' and 'The Meadows' would be impacted to a negligible extent with values of Vertical Sky Component (VSC) over 27%. It indicates that the tests show that there will be a negligible impact on sunlight to the neighbouring gardens with the adjoining properties of No.s 16 to 20 'The Meadows' as well as St. Pauls College. However, it indicates that the existing VSC values for Ardilaun Court 1 and 2, given their setback from the boundary of the site, results in a situation where any building of height, mass and scale setback from the perimeter boundary will cause the windows to fail the VSC test. This can be seen in Table 13 to 19 which shows that not all windows tested in Ardilaun Court 1 and 2 would pass the VSC test.

7.6.3.11 It was on this basis that an examination of the 'mirror-image' building of the same height and size as Ardilaun Court 1 and 2 as well as providing an equal distance away on the other side of the boundary was provided as part of the daylight and sunlight assessment. This assessment is provided for under 'Appendix F' of the

BRE Guide which provides an alternative criterion for examination. When the 'mirror image' is applied the assessment indicates that the results in relation to sunlight and daylight impact on existing properties meets its recommendations. The assessment considers that Block 'A' would have a negligible impact on impact on sunlight and daylight to existing Ardilaun Court 1 and 2 properties. It is also contended that Ardilaun Court 1 and 2 are located so close to the boundary that they can be considered to be taking more than their fair share of light and in turn it is appropriate in this circumstance to apply 'Appendix F' for the assessment of daylight and sunlight impacts in the assessment of the impact of the proposed development.

7.6.3.12 In relation to the use of the mirror image test I note that Compact Settlement Guidelines under Section 5.3.1 and SPPR 1 recognise the role of providing adequate separation distances in part to ensure not only privacy but also adequate levels of daylight and sunlight penetration. With this scheme exceeding the minimum 16m lateral separation distance between opposing windows at first floor level as required under SPPR 1 of these Guidelines and being consistent with the more generous 22m separation distances for apartments provided for under Section 15.9.17 of the Development Plan.

7.6.3.15 Additionally, I note that the Sustainable Compact Settlement Guidelines whilst setting out that regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. It also provides a level of discretion in the assessment of daylight under 5.3.7. Particularly indicating in the context where good separation distances are provided between existing and proposed buildings.

7.6.3.16 While Section 5.3 of the daylight and sunlight assessment shows that the sunlight impact on neighbouring properties of No.s 16 to 20 The Meadows in terms of their gardens which would bound the site would be minimally impacted. With all of these particular properties open space amenities achieve in excess of 2 hours of sunlight availability in the proposed context over 50% of their area on March 21st. Also, with the sunlight amenity drawings show negligible or no reduction in the area receiving sunlight on March 21st between the existing situation and the proposed situations.

7.6.3.17 Despite the findings of the daylight and sunlight assessment I raise a concern that it does not include an assessment of the adjoining private amenity spaces to the immediate south of the Ardilaun Court 1 and 2 elevation that oppose Block 'A' in terms of the existing and proposed situation on March 21st. This concern is based on the overall height, mass through to volume of Block 'A' together with the setback of its northern elevation from the boundary from the southern elevation of Ardilaun Court 1 and 2. On this point I also note that the northern elevation of Block 'A' as lodged has an indicated separation distance of 22.9m at its closest point. I also note that the Shadow Images shown in Appendix A of the daylight and sunlight assessment submitted show that the amenity spaces located between the northern boundary of the site and located to the south of Ardilaun Court 1 and 2 would be significantly overshadowed at 8am; 10am; 12pm; 2pm and 4pm on March 21st. Further they show significant overshadowing of Sybil Hill House from Block 'A' at 6pm on June 21st through to they show significant overshadowing in general of key communal open spaces serving occupants of the proposed scheme if permitted.

7.6.3.18 In this case I raise concerns that in applying the hypothetical mirror image scenario for assessing the potential daylight and sunlight impacts on Ardilaun Court 1 and 2 suggests that the proposed development would give rise to an acceptable fair determination of this matter. However, in my view it further highlights the lack of a coherent adherence with the Masterplan submitted with the development of Ardilaun Court development scheme which included the space in which Block 'A' is sited as open space. Through to it further adds to the concerns of piecemeal development of this 'Z15' zoned lands in the past. Particularly in terms of the curtilage of Sybil Hill House which has been incrementally eroded and reduced over time by way of their redevelopment and in this context the lack of a vision whereby this block of 'Z15' lands have been synergistically developed overtime. This is also a concern should further developments be sought for this parcel of land going forward.

7.6.3.19 Moreover, it also adds to the concerns raised in this report in relation to the appropriateness of the scale of the proposed development sought on what is concluded within this assessment as highly sensitive to change site and setting.

7.6.3.20 Conclusion: In conclusion, I consider the proposed scheme as lodged and as revised would give rise to an adverse diminishment in the established residential amenities of the adjoining Ardilaun Court by way of overshadowing.

7.6.4. Nuisances Construction and Operational Phases

7.6.4.1 The Third-Party Observers raise concerns that the proposed development, if permitted, would give rise to a number of nuisances that would diminish their residential amenities during the construction and operational phases. In relation to this particular concern, it is my considered opinion that the main impacts would arise during the site clearance, site preparation and construction phase during which times noise, dust, vibrations, light, and other associated nuisances can be expected. There is also potential for obstruction of traffic movements along Sybil Hill Road which I note is a regional road (Note: R808) and that junctions with another regional road c215m to the north, i.e. Howth Road (Note: R105). With these works prior to the operational phase in general generating a different pattern of traffic movements associated with deliveries, removal of waste, construction workers vehicles and the like.

7.6.4.2 I consider that overall, the nuisances that would arise during the pre-operational phases would be of a temporary nature, not exceptional in a changing suburban environment under current planning provisions as well as guidance that seek compact, more dense development on brownfield services zoned lands, and it is standard practice for developments like that proposed under this application to be carried out in compliance with relevant codes of practice. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission including but not limited to Construction Management Plans, Resource Waste Management Plan through to Environmental Health related conditions. I therefore recommend that the Board include conditions designed to mitigate undue impact during the pre-operational phase as part of any grant of permission.

7.6.4.3 In terms of the operational phase I am of the opinion that the nature of the works is such that I do not expect noise levels that would be exceptional given the land use is not one that could be reasonably be considered to be out of character with land uses within urban neighbourhood like this. Other matters that have the potential to give rise to nuisances such as overspill of lighting, arrangements for the collection of wastes, mobility management of the integrated retirement community, operational management of this community and the like are also matters that would be ordinarily addressed by way of appropriately worded conditions. I therefore recommend that the

Board include conditions designed to mitigate undue impact during the pre-operational phase as part of any grant of permission.

7.6.4.4 Conclusion: I am satisfied that expected nuisances arising from the various phases of the development sought under this application are not such that they would sustain a refusal of permission, and they can be appropriately dealt with by way of the use of appropriately worded conditions.

7.6.5. **Depreciation of Property Values**

7.6.5.1 The site forms part of an urban neighbourhood of Dublin and though it has an established character a level of change is provided for urban locations like this as well as is to be expected given it is zoned, serviced through to accessible lands where local through to national planning provisions support their more efficient use as part of the consolidation of Dublin's metropolitan areas urban structure, subject to safeguards. Further, there is no expert-based evidence that would support that the proposed development would give rise to any depreciation of property value in its vicinity. Moreover, this is not raised as a substantive concern by any Third Party in this appeal case. I am therefore satisfied that this matter is not material to the consideration of this appeal case.

7.6.6. **Other: Residential Amenity Impact for Future Occupants:**

7.6.6.1 In addition to the concerns raised in relation to the future amenity of residential institutional occupants of Sybil Hill House and in terms of residential amenity for future occupiers of the future units, I firstly raise concern that in relation to daylight and sunlight penetration to the interior spaces of the proposed residential units that I share the Planning Authority's concerns in relation to the floor to ceiling heights of the ground floor of Block 'C'. With it having a floor to ceiling height of 2.55m whilst SPPR 5 of the Apartment Guidelines setting out a requirement for 2.7m. As such I raise concern that this quantitative and qualitative standard is not achieved.

7.6.6.2 I also share the concern of the Planning Authority's Planning Officer in relation to the true provision of dual aspect apartments falls given the nature of the units design as well as solid to void relationships with a number of the apartments only marginally meeting what would be considered to be dual aspect on the basis of the modest sizes of certain windows serving them.

7.6.6.3 Further in terms of apartment mix there is also a concern that Section 15.9.1 of the Development Plan sets out that compliance should be had to SPPR 1 of the Apartment Guidelines. In this regard there is a maximum provision of one bedroom/studio units of 50% for all housing developments. These Guidelines do not specifically provide for flexibility for schemes like that proposed under this application. i.e. integrated retirement community schemes. As such the provision of 70.51% 1-bedroom units (Note: 55 units) and 29.49% 2-bedroom units (Note: 23%) as lodged exceeds this requirement. Additionally, the amended scheme only marginally reduces the percentage of 1-bedroom apartments to 69.33% and 2-bedroom apartments to 30.66%. I note however that there is a level of flexibility and discretion that is provided under SPPR 2. Notwithstanding, this is provided for refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha), subject to overall design quality and proximity to public open space. In all cases it indicates that the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity. In relation to the spatial area threshold this site at c1.57ha significantly exceeds the area stated and as set out in this section there are a number of qualitative and quantitative concerns with this proposed development.

7.6.6.4 Moreover, I share the Planning Authority's Parks, Biodiversity and Landscape Services concerns that the proposed development as lodged and as revised does not exceed the public open space 25% requirement the public open spaces as well as the communal open spaces are fragmented and of limited functional active and passive recreational value. They also advice that the larger public domain would be dominated by the retention of significant existing natural features which are appropriate to retain. With these and the landscaping in general resulting in overshadowing of these open spaces further diminishing their quality and useability for future users.

7.6.6.5 My final concern is that there is potential for overlooking to arise from within the design and layout of the proposed scheme given the relationship between circulation pathways and open space to residential units within the scheme. Thus, in the absence of more robust screening this overlooking and inadequacy of privacy for a number of the proposed apartment units if it were to be permitted as lodged and less so by the amended design option.

7.6.6.6 These concerns are in my view not substantive when considered against the number of significant concerns that this proposed development gives rise to in terms of being a type of development that materially contravenes the 'Z15' land use zoning and is a type of development that would materially adversely impact the special character as well as setting of Sybil Hill House, a Protected Structure, having regard to the Dublin City Development Plan, 2022-2028. Against this context these concerns together with other general concerns raise in the assessment of this proposed development compounds that the proposed development is not a sensitively designed and laid out development for this sensitive to change site.

Conclusion on Residential Amenity Impact: I am not satisfied that the proposed development if permitted would not give rise to serious injury to the residential amenities Ardilaun Court 1 and 2, by way of diminishment of daylight penetration and overshadowing. On this point I also note for clarity purposes that this concern includes the adjoining outdoor amenity space of the creche facility. Further I am not satisfied that the proposed amenity afforded to future occupants would be consistent with local through to national planning provisions and guidance or that this site has the capacity to absorb the nature and scale of the proposed, without detriment to the residential amenities of its setting, given the importance of its existing mature garden/parkland setting to Sybil Hill House, a Protected Structure.

7.7. Ecology and Biodiversity

- 7.7.1. The appeal submission is accompanied by an Ecological Impact Assessment, dated the 31st day of January, 2023. Under its assessment methodology it indicates that a desk study was undertaken to gather and assess the ecological data prior to undertaking fieldwork elements and on foot of this a field survey was carried out on the 20th of January, 2023. It determined a zone of influence (Zoi) in accordance with best practice for non-linear projects at a radius of 2km.
- 7.7.2. In this regard it considered that the Zoi of the proposed project would be seen to be restricted to the site as outlined. With the potential for minor localised noise and lighting impacts during construction which do not extend significantly beyond the site outline nor are they likely to have any significant effects on any designated conservation sites.
- 7.7.3. However, it notes the potential for disturbance to Light Bellied Brent Goose in the adjacent site to the east, i.e. the adjoining former playing pitches of St. Pauls College

and the lands to which the LRD Foxland's scheme relates, in the absence of mitigation, with this adjoining site an *ex-situ* feeding site for this protected bird species.

7.7.4. It also sets out there are no designated sites with a direct hydrological pathway to the subject site and that the habitat types of the site were identified according to the Fossitt (2000) habitat classification as well as mapping of their extent. The site is described under this habitat classification as being composed of the following:

- *Building and Artificial Surfaces – BL3*: This is given as relating to Sybil Hill House, a metal garage structure, a 'ha-ha', the associated tarmacadam driveway and paths on site.
- *Mixed Broadleaf/Conifer Woodland – WD2*: This is given as relating to several areas on the site which contain 'highly modified broadleaf/conifer woodland'. A wide variety of tree hedge, scrub and plant species are noted. Within the list it is noted that there are several clumps of three-cornered leek in the north end of the site which are an invasive species.
- *Amenity Grassland – GA2*: This is given as relating to the grounds of Sybil Hill House and are described as containing areas of well-maintained and mown amenity grassland within this it notes the presence of a row of apple trees located on the northern end of the site.

7.7.5. It is considered that there are no habitats noted that are of any conservation importance, however, it is noted that the woodland habitat would provide for nesting and foraging for wide variety of common bird species. It notes the presence of a fox burrow on the site, and it did not note the presence of amphibians though it was considered that the 'ha-ha' garden feature which I note functions similarly to a sunken drainage ditch, had the potential to act as a spawning area for frogs. Of concern it indicates that the survey date was suboptimal for flora and bat assessment as well as indicates that the wintering bird surveys were also suboptimal.

7.7.6. Under Tables 4, 5 and 6, it sets out designated conservation areas within a 15km geographical radius of the site. It notes that the nearest such sites are North Bull Island Special Protection Area (SPA)(Site Code: 004006) and North Dublin Bay Special Area of Conservation (SAC) (Site Code: 000206) with these nearest Natura 2000 sites located at a distance of circa 1.4km away from the site. As well as it notes that the

nearest proposed Natural Heritage Area is located 1.7km from the site (Note: North Dublin Bay pNHA).

- 7.7.7. It notes that there are no RAMSAR sites within 15km. Alongside it further notes that there is and will be no hydrological connection to watercourses arising from the proposed development (Note: Figures 14 – 18 of the EclA). With the existing storm sewer located on Sybil Hill Road ultimately out falling to the marine environment of Dublin Bay following its treatment at Ringsend Wastewater Treatment Plant (WwTP) under licence. With this serving existing and proposed foul as well as surface water discharge from the site. It therefore considered that there is an 'indirect' hydrological pathway from the proposed development and the marine environment of Dublin Bay.
- 7.7.8. It describes the adjacent lands to east as an *ex-situ* site for the Light Bellied Brent Goose. Noting that this bird species is a Qualifying Interest (QI) of North Bull Island SPA and South Dublin Bay & River Tolka SPA (Note: Site Code 004024). With the removal of trees and natural screening through to the construction and operational phases of the proposed development having the potential to give rise to visual and noise disturbance to it.
- 7.7.9. In relation to bird species on site whilst a number of bird species were noted within the site area not including any red listed birds or any other protected bird species including the Light Bellied Brent Goose. Additionally, it notes that the Light Bellied Brent Goose were not noted on the adjoining lands to the east. However, an overview of past assessments was carried out for these lands. With this overview acknowledging that this protected bird species was recorded at the St. Pauls College former playing pitches on 47 out of a total of 118 visits over six seasons of wintering bird surveys between 2015 to 2022. With these surveys noting an increase in numbers recorded as the pitch usage lowered.
- 7.7.10. An examination of the historic records of biodiversity was also undertaken within a 2km grid of the site. I note that the results of this examination are set out under Table 8 of the report. With this table setting out the recorded species against their associated conservation designations. It notes that while no species of conservation importance were observed on the site reference is had to the presence of commuting Soprano pipistrelle (*Pipistrellus pygmaeus*) and the Leisler's (*Nyctalus Leisleri*) bats within the site of the proposed development in a previous Dublin City Council Planning Report,

dated to 2019. However, I reiterate that the EclA indicates that surveying of the site occurred over one single day and also did not involve any detailed examination of the site's setting. This level of on-site investigation in my view is suboptimal and is not of sufficient scope to make any informed decision including to support the EclA's conclusion that the overall development of the site is likely to have direct impacts upon the existing habitats, fauna, and flora. With the direct negative effects manifested through the loss of species of low biodiversity importance and in the absence of mitigation there is potential for noise and visual disturbance of the Light Bellied Brent Goose within the adjoining *ex-situ* site of St. Pauls during the construction and operational phases of the proposed project. In turn the potential impacts in the absence of mitigation are concluded as "negligible/international/neutral/not significant/long-term".

7.7.11. EclA Construction Mitigation

7.7.11.1 I note that the EclA in relation to construction mitigation measures recommended pre-construction surveying of Terrestrial Mammalian species of conservation importance.

7.7.11.2 In relation to Flora, it recommends mitigation are required to appropriately manage the removal of the Three-Corner Leek invasive species on site.

7.7.11.3 In relation to Bats, whilst I note that the EclA and other documentation accompanying this application does not support that the trees on site have been subject to surveying to determine the presence of any roosts, nonetheless it is considered that light during construction has the potential to impact on bat foraging and that site clearance may result in the removal of trees of bat roosting potential. It is therefore recommended that pre-construction assessment of trees of bat roosting potential be carried out. These measures in my view are not informed by a robust surveying of bat activity on the site over an adequate duration of time.

7.7.11.4 In relation to Bird Fauna, it considers a loss of foraging and nesting habitat would arise from the proposed development. However, it is considered that mitigation in the form of site clearance to minimise disturbance during construction would minimise this impact.

7.7.12. EclA Operational Mitigation

7.7.12.1 In terms of operational impacts arising from the proposed development, it indicates that standard measures will be in place to prevent contaminated surface water entering drainage networks with foul water drained and treated at Ringsend WwTP with potential for impact on the *ex-situ* habitat of the Light-Bellied Brent Goose.

7.7.12.2 It reiterates that no protected terrestrial mammalian species were observed in the vicinity of the proposed works and in terms of flora that the proposed landscaping scheme will increase biodiversity as well as remove invasive species from the site.

7.7.12.3 In relation to the local bat population and the site being used by them for foraging it indicates that mitigation would be required in terms of lighting on site.

7.7.12.4 In relation to the local bird population the EclA considers that the buildings proposed are not of a height that would not give rise to a collision risk, however, it acknowledges that the presence of increased human activity may reduce the potential for birds to forage in adjacent habitats.

7.7.13. The EclA considers that the construction and operation mitigation through to the finalisation of these measures will be incorporated into the proposed development project to minimise potential for negative impacts on the ecology within the Zol. It also sets out that regard was had to Light Bellied Brent Goose by way of retaining the eastern boundary wall, modifications of the eastern façade of the Block 'B' facing into the adjacent St. Pauls land by way of removing balconies and the creation of enclosed winter gardens in their place alongside the control of light spill from the site.

7.7.14. This report concludes that the construction and operational mitigation proposed for the development, in the view of the authors, satisfactorily addressed the mitigation required for sensitive receptors through the application of standard construction and operational practices. It therefore considered that the overall impact on the ecology of the site and setting that would arise from the proposed development would be a long-term minor adverse impact but not a significant residual impact. It also notes that whilst there would be a loss of terrestrial habitats that the creation of additional biodiversity features including sensitive landscaping and lighting strategies will support minimising impacts arising from the proposed development.

- 7.7.15. In terms of the conclusions set out in the EclA, as relates to impacts, while I generally concur with many of its findings and recommendations, I have a number of concerns with its adequacy and robustness in terms of setting out an informed ecological impact assessment of the proposed development which in the case of the assessment provided is the amended design option.
- 7.7.16. My first concern relates to the potential impact of the proposed development on bird species. While I note that no wintering birds were observed on the site or the adjoining former St. Pauls College playing pitches to the east, including Light Bellied Brent Goose, the survey of the site in terms of gathering information on bird species was limited in terms of its scope. With as said one field survey day on site in the month of January and with no dialogue had to gain access to the adjoining lands to the east which has been unused and unkempt for some period of time.
- 7.7.17. From this field survey the subject site is described in the EclA as: *“a relatively enclosed environment with woodland on the western boundary, apartments to the north and a tall sycamore tree line to the east, in addition to having Sybil Hill House on site”* and it is considered that it: *“would not be considered to be a habitat where significant numbers of wintering birds would forage”*.
- 7.7.18. While the EclA acknowledges detailed assessments that have been undertaken on the adjoining land to the east on wintering bird species with these surveys dating to the latest in 2022. With these showing fluctuations in the recorded numbers from highs recorded 2016/2017 (Note: 1,530) season to decreasing numbers since then to 0 in 2021/2022. But also noting that the presence of Light Bellied Brent Goose in numbers on this site during a number of surveyed seasons exceeded 1% of the estimated international population.
- 7.7.19. However, the surveys also appear to show that the change of management of those lands have impacted this species use of these lands including a decrease in recent year surveys and there is a strong potential that the loss of the more maintained grassland may have displaced this population to utilise other pockets of suitable habitats as *ex-situ* feeding site or sites. On this point it is therefore of note that this mature site contains maintained lawn grass that the EclA surveying has not discounted the utilisation of by Light Bellied Brent Geese on the basis of robust surveying of the site over an adequate duration of time.

- 7.7.20. In my view there is a lack of an up-to-date scientific based suitably robust in scope and extent ecological impact assessment carried out on this site, with one day of surveying on-site in the month of January being at best suboptimal. Particularly in relation to gathering information on any protected species of conservation interest utilising the site and its immediate setting. In the absence of such an assessment it is not possible in my view to conclude that this development would not give rise to any significant impacts on Light Bellied Brent Goose *ex-situ* feeding at this particular locality. With this bird species being as said a QI for the nearby Natura 2000 site, in particular North Bull Island SPA and South Dublin Bay & River Tolka Estuary SPA. On this point I refer the Board to the similar concerns raised in the Appropriate Assessment provided below.
- 7.7.21. Of particular concern in my view is the potential risk of disturbance, displacement through to ceased foraging habitat for the Light Bellied Brent Geese should they have been displaced and are utilising the mature maintained lawn grass on this site due to the incremental reduction in their inland *ex-situ* feeding sites in this locality given the overgrown nature of the adjoining lands to the east. These adjoining lands were once a significant *ex-situ* feeding site for this bird species. Moreover, as set out under Section 4 above there has been significant concern in relation to previous developments in the immediate vicinity of the site arising in terms of potential impacts on this highly sensitive to change bird species and in turn the implications that this would have on nearby SPA's where it is one of their listed QI's.
- 7.7.22. In terms of other bird species identified in the vicinity of site, i.e. those listed in Table 7 of the EclA, consist of green listed bird species.
- 7.7.23. However, I note that the planning history of sites in the immediate setting of this site, including the LRD Foxland's scheme ecological assessments recorded a total of four other number bird species of Special Conservation Interest (SCI) between the periods of 2015 and 2022 (Note: Curlew (*Numenius arquata*); Oystercatcher (*Haematopus ostralegus*); Black-tailed Godwit (*Limosa limosa*) and Black headed Gull (*Chroicocephalus ridibundus*)). I further note that Table 8 of the EclA provides a detailed list that identifies a number of other Protected Species under the Wildlife Acts in the vicinity. As such it recommends that appropriate measures should be imposed as part of a grant of permission, in particular, during site clearance and construction, to minimise impacts on any bird species.

- 7.7.24. My second concern relates to the presence of bats on this site. This is on the basis that all Irish bats are protected under national (Wildlife Acts, 1976-2012) and EU legislation (under Annex IV of Habitats Directive, with Lesser Horseshoe Bat included under Annex II also). I note that the Ecological Impact Assessment, (EclA), indicates that it was not carried out at the optimal time, and it includes a desktop survey of the National Biodiversity Data Centre was consulted of conservation significant with these indicating no species of conservation importance recorded on the site. It indicates that this report notes the presence of bats commuting on the site in a 2019 bat assessment (Note: Soprano pipistrelle and Leisler's bats).
- 7.7.25. The EclA does set out mitigation measures in the form of pre-construction assessment of trees through to adopting a sensitive lighting strategy on site during operational phase. Notwithstanding such measures I raise it as a concern that the information provided for this protected species is inadequate, with regard to the potential for roosting, feeding through to commuting through the subject site of the local bat population. In particular it is not informed by the preparation of a bat assessment that would accord with best accepted practices on such matters. As noted above the site survey that informed the EclA accompanying this application was carried out on one day in the month of January. When best accepted practice advises the carrying out of bat assessments a minimum of three emergence surveys between the months of May and September are recommended.
- 7.7.26. Of further note the Planning Authority's Parks, Biodiversity and Landscape Division noted that St. Anne's Park host five different species of bat. They therefore considered that a full survey of the site for bat roosts is required through to an assessment of feeding and commuting routes that support the local bat population as part of the application sought.
- 7.7.27. This concern is added to by the fact that the adjoining St. Pauls College former pitches have been unmaintained in recent years and are now overgrown. It is not in any functional use containing no buildings thereon. Additionally, the boundaries of these lands include several mature trees as well as hedgerows and in places is dense. There is also a porous gate located circa midway along the solid boundary wall that is present demarcating the main eastern boundary and to the immediate south of where this wall terminates there is porosity between the site and these adjoining lands.

- 7.7.28. According to the information provided the proposed development includes the felling of 28 out of 70 of the trees survey in the arboricultural report. I note that the trees to be felled include mature apple trees and parts of other tree groupings. The extent of felling, the loss of green spaces through to the general disturbance is not accurately quantified in my view on an in-depth arboricultural analysis that includes a breakdown of its two woodland pockets.
- 7.7.29. On the basis of the information provided I am not satisfied that I can make an informed conclusion that there would be no significant ecological adverse impact arising from either the construction phase or from the operational phase of the development in relation to bats. Including when considered in combination with any potential future development of the adjoining St. Pauls College former pitches. Nor am I satisfied that the subject measures as outlined in the EcIA would be sufficiently robust in themselves given these concerns.
- 7.7.30. Thirdly, I also have concerns in relation to the potential impact of the proposed development on the local badger population. In this regard I note that Badgers are an Annex IV species and provided protection under the Bern Convention.
- 7.7.31. In this regard the City Mammals Survey carried out in 2020 confirmed the presence of an important population of breeding badgers within St. Anne's Park. The presence of badgers is also confirmed in the documentation provided for the LRD Foxland's scheme. With these lands being adjoined on their easternmost and northernmost boundaries with St. Anne's Park. Alongside I reiterate that these adjoining lands are an unmaintained green corridor of no apparent functional use in recent years that links this appeal site to St. Anne's Park which at its closest point is 80m lateral separation distance to the northeast as the bird would fly. The EcIA does not identify the presence of any Badger setts or any badger activity on the site. Notwithstanding as said the surveying of the site was suboptimal being based on one visit to the site in the month of January and no exploration beyond the confines of the red line site area.
- 7.7.32. I also raise it as a concern that two badger setts are identified in the documentation accompanying the LRD Foxland's scheme. These accompanying documents also indicate that the main active breeding sett and an associated annexe sett were discovered on these adjoining lands in December, 2021, in their north-western corner of this site. Given the relationship of the site to the parcel of lands subject to the

Foxlands scheme I raise a concern that there is potential for the proposed development to impact on these badger setts. I also consider there is lack of intervening surveying of badger activity over intervening years on this site and whether the lack of any ongoing maintenance has resulted in any increased badger activity on these lands.

7.7.33. On this basis I consider that it is unclear on the basis of the information provided with this application and on appeal what impact the proposed development would have on the badger population in this locality. Of particular concern I note that the Block 'B' is positioned within 7.44m of the boundary of the former St. Paul's College playing pitch lands. The construction and operational phases of works associated with the proposed development as lodged through to as presented in the amended design option may give rise to adverse impact on the local badger population. Of particular concern during the construction phase this would involve site clearing, site preparation through to general construction activities and works. There would also be significant increased noise, vibrations, and other associated disturbances during this phase. Also, during the operational phase there will be increased human activities, noise through to light disturbance.

7.7.34. Though I did not observe any obvious signs of badger activity on the subject site; notwithstanding, from the pedestrian sized opening in the boundary wall located on the eastern side of the site and from views eastwards to the south of where this wall ends there did appear to be what appeared to be mammal tracks through the densely overgrown area immediately adjoining to the site running in a general north south direction.

7.7.35. I note that *Guidelines for the Treatment of Badgers Prior to Construction of National Road Schemes, (Environmental Series on Construction Impacts), National Roads Authority* under Section 4 indicates that: "*in general, badger group territories tend to remain remarkably stable over time. However, badgers create new setts regularly and existing setts may change in terms of breeding status or level of use by badgers*" and it recommends: "*in general, a survey of setts within 50m of the scheme (150m where piling or blasting will be undertaken) is required no more than 10-12 months in advance of construction. This will ensure that there will be sufficient time to comply with all licensing requirements*". In relation to the latter requirement, it sets out that this will ensure that there will be sufficient time to comply with all licensing requirements and

that the necessary actions are undertaken to protect the badger populations prior to the commencement of construction.

- 7.7.36. These guidelines also recommend further surveying prior to the carrying out of development area immediately prior to site clearance to ensure that no new setts were established in the intervening period and that setts previously identified continue to be used by badgers. In this regard it indicates that this additional survey information will allow specialists to modify, where appropriate, the extent and location of badger-resistant fencing and wildlife underpasses.
- 7.7.37. On the basis of the information provided I am not satisfied that I can make an informed conclusion that there would be no significant ecological adverse impact arising from either the construction phase or from the operational phase of the development in relation to the local badger population in the immediate vicinity of the site.
- 7.7.38. Nor am I satisfied that the design and layout including the positioning of Block 'B' relative to St. Pauls College former playing pitches through to the positioning along this boundary of bicycle/bin storage and a resin pathway alongside the eastern boundary which connects to a proposed courtyard seating area to the north of Block 'B' and a pedestrian/cyclist pathway to the south has been informed by clarity on the presence of badger setts through to badger activity within proximity of the site. With this arrangement of Block 'B', ancillary spaces and structures during construction through to operational phases having a realistic potential to result in a plethora of disturbances from noise, light, vibrations and the like to the local badger population in terms of their activities on the adjoining lands to the immediate east of the site.
- 7.7.39. Further, I am not satisfied that the outline Construction Management Plan through to the mitigation measures proposed have had sufficient regard to the potential for the proposed development to impact on the local badger population recorded on the adjoining lands.
- 7.7.40. For clarity I note that I am satisfied that the proposed development does include satisfactory mitigation for the eradication of invasive species from the site and therefore should the Board be disposed to grant permission I recommend that as a precaution that this particular matter is dealt with by way of condition.
- 7.7.41. My final comment relates to planning policy context. In this regard at a national level I note the fourth National Biodiversity Action Plan (NBPA), 2023-2030, strives for a

“whole of government, whole of society” approach to the governance and conservation of biodiversity. It also aims to ensure that organisations like the Board have a due awareness of biodiversity and its importance, together with the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to *“act for nature”*.

7.7.42. To this I note at a local level that Policy GI13 of the Development Plan seeks to ensure the protection, conservation and enhancement of all areas of ecological importance for protected species, and especially those listed in the EU Birds and Habitats Directives, including those identified as supporting the favourable conservation condition of any European sites, in accordance with development standards set out in this plan.

7.7.43. Further, I also note that Policy GI14 of the Development Plan states that the City Council will seek: *“to maintain and strengthen the integrity of the city’s ecological corridors and stepping stones which enable species to move through the city, by increasing their connectivity”* in a manner consistent with Article 10 of the EU Habitats Directive and that the *“development proposals should not compromise their ecological functions and should realise opportunities to contribute to enhancing the nature conservation value of them by landscaping that provides complementary habitats”*. Moreover, Policy GI16 of Development Plan, indicates that new developments (as appropriate) will be required to support local biodiversity and incorporate biodiversity improvements. Alongside Section 15.6.6 of the Development Plan sets out that regard should be had to sensitive ecological areas as well as areas with significant tree cover and vegetation capable of facilitating habitats, or any other landscaped area with quality natural environment or sensitive natural features.

7.7.44. Conclusion: Having regards to the above I am not satisfied that there is sufficient up-to-date adequately robust ecological and biodiversity impact assessment surveying of the proposed development to demonstrate that, as lodged or as amended, it would not give rise to any adverse impact on locally important species and wildlife corridors and in turn to support the conclusion that the mitigation measures proposed are site suitable and site setting appropriate. Particular concerns arise in relation to the impact of the proposed development on the local populations of Light Bellied Brent Goose, a QI of nearby Natura 2000 SPA sites in Dublin Bay, bat and badger species as well as the ecological corridor that extends eastwards to encompass the former playing

pitches of St. Paul's College and St. Anne's Park to the marine environment of Dublin Bay. As such the proposed development would be contrary to the provisions of the Dublin City Development Plan which seeks to protect and enhance ecological connectivity as well as biodiversity within the plan area with its provisions on these matters consistent with the National Biodiversity Action Plan (NBPA), 2023-2030. For these reasons I consider that the proposed development would be contrary to the proper planning and sustainable development of the area.

7.8. Other Matters Arising

- 7.8.1. **Sheltered Housing:** I note that the Apartment Design Guidelines under Paragraph 2.2 states that: *"there is a need for consistency and flexibility between statutory plans and in approaches to different forms of housing is supported by strong evidence of the need to facilitate a mix of apartment types that better reflects household formation and housing demand"*. It also provides under Section 2.21 that the mix parameters set out under its SPPR 1 whilst generally applying to apartments, however, does not apply to certain social housing schemes, such as sheltered housing.

In relation to the whether the proposed integrated retirement community development could be considered as being a type of sheltered housing accommodation I first of all note that there is no definition provided for under Section 1 of Appendix 15 of the Development Plan for sheltered housing as a land use.

There is however a definition for social and community infrastructure. It states that this: *"is the physical infrastructure necessary for successful communities, i.e. community infrastructure such as schools, libraries, community centres, cultural spaces, health centres, facilities for the elderly and persons with disabilities, childcare facilities, parks, and other facilities and spaces for play and recreational activity"*. In this regard whilst indicating that the proposed development provides for its over 65 residents facilities this is done on a private basis for them and in the context of each of the proposed apartment unit being designed as independent units with no need or dependence on these facilities. Therefore, the proposed 79 apartment units as lodged and the 75 apartment units within the amended design option are not reliant on these facilities. Further, outside of the potential synergies between what are ancillary wellbeing through to lifestyle supports for the Vincentian Orders residents there is no indication that these facilities would be available for non-residents of the scheme.

In this case I also raise concerns on whether the proposed units meet the definition given for ‘assisted living/retirement home’ as provided for under Section 1 of Appendix 15 of the Development Plan. In this regard I note that it defines such land use as “*semi-independent housing accommodation specifically designed to meet the needs of older people and persons with disabilities in which dining, recreation, hygiene and health care facilities can be shared on a communal basis*”.

As previously noted, the apartment units are not designed as semi-independent housing accommodation though targeted at the over 65 age profile. Further, the design of the apartments is not one that includes specialised internal layouts that would normally be expected to be provided for this age profile. Nor does it set out that these units would be easily adaptable for use by persons with specific disability, in particular those generally associated with age. In this context also there is no indicated specialist support for future residents who may have or may develop a disability through to health requirement that could be catered for within the type of housing accommodation proposed.

While I accept that the secondary and ancillary use to the integrated retirement community scheme meets the definition set out under Section 1 of Appendix 15 of the Development Plan, i.e. “*a building, or part thereof, or land used as a residential institution*” including monasteries and convents. Notwithstanding the predominant use proposed in this scheme is one that correlates with Section 1 of Appendix 15 definition for residential which states: “*the use for human habitation of a building, or part thereof, including houses, apartments*” ... “*buildings*”.

On the basis of the above I do not consider that the flexibility provided for under the Apartment Design Guidelines is applicable in this case.

- 7.8.2. **Archaeology:** The appeal submission is accompanied by an archaeological and cultural heritage assessment that is dated October, 2022. This assessment concludes that the proposed development in terms of potential risk to archaeology is low to moderate given that the development of the site from the eighteenth through to the twentieth century is likely to have removed any earlier archaeological evidence.

However, it indicates that there is a possibility of encountering surviving remains of historic garden features and outbuildings over the course of the development works. On this basis it recommends that all groundworks should be suitably monitored under

archaeological licence and that extant features preserved and/or recorded prior to their removal.

While I have noted the limited coverage/footprint of buildings on this site, notwithstanding, having regards to the assessment provided together with other available information including publicly available historical maps, I am satisfied that this approach accords with Section 11.5.5 of the Development Plan. In this regard I note that this section of the Development Plan deals with the matter of archaeological heritage and it is also consistent with the guidance set out under the 'Framework and Principles for the Protection of the Archaeological Heritage', 1999. I also note that the Planning Authority did not raise any significant concerns on this matter or did any prescribed bodies.

Conclusion: Should the Board be minded to grant permission I recommend that an appropriately worded archaeological condition be imposed to conserve the archaeological heritage of the area and to secure the preservation (*in-situ* or by record) of any archaeological remains that may exist within the site. I consider that this is reasonable and appropriate as a precaution in this largely undeveloped site area alongside on the basis of no archaeological testing of where Blocks A, B and C in particular are to be positioned.

- 7.8.3. **Traffic & Access:** I raise no particular concerns in relation to the modifications to the existing road entrance onto Sybil Hill Road were it to be serving the proposed development sought under this application as lodged or as presented under the amended design option accompanying this appeal. This is on the basis that this entrance in its existing state is of no built heritage interest. Additionally, the amended design option would open onto Sybill Hill Road at a point where required sightlines can be achieved in both directions, subject to the safeguard of its overall design restricting of traffic access and movements associated with St. Pauls College.

In relation to this point I am of the view that the movements associated with St. Pauls College has the potential to give rise to obstruction of traffic, pedestrian through to cyclist movements associated with the proposed development if granted as lodged or on the basis of the amended design option provided with the appeal submission. To this I also consider that there could be potential for this entrance and the proposed revised internal access road to be used as a drop off and collection point.

These matters in my view have not been adequately considered in the documentation provided with this application.

I also raise concerns despite the Traffic Transport Assessment (TTA) provided that there is a lack of detail in relation to the cumulative use of the amended access onto Sybil Hill Road. With this access also appearing to facilitate active linkage to the former pitches of St. Pauls College and the Foxlands Scheme which consists of a proposal for 580 no. apartment units, a crèche, and a 100-bed nursing home. With the drawings submitted with this concurrent application also using a revised entrance onto Sybil Hill Road but with an amended route to that shown in this submission through the curtilage of Sybil Hill House and St. Pauls College. I therefore question the lack of coordinated between the applicant in terms of providing vehicle, pedestrian, and cyclists access onto Sybil Hill Road through to its in-combination impact on the curtilage of Sybil Hill House, a Protected Structure, with the owners of the Foxlands Scheme lands.

This is coupled with the previous concerns already raised in this assessment in relation to this application failing to demonstrate that it has maximised connectivity and permeability as part of the overall design and layout. While I consider that the concerns in relation to maximising permeability for pedestrians and cyclist requires further consideration and improvements could be sought by way of an appropriately worded condition were the Board disposed to grant permission.

I also raise concern that the level of loss of this Protected Structure's parkland setting from the quantum of at grade accessways through to parking provision. With these overwhelming the curtilage and visual setting of Sybil Hill House. In addition, the level of change is such that it would give rise to the loss of the legibility of its curving driveway and the design includes a lack of green space around Sybil Hill House 'ha-ha' landscape feature. Moreover, the openness and sylvan characteristics of Sybil Hill House would be lost in part to the provision of a hierarchy of spaces associated with car movements, car parking, various accessways through to the positioning of buildings and ancillary structures.

Despite the concerns raised above I note to the Board that the Planning Authority's Transportation Division raised no substantive concerns in relation to the proposed development on traffic related grounds, subject to safeguards.

Conclusion: Should the Board be minded to grant permission I recommend that it consider addressing the issues of maximising permeability and clarifying connectivity to the east of the site by way of appropriately worded conditions. Notwithstanding, I am of the concern that the substantive provision of at grade car parking spaces, bin through to bike storage cumulatively gives rise to a material and adverse erosion of this Protected Structures special character as well as surviving authenticity in a manner that further adds to the concerns raised that the proposed development if permitted would be contrary to Policy BHA2 of the Development Plan.

7.8.4. Mobility Management and Transport & Traffic Assessment

I first of all note that this section overlaps with the transport considerations discussed in Section 7.8.3 above.

In relation to the mobility management strategy for the future development I further raise a concern that the proposed development does not include any consideration for car share opportunities in a manner that accords with the Development Plan provisions (Note: Policy SMT24 and Appendix 5). This also could have resulted in an alternative mobility option for future users of the proposed development, including staff.

Notwithstanding, the Board could achieve an improved mobility management strategy by way of condition if it were minded to grant permission.

In relation to the provision of accessible car parking spaces given the nature of the primary proposed use that would arise if permission were granted, i.e. integrated retirement community, I consider that this provision which exceeds the Development Plan requirements is acceptable and is reflective of the proposed primary use sought under this application.

I also raise no concern in relation to the motorcycle provision subject to any grant of permission requiring that this is provided at 5% of the car parking spaces provided and I consider that the bicycle parking provision exceeds Development Plan standards.

Further, I recommend should the Board be minded to grant permission that it includes an appropriately worded condition that includes a minimum requirement of 50% of all car parking spaces proposed to be equipped with fully functional EV Charging Point(s). Alongside the remaining spaces shall be designed to facilitate the relevant infrastructure to accommodate future EV charging. This requirement would accord with Section 5 – Appendix 5 of the Development Plan.

Moreover, I note that this application is accompanied by a Traffic and Transport Assessment which I consider was prepared in a manner that accords with the TII Traffic & Transport Assessment Guidelines. This document includes an examination of the proposed development using the most up to date version of the TRICS Database in relation to traditional apartment and retirement apartments.

Additionally, I note that at the time it was prepared it noted the LRD Foxland's scheme on the St. Pauls College former playing pitches to the immediate east of the site. But it noted that this development had yet to receive full planning permission and therefore it cannot be categorised as a 'committed development' for assessment purposes.

I have noted previously in the assessment above that clarity would be required in any grant of permission in relation to the access that is shown in the drawings accompanying the LRD Foxland's scheme given that it includes as one of its component permeability for vehicles, pedestrians and cyclist through the curtilage of Sybil Hill House, as well as the use of its existing access onto Sybil Hill Road of connectivity to the public road networks to the west of it. It is therefore a concern in my view that the TTA sets out that in the event of a grant of permission to these adjoining lands to the east that its access arrangements will be adjusted to coordinate with the LRD scheme as there is an agreement in place with 'Marlet' (Note: indicated to be landowner of the LRD Foxland's site) in this regard. Despite this lack of clarity, the subject proposed development for this appeal site must be determined on its individual merits as would be the case for any determination on the Foxlands scheme and should there be any resulting conflict in the access arrangements for both developments this I consider to be a matter outside of the Boards remit in this appeal case.

In relation to the TTA for the proposed development as lodged I note to the Board that it examines the effects of the proposed development on the local road network during what are considered generally peak commuter periods and concludes that the nature of the development together with the access arrangements from the revised entrance can adequately accommodate the worse-case traffic associated with it.

The TTA provided that during construction and full occupation the proposed development, if permitted, would give rise to a negligible and unnoticeable impact upon the operation of the adjacent road network.

In relation to access onto Sybil Hill Road from the proposed development it shows that the traffic associated with the development are below the theoretical optimum capacity and that no significant queueing of traffic is envisaged. Further, regard was also had to future traffic growth factors. With these calculated from data obtained in the TII PE-PAG-02017 Project Appraisal Guidelines for National Roads Unit 5.3.

The supporting documentation provided with this application indicating that the site has excellent public transport accessibility to key transport nodes, noting it is located approximately 500m from Harmonstown Dart station and 700m from Killester Dart station. Alongside it notes that the Howth Road Quality Bus Corridor provides numerous bus service connection and that there is sustainable walking as well as cycling infrastructure in this neighbourhood.

Additionally, the preliminary Travel Plan (mobility management plan) sets out a number of measures that would be actioned to reduce the reliance of car usage which in turn would minimise the traffic generated by the proposed development once operational. The measures include nominating a Travel Plan Coordinator, promoting this Travel Plan, monitoring, and reviewing initiatives set out in this preliminary plan over defined periods of time from which a final Travel Plan would be derived. Overall, it considers that the proposed scheme is one that would be located within an established and developed area with clear and easy access to alternative modes of travel, walking, cycling and public transport. It also notes that once the development is occupied that it will utilise pragmatic measures that encourage safe and viable alternatives to the private car for accessing this development. I concur with these findings, and I note that the Planning Authority's Transportation Planning Division in their final report raised no objection to the proposed development subject to standard safeguards.

My final comment relates to the lack of any demarcation between the subject site and the adjoining lands to the south in terms of potential overlapping of traffic arising from the day-to-day operation of this site as an educational facility. Should the Board be minded to grant permission it may consider it appropriate in order to minimise potential conflicts arising from traffic, pedestrian and cycle movements generated from these adjoining lands with the proposed development during construction and operational phases that an appropriate condition be imposed to address this concern. The simplest method of ensuring that no conflicts arise is that the southern boundary of the

site is demarcated by a site suitable boundary that is porous but is sufficient to restrict vehicle, pedestrian, and cyclist movements from St. Pauls into the southern portion of the site.

Any permanent boundaries between the two should be respectful to Sybil Hill House, a Protected Structure, and its curtilage. I also consider that the reduction in car parking space number under the amended design option does not give rise to any substantive concerns given that the car parking space number appear to exceed the Development Plan standards. On this point I consider that there is insufficient clarity provided with the proposed development as lodged and as amended to definitively conclude upon whether the car parking provision materially contravenes the maximum standards of Table 2 of Appendix 5 of the Development Plan.

- 7.8.5. **Parking:** The proposed development as lodged proposes 51 car parking spaces and 156 bicycle spaces. According to the Planning Authority's Transportation Planning Division this is 12 car parking spaces above the Development Plan standards.

In this relation to car parking the Transportation Planning Division notes that the site is located within Zone 2 alongside a key public transport corridor and that the development land use proposed consists of Senior Residential Living Apartments incorporating integrated retirement community development.

In this context they considered that the appropriate land use standard applicable was 'Elderly Persons Housing/Sheltered Housing' which has a maximum of 1 space per 2 dwellings. Alongside 2 spaces per 5 residents and 5 staff as well as 1 per 10 residents for short stay/visitor under the Development Plan. They also considered that the maximum standards were not a target. Based on the above they considered that the maximum car parking provision was 39 and they raised concerns that the number of car parking spaces proposed given the nature of this scheme contravened the Development Plan's maximum standards. They therefore requested that the proposed provision of car parking spaces be reduced.

In relation to the calculation of car parking spaces it would appear that the Planning Authority did not have regard to the provision of a quantum of car parking spaces for the proposed retained religious institution use at Sybil Hill House. Also, the documentation provided with this application in my view provides insufficient clarity on the anticipated staffing number for the operation and management of the integrated

retirement community scheme including the proposed wellbeing, dining through to other support services. Similarly, there is a lack of clarity in relation to the level of car parking that would be generated by the retained residential institutional use including whether Sybil Hill House would still operate their regional headquarters from this location.

The amended design option submitted with the appellants appeal submission appears to provide a reduction of car parking spaces to 47, i.e. a reduction of 4 no. spaces. There is also a reduction in three of the independent units proposed. This car parking provision exceeds the maximum car parking spaces standard of the Development Plan by 10. Notwithstanding, like in the case of the proposed development as lodged there is in my view still a level of uncertainty over the likely quantum of car parking spaces to meet the proposed primary and secondary functional uses. As such there is in my view still a question mark over whether or not in either situation there would be a car parking provision that materially contravened the maximum standards set out under Table 2 of Appendix 5 of the Development Plan.

There is also a concern in my view on how the car parking spaces in either situation which I note are all at grade would be managed for private use of occupants and visitors. Any grant of permission would in my view require that this concern is addressed by way of an appropriately worded condition.

Notwithstanding, in my view the modest reduction in car parking space number in the amended design option does not overcome the diminishment that arises to the special character of Sybil Hill House and its curtilage by the erosion of its associated mature passive open space curtilage.

On this point as already discussed above in this assessment, Sybil Hill House's curtilage is inextricably linked to its special character and interest as it now survives. I therefore consider that in this context it would have been appropriate to underground the provision of car parking alongside bin, bicycle, and other ancillary structures. This would have allowed for a more meaningful retention of Sybil Hill House's open space character as part of the development sought in a manner that would be more consistent with Policy BHA 2 of the Development Plan.

I also note that this proposal includes 156 no. bicycle spaces within the grounds of the proposed development. This exceeds local and national planning provisions for the

nature, scale and quantum of different land uses sought under this proposed development. However, I consider that there is an inadequate level of detail provided on the overall provision in terms of quality of the secure enclosures/shed structures, their management, facilities for any staff using these spaces through to electric charging facilities. Should the Board be minded to grant permission I recommend that it includes an appropriate condition to deal with these concerns.

Conclusion: Taking the above into consideration while I am not satisfied that the encroachment of significant at grade provision of car parking spaces to meet the demands generated by the quantum, nature and type of development sought under this proposed development can be absorbed within the curtilage of Sybil Hill House, a Protected Structure without materially diminishing its special character. I therefore consider that the car parking provision when taken together with the quantum of buildings, ancillary structures and spaces fails to accord with Policy BHA2 of the Development Plan. Notwithstanding, I consider that subject to standard safeguards that the proposed development would not give rise to any road safety or traffic hazard issues, subject to safeguards similar to those recommended by the Planning Authority's Transportation Planning Division should the Board be minded to grant permission.

- 7.8.6. **Arboriculture:** The Planning Authority's Parks, Biodiversity and Landscape Services division raised concerns that the arboricultural report and arboricultural impact assessment as lodged with the application was not of a satisfactory standard. The basis of this was given on it not including a detailed survey of the trees within a number of areas of the site which were simply categorised as 'Woodland 1', 'Plantation 1' and 'Scrubland'. Against this context it was therefore unclear that the indicated loss of 28 trees out of 70 identified provided accurate clarity on the actual loss of trees to facilitate the proposed development sought.

They raised further concerns in relation to the potential layout of the proposed buildings to give rise to further loss of existing trees and that the building blocks could be repositioned to avoid further loss of trees on site.

The additional concerns raised included the loss of trees that were important to the setting of Sybil Hill House through to the site requiring a woodland management plan

to successfully manage and renew areas of woodland on the site as part of the proposed development sought.

The documentation included with the Appellants appeal submission sets out that despite 'Woodland 1' and 'Plantation 1' not having been individually surveyed as part of the tree survey provided, they contend that the survey does however provide an accurate description of the tree population in these areas/groups.

They also contend that the proposed building would not impact on any root protection areas of any high value tree.

They note that the amended scheme has slightly amended the positioning of the building nearest to these planting groups and as such trees numbered 17 and 18 which are in the northern area of 'Plantation 1' would now not be impacted by the proposed development sought.

They also further contend that in relation to 'Tree Line 1' it would be required for removal to facilitate proposed new buildings sought under this application.

Overall, they contend that the modest repositioning of buildings on site has resulted in the reduction of trees to be removed to facilitate the proposed development to 21 trees and 'Tree Line 1'. It is also clarified that trees numbered 38, 39 and 40 in their tree survey report though of historical importance are in poor health and they note that they do not object to agreeing a woodland management plan as part of a grant of permission.

I consider that the substantive concern in relation to arboricultural impact is that the loss of trees together with the quantum of change proposed for this natural heritage and built heritage sensitive to change site as well as setting that form part of the surviving setting of Sybil Hill House, a period house whose original design intention included its placement in a parkland setting.

I consider that the proposed development as amended by the appellant in their appeal submission gives rise to some modest improvements in terms of the impact on mature trees on this sylvan site but still lacks the level of clarity that was indicated as a significant concern by the Planning Authority's Parks, Biodiversity and Landscape Services.

I am not satisfied that their concerns have been robustly overcome by the amended scheme submitted by the appellant despite the welcome reduction in tree loss. Notwithstanding this is in a vacuum where there is a lack of a detailed survey of natural features with this also overlaps with concerns arising from how these natural features support habitat that may be important to Protected Species, in particular the local population of bats.

I also raise it as a concern that the clipped hedge and four individual trees along the northern boundary with Ardilaun Court 1 and 2 would not be sufficient compensatory planting given the loss of Tree Line 1 together with the overgrown nature of this boundary.

Similarly, I consider that there is a lack of greening of the boundary that adjoins the eastern boundary of the site. With this boundary linking to what is known to be an ecological sensitive site that separates this subject site from St. Anne's Park.

I am not satisfied that the use of conditions alone would be sufficient to overcome the loss of natural features or that the placement of buildings and compensatory planting would overcome the material and adverse diminishment that would arise to the curtilage of Sybil Hill House, a Protected Structure, by the quantum of buildings and ancillary spaces as well as structures proposed given the built heritage concerns. With I note Policy BHA2 of the Development Plan. In particular subsection (f) of this Development Plan policy which states that the City Council will seek to: *"protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features"* and also subsection (g) which states that the City Council will seek to: *"ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development"*. There is a lack of certainty on ecological and biodiversity matters which I have discussed in the main assessment above, and there is a lack of certainty in relation to the mature trees and woodlands on this site role in terms of supporting the local bat population.

Conclusion: I consider that the loss of natural features as part of the nature, scale and extent of intervention to the curtilage of Sybil Hill House, a Protected Structure, would further add to the cumulative detrimental impact of the proposed development on its surviving intrinsic character and qualities as well as having the potential to give rise to

additional concerns in relation to the protection and enhancement of biodiversity and ecological connectivity within this local area. Both of these concerns reinforce previously raised substantive concerns on these matters discussed in the main assessment of this report and add to the proposed development being one that would be contrary to the proper planning and sustainable development of the area.

- 7.8.7. **Drainage:** The Planning Authority's Drainage and the Parks, Biodiversity and Landscape divisions report recommended that further information be sought in relation to the proposed development.

In this regard they sought further clarity and revisions to the proposed development including SuDS measures, compliance with the Development Plans Green & Blue Roof Guide and geotechnical testing. I also note that the concerns in relation to the lack of compliance with the Development Plan's green and blue roof guide was an issue similarly shared by the Parks, Biodiversity and Landscape Services Division.

Given that the Planning Authority's assessment of the proposed development gave rise to other substantive reasons that could not be overcome by way of further information and that were deemed to be of sufficient merit to warrant refusal of the proposed development this further information request was not sought.

Should the Board be minded to grant permission I am satisfied that the Planning Authority's Drainage Division recommendations are reasonable and appropriate to ensure that the proposed development complied with Section 15.6.2, Policy SI22 and Appendix 13 of the Development Plan which I note deals with the matter of surface water drainage and SuDS for new developments. Additionally, it would ensure compliance with Section 15.6.3, Policy SI23 and Appendix 11 of the Development Plan. Therefore, ensuring that the proposed development was consistent with the proper planning and sustainable development of the area. I am satisfied that the proposed scheme gives rise to no substantive drainage concerns and that in the context of existing drainage features that it is appropriate not only in the interests of built heritage but also that the existing 'ha-ha' landscape features is retained as a historic surviving man-made feature of interest that also performs a drainage function within this site.

- 7.8.8. **Climate Action and Energy Statement:** Should the Board be minded to grant permission I recommend that it includes a condition requiring the preparation of a

Climate Action and Energy Statement for the written agreement with the Planning with this meeting the requirements set out under Section 15.7.3 of the Development Plan. I note that this statement is required for all new developments in excess of 30 or more residential units or 1,000 sq. m. or more of commercial floor space. Additionally, the purpose of this statement is to demonstrate how low carbon energy and heating solutions have been considered as part of the overall design and planning of the proposed development.

7.8.9. **Contributions:** The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. I therefore recommend the Board should it be minded to grant permission that it includes conditions for the payment of these levies alongside the Bond condition recommended by the Planning Authority.

7.8.10. **Security:** Third Party Observers with given addresses of Ardilaun Court raise concerns that the proposed development as lodged and as amended would give rise to increased security risks for their properties. It would appear that the proposed development is one that would be gated though it indicates the provision of internal public open space provision. Notwithstanding, I consider that it is not exceptional for a development of this type of design and suggested levels of permeability to be permitted within a suburban neighbourhood.

Additionally, it is likely that the proposed development given the nature of its use would during construction through to operational phases include security measures.

Further, whilst this scheme as amended appears to indicate in its landscape plan access from the public domain of Sybil Hill Road to what are described as communal and public open spaces within the scheme as well as an additional pedestrian/cyclist access point on its roadside boundary it is unclear whether or not the proposed development would or would not function as a gated type of development.

In relation to such developments I note that Section 15.8.10 of the Development Plan indicates that where a gated scheme is proposed the applicant must demonstrate the operational management strategy for the development through to that they will function in respect of traffic movements and potential wait time on public roads in relation to vehicle movements. Moreover, this section of the Development Plan indicates that gated community schemes should demonstrate sufficient car parking in order to

prevent car parking onto the public road. As discussed above the Planning Authority considered that the over provision of car parking sought under this scheme was appropriate given the nature of the development proposed.

Should the Board be minded to grant permission I recommend that it include a condition that requires clarity in terms of access from the public domain and, if gated, given that public and communal open space are proposed the associated access measures in relation to the same.

8.0 EIA Screening

8.1. Preliminary Comment

- 8.1.1. I refer to the detailed description of the site and the development sought which I have set out under Appendix 2 and 3 of this report attached.
- 8.1.2. It describes the proposed development, the project, as consisting of the provision of an integrated retirement community that would be facilitated by way of the demolition of a shed, the removal of a shipping container on site and site clearance which would include the removal of existing mature natural features on this c1.57ha site.
- 8.1.3. The site forms part of a larger parcel of serviced mature suburban neighbourhood of Clontarf East/Raheny which is situated circa 5km to northeast of Dublin's city centre, as the bird would fly.
- 8.1.4. The site is subject to the 'Z15 – Community and Social Infrastructure' zoning under the Dublin City Development Plan, 2022-2028, and in its existing state is comprised of a minimal footprint coverage of buildings, which consists of the Sybil Hill House's footprint and the ancillary shed structure. These are set in a mature landscaped setting. Alongside the site is bound by mainly by existing residential, residential/institutional and educational lands to its north, west and south. As previously noted in the assessment above the adjoining lands to the east last functional use was as active recreational open space, i.e. playing pitches.
- 8.1.5. For clarity I also note that I have considered and assessed the modest amendments submitted by the First Party in their appeal submission to the Board.
- 8.1.6. This amended design option proposes the same demolition, removal of existing structure, change of use of Sybil Hill House; however, it modestly reduces the built

form of Block 'B' so that the total number of senior residential living apartments reduces to 75. It also includes modest footprint changes to the positioning of Block A, a slight reduction in car parking number through to an additional pedestrian/cycle sized access point onto Sybil Hill Road towards the northern end of its roadside boundary.

8.2. Pre-Screening for Environmental Impact Assessment

8.2.1. This application was submitted to the Board after the 1st of September, 2018, and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations, 2018, which transposed the requirements of Directive 2014/52/EU into Irish planning law.

8.2.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act, 2000, as amended (2000 Act), identify classes of development with specified thresholds for which EIA is required.

8.2.3. I consider the following classes of development in the 2001 Regulations as being of relevance to the proposal:

- Class (10)(b) of Schedule 5, Part 2, of the Planning and Development Regulations, 2001, (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

- Class (15) (b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: *"any project listed in this part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7."*

8.3. I also consider that the proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class (10)(b)(i); Class (10)(b)(iv) and Class (15)(b) of the said Regulations. In respect of the latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use.

The proposed development as lodged would contain in addition to retaining a level of residential institutional use in Sybil Hill House, a Protected Structure, alongside its part use as providing additional residential and amenity community spaces for the proposed 78 senior living apartment units together with ancillary works on a site area of c1.57ha. The proposed development is therefore sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b)(i) and (iv) of the Planning and Development Regulations, 2001, as amended, in that it contains less than 500 units and is below the size site threshold levels (less than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere). Therefore, a mandatory EIA is not required in this case.

- 8.3.1. Notwithstanding, the criteria in Schedule 7 of the Planning & Development Regulations, 2001, as amended, are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors that could give rise to potential for an environmental impact. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

8.4. Screening Determination for Environmental Impact Assessment

- 8.4.1. The applicant has not submitted to the Board an Environmental Impact Assessment Screening Report (EIASR) addressing the issues which are included for in Schedule 7A of the Planning & Development Regulations, 2001, as amended. Additionally, though the Planning Authority raised concerns in particular in relation to the project's potential for impact on ecology and biodiversity due to the high sensitivity of the site's location, it did not request an EIA determination from the applicant. The Planning Authority reached its determination to refuse permission for the project on other substantive matters.
- 8.4.2. Based on the criteria in Schedule 7 of the 2001 Regulations, I have carried out an EIA screening determination of the project (included in Appendix 2 and 3 of this report). For the Board's clarity, in undertaking the EIA screening determination, I have

considered all the documentation, responses and submissions on file. I also have had regard to the following factors:

- The nature, scale and extent of the project, as lodged and the suggested alterations proposed by the Appellant in their appeal submission to the Board by way of an 'amended design option', which in both situations are projects that fall below the thresholds in respect of Class (10)(b)(i), Class (10)(b)(iv) and Class (15)(b) of the 2001 Regulations.
- The site's predominant green space nature and character. In this regard it is largely comprised of trees, two dense woodland pockets, manicured grass lawns, mature natural features that reinforce its demarcated boundary, and a green setting that contains limited building and hard space footprints. Additionally, the site is immediately bound on its eastern side by former playing pitches of St. Pauls College and is located in close proximity to St. Anne's Park. At its closest lateral separation distance, I note the distance as the bird would fly is c80m. These green spaces are recognised as hosting a number of protected species under EU legislation. Including this green corridor is recognised in the Development Plan with the plan providing provisions to protect ecological and biodiversity in the plan area in a manner consistent with the National Biodiversity Plan, 2023 to 2030. Additionally, Article 10 of the EU Habitats Directive which provides for the protection of connectivity of habitats to ensure the sustainability of populations of species in the Annexes.
- The various documentation submitted with the application and on appeal that address a variety of environmental, ecological and biodiversity issues alongside examine the impact of the proposed development on them, individually and in combination with other plans and projects.
- The relevant policies and objectives in the Dublin City Development Plan, 2022-2028 (including but not limited to the site being subject to 'Z15 – Community and Social Infrastructure'; its transitional land use character; ecology; biodiversity; and cultural heritage sensitivity to change).
- The results of the strategic environmental assessment of the Dublin City Development Plan, which was undertaken in accordance with the SEA Directive (2001/42/EC).

- The pattern of development that characterises the site and its setting including the site's transitional land use zoning character being bound by sensitive to change land use zonings to its north ('Z1' – Sustainable Residential Neighbourhoods – which has a stated land use objective: "*to protect, provide and improve residential amenities*") and east ('Z9' - Amenity/Open Space Lands/Green Network – which has a stated land use objective: "*to preserve, provide and improve recreational amenity, open space and ecosystem services*").
- Planning history of the site and its surrounding setting, including existing and permitted projects in the area.
- The location of the site in a mature suburban area served by public services and infrastructure, together with the services and infrastructure having no significant capacity issues to serve the quantum of the proposed development, as lodged and as amended.
- The location of the site relative to any sensitive location specified in Article 109(4)(a) the Planning and Development Regulations 2001, as amended, and the potential for impacts on such locations.
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government, (2003).
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Management Plan, Engineering Services Report, Ecological Impact Assessment Report, the Archaeological & Cultural Heritage Impact Assessment through to the Arboricultural Report, documents provided with this application and with this First Party appeal.

8.4.3. Having regards to the above, I have completed an EIA screening assessment as set out in Appendix 2 and 3 of this report below. I also refer to the comments contained under Section 7.4 which deals with the matter of Ecology and Biodiversity; Section 7.5.5 which deals with the matter of Arboriculture; Section 7.5.6 which deals with the matter of drainage and Section 7.5.9 which deals with the matter of Green Networks. These sections provide comments that are relevant to the EIA screening assessment. I consider that the location of the proposed development and the environmental,

ecological and biodiversity sensitivity of this site's geographical setting would justify a conclusion that it would be likely to have significant effects on the environment. In this regard, I consider that it has not been satisfactorily demonstrated that the proposed development would not have the potential to have effects the impact of which would be determined insignificant by their extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would be likely to have significant effects on the environment and that an environmental impact assessment is required.

8.4.4. Conclusion:

In conclusion I consider that Schedule 7A of the Planning & Development Regulations, 2001, as amended, information is required to enable an informed screening determination to be carried out by the Board on the basis that there is realistic doubt regarding the likelihood of significant effects from the proposed development on the environment., I recommend that the Board should it be minded to grant permission that they first seek the submission an EIASR so that they reach an informed screening determination.

9.0 Appropriate Assessment

9.1.1. The proposed dry storage shed has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. This is provided in detail in Appendix 1 of this report attached. The findings are summarised below:

9.1.2. **Stage 1 – Screening Determination for Appropriate Assessment:** Having carried out Appropriate Assessment screening (Stage 1) in accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, it has been determined that the proposed development as revised (See: Section 2 of this report above), may have likely significant effects on North Bull Island Special Protection Area (Site Code: 004006) and South Dublin Bay & River Tolka Estuary Special Protection Area (Site Code: 004024).

This is based on the potential of this project to give rise to significant effects on Light Bellied Brent Goose (*Branta bernicla hrota*) with this bird species being a Qualifying

Interest (QI) of both aforementioned SPAs by virtue of an indirect pathway between the site and both named Natura 2000 sites. With the conservation interests of both named Natura 2000 sites in relation to this bird species is to maintain or restore the favourable conservation conditions of this species listed as one of their qualifying interests.

Therefore, an Appropriate Assessment (Stage 2) is required of the implications of the project, alone and in combination with other plans/projects, on the qualifying interests of these identified Natura 2000 sites in light of their conservation objectives.

- 9.1.3. **Stage 2 Stage 2 – Appropriate Assessment:** In carrying out an Appropriate Assessment (Stage 2) of the project, I have assessed the implications of the project on North Bull Island Special Protection Area and South Dublin Bay & River Tolka Estuary Special Protection Area in view of their conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant documentation and submissions on this appeal case file. I have had a full and detailed regard to all aspects of the proposed project. With this including but not limited to a detailed assessment of the project alone and in combination effects with other plans and projects including historical projects, current proposals, and future plans against which I have assessed the proposed mitigation measures and ecological monitoring for the construction and operational phases. From this detailed assessment I consider that the information provided does not support beyond reasonable doubt an absence of adverse effects on the Light Bellied Brent Goose, a qualifying interest of both North Bull Island Special Protection Area and South Dublin Bay & River Tolka Estuary Special Protection Area and is inadequate to make a reasonable conclusion otherwise.
- 9.1.4. Therefore, following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/or in-combination with other plans or projects, that it cannot be excluded with certainty on the basis of objective scientific evidence that this project would not adversely affect the integrity of North Bull Island Special Protection Area and South Dublin Bay & River Tolka Estuary Special Protection Area in view of their sites' conservation objectives and qualifying interests.
- 9.1.5. **Conclusion:** On the basis of the above I consider that the Board is precluded granting permission for the proposed development sought under this application. This is on the basis that the information provided with the application and on appeal, does not

demonstrate that this project either individually or in-combination with other plans and/or projects would not adversely affect the integrity of the North Bull Island Special Protection Area and South Dublin Bay & River Tolka Estuary Special Protection Area in view of the site's conservation objectives. This in itself is in my view a substantive reason for refusal of permission for the development sought under this application.

10.0 Recommendation

10.1. I recommend that permission is **refused**.

11.0 Reasons and Considerations

1. The site is located in an area zoned objective 'Z15' under the Dublin City Development Plan, 2022-2028. The stated zoning objective for such land is 'to protect and provide for community uses and social infrastructure' and under Section 14.7.14 of the said Development Plan limits development on these lands subject to safeguards. The Board considers that the proposed development would materially contravene the zoning objective as set out in the said Development Plan on the basis that it has not been demonstrated that the proposed development is consistent with the considerations set out under Section 14.7.14 applicable to all developments on such lands, including there is no exceptional circumstance demonstrated for this development which is by its nature residential commercial. The Board pursuant to the provisions of section 37(2)(b) of the Planning and Development Act, 2000, is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37(2)(b)(i), (ii), (iii) or (iv) of the said Act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the special character of the site, which relates to a site of architectural interest by virtue of it consisting of Sybil Hill House and its curtilage, which is listed as a Protected Structure in the Dublin City Development Plan, 2022-2028 (Note: RPS Ref. No. 7910), it is considered that the proposed development, by virtue of its overall design and layout, the level of intervention to this Protected Structure surviving setting including natural and man-made features of historical interest, the lack of adequate certainty in terms of the scope of works that would be required for the material changes of use proposed to it, cumulatively would have a detrimental and irreversible impact on the essential qualities as well as special

character of this structure, which would conflict with the protection afforded to it under Policy BHA 2 of the said Development Plan. This Development Plan policy seeks to conserve and enhance protected structures and their curtilage in a manner that is consistent with the Architectural Heritage Protection Guidelines for Planning Authorities, (2011), and is therefore considered reasonable in the context of the architectural and built heritage sensitivity of this site as well as its positive contribution to its setting. The proposed development would materially and adversely affect the character and setting of the Protected Structure, and would, for these reasons, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

3. The Board had regard to the information provided with the planning application and at planning appeal stages, including an Appropriate Assessment Screening & Natura Impact Statement, and to the acknowledged pattern of use of adjoining lands as *ex-situ* foraging habitat for the Light Bellied Brent Goose (*Branta bernicla hrota* [A046]) a qualifying interests of the North Bull Island Special Protection Area (Site Code: 004006) and South Dublin Bay & River Tolka Special Protection Area (Site Code: 004024). The absence of satisfactory survey data on the potential *ex-situ* usage of the subject lands by such qualifying interests as part of this qualifying interest was also noted. Additionally, the absence of potential dispersal of this qualifying interest to other potential suitable *ex-situ* feeding sites in the locality of St. Pauls College former playing pitches on the basis of these adjoining lands up to recent times being an important *ex-situ* feeding site for this qualifying interest but are now in an overgrown state and likely to no longer be suitable as an *ex-situ* feeding site for this qualifying interest was noted. The Board is not satisfied, on the basis of the available information, that the proposed development would not result in further disturbance and displacement effects on the Light Bellied Brent Goose or that the development would not result in significant adverse effects on the integrity of the North Bull Island Special Protection Area and the South Dublin Bay & River Tolka Special Protection Area, in view of the conservation objectives for these sites.

4. The Board having had regard to the information provided with the planning application and at planning appeal stages, including an Ecological Impact Assessment, considered that insufficient survey information had been undertaken to demonstrate that the proposed development would not give rise to any adverse material impact on locally important habitats, species and wildlife corridors alongside. In the absence of this information the Board firstly noted that there was uncertainty on whether adequate and site appropriate mitigation measures had been incorporated into the design as well as layout of the proposed development. Secondly, the Board considered that in the absence of this information that there was uncertainty in terms of the proposed construction and operational phase mitigation measures proposed to ensure that no significant biodiversity and ecological impacts would arise from the proposed development. As such, the proposed development would be contrary to the protection provided to biodiversity and ecology under the Dublin City Development Plan, 2022-2028. Alongside it would be is consistent with the National Biodiversity Action Plan, 2023-2030, and Article 10 of the EU Habitats Directive (Council Directive 92/43/EEC) which provides for the protection of connectivity of habitats as part of ensuring the sustainability of populations of species in its Annexes. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.

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

Patricia M. Young
Planning Inspector

11th day of March, 2025.

Appendix 1:

Appropriate Assessment Stage 1 and 2

Appropriate Assessment Stage 1 – Screening Determination

Description of the Project

I have considered the proposed residential development in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).

Subject Site

As described under Section 1 of this report the subject site is an irregular shaped appeal site that consists of the reduced curtilage of Sybil Hill House, a Protected Structure (RPS Ref. No. 7910), and has a given area of c1.57ha. The site comprises of the period Sybil Hill House, an ancillary shed structure and its associated spaces which includes mature trees, hedgerows, woodland pockets, and manicured grass that is accessed from the public road network via a vehicle entrance on its south westernmost boundary. The nearest watercourse is the Nanniken Stream which is situated c235m to the northeast of the site with no direct or indirect hydrological connections between. It includes a period garden feature (ha-ha) on the southern portion of the site. This feature also has a drainage function within the site with the site levels rising to the north of it. The existing period building discharges its foul and surface water to public infrastructure network on Sybil Hill Road. This road lies in close proximity to the western boundary of this site.

Proposed Development

The proposed development as lodged is set out under Section 2 of this report. It can be summarised as consisting of demolition of an existing shed structure and removal of a shipping container alongside the construction of three blocks that in total contain 78 senior living apartments within an integrated retirement community use of the entire site that would include the use of Sybil Hill House as part residential institutional use as well as residential amenity and community space for the retirement community. Ancillary works such as widening the Sybil Hill Road access, landscaping, communal amenity space, car parking, services connection through to the removal of some of the natural features on this mature site and providing linkage to the lands to the east of the site are also included as part of the proposed development.

The initial AA screening provided by the applicant is based on the proposed development as lodged.

However, the revised AA Screening Report is based on the amended design option provided by the First Party Appellant which reduces the scheme to contain 75 senior living apartments as well as includes other modest changes to the proposed development including but not limited the reduction in on-site car parking and provides clarity on the loss of natural features.

In both the proposed scheme as lodged and as amended all infrastructural works associated with water supply and wastewater drainage (with connections to public systems/infrastructure). Wastewater arising from the proposal will be collected and discharged for treatment Ringsend WWTP, under licence, prior to entering the marine environment of Dublin Bay. The proposal includes a surface water management system with onsite attenuation and several SuDS features (retention of the 'ha-ha' feature, use of permeable surfaces, installation of attenuation structures, green infrastructure, collection of surface water from roofs to water butts for local irrigation use through to petrol interceptor). Regard was had in the design of foul and surface water drainage design to several key documents including the Greater Dublin Regional Code of Practice for Drainage Works (Version 6), the Greater Dublin Strategic Study (GDSDS), Irish Water Code of Practice for Water Infrastructure, Irish Water Code of Practice for Wastewater Infrastructure, EPA Wastewater Treatment Manuals through to Irish Water Drainage and Supply Records.

Submissions and Observations

Several Third-Party submissions on the application were made to the Planning Authority raising concerns that the proposed development had the potential to adversely impact on Natura 2000 sites, including particular concerns raised for Light Bellied Brent Goose, a qualifying interest of Natura 2000 SPA sites within Dublin Bay, use of the adjoining St. Pauls former playing pitch lands as an *ex-situ* feeding site. Additional concerns were raised in relation to qualifying interests of other Natura 2000 sites in Dublin Bay and the potential adverse impact the proposed development would have on protected habitats and species. The content of these submissions I have noted, and they are attached to file.

No response was received by Uisce Eireann in relation to the water supply and wastewater. Additionally, the Planning Authority's interdepartmental reports where water supply and wastewater related matters were considered raised no substantive concerns or capacity issues, however, did consider that further information was required to ensure that the proposed development complied with required SuDS measures and the like.

An Taisce and the Irish Georgian Society submissions raise built heritage, and their overall concerns are not of consequence to this appropriate assessment.

No comments were received from the Department of Housing, Local Government and Heritage (Development Applications Unit).

The Planning Authority undertook an appropriate assessment of the project, and they concluded that the proposed development, individually or in combination with other plans or projects would be likely to have a significant effect on any South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006) Natura 2000 sites, in view of their conservation objectives. In reaching this conclusion the Planning Authority had regard to the Applicants Appropriate Assessment Screening Report and its conclusions that was lodged as part of the planning application. The conclusions of this report were not concurred with.

The First Party Appellant as part of their appeal submission submitted a revised Appropriate Assessment Screening Report that included a Stage 2 (Natura Impact Statement) Appropriate Assessment. A statutory notice informing the public that this Natura Impact Assessment had been received by the Board with this First Party appeal case was published and all parties were notified and given the opportunity to make written submission or observations within five weeks of publication of the notice. None were received.

Potential Impact Mechanisms from the Project

Site Surveys

Site surveys and documentation provided with this application and on appeal confirm that the site is not under any wildlife or conservation designation. The document titled: 'AA Screening & Natura Impact Statement – information for a Stage 1 (AA Screening) and Stage 2 (Natura Impact Statement) AA for a proposed senior living scheme, Sybil Hill Road, Raheny, Co. Dublin) identifies the nearest Natura 2000 sites are North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) located 1.4km to the east of the site and at a further distance of 1.6km South Dublin Bay & River Tolka SPA (Site Code: 004024) as well as South Dublin Bay SAC at 3.7km. The other identified Natura 2000 sites also overlapping with Dublin Bay range in distance between Baldoyle Bay SAC (Site Code: 000199) at 4.9km through to Rogerstown Estuary SPA (Site Code: 004015) at 13.7km. Within a geographical radius of 15km from the site it identifies 16 in total SAC and SPA sites. (Note: 1 and Table 2 of the report).

I note that the site survey was carried out on the subject site on the 20th day of January, 2023. From which it was determined that the site is comprised of the following habitats: Buildings and Artificial Surfaces (BL3); Mixed Broadleaf/Conifer Woodland (WD2); and Amenity Grassland (GA2) as per Fossitt (2000).

I first of all note that this application including appeal submission was accompanied by a number of documents including an Ecological Impact Assessment (EclA) report. The EclA considered that in the absence of mitigation measures there is potential for noise and visual disturbance to the Light-Bellied Brent Goose within the *ex-situ* feeding site of St. Pauls former playing pitches.

The EclA also considered that the site is surrounded by trees and the site is located to the far side of the foraging habitat of the Light-Bellied Brent Goose and that mitigation is needed in the form of site clearance measures in relation to mitigate impact in general on bird species during construction. The EclA further considered that mitigation is required in relation to preventing disturbance to the Light-Bellied Brent Goose adjoining habitat from contaminated surface water through to control disturbance during operation of the proposed development. In relation to the later it indicates that design measures have been included by way of the retention of the existing boundary wall between the site and the former St. Pauls former playing pitch lands. Alongside modifications to the eastern façade of the block facing into these lands as part of the amended design including removal of balconies and the creation of winter gardens through to measures to control light spill emanating from the site onto these adjoining lands. Overall, the having regards to the amended design option provided with the Appellants appeal submission, the EclA concludes that standard measures in relation to construction and operational controls will be incorporated into the proposed development project to minimise the potential impacts on the ecology within the Zone of Influence. In this regard it considers that the amended design option includes more bespoke mitigation measures to minimise the potential negative impacts on the Light Bellied Brent Goose and that there were no projects in the vicinity of this project that would be seen to have a significant in combination effect on Natura 2000 site(s).

In relation to the documentation accompanying the proposed development as lodged I note that it includes a report titled: '*Appropriate Assessment Screening for a Proposed Senior Living Scheme, Sybil Hill Road, Raheny, Co. Dublin*', prepared by Altemar – Marine & Environmental Consultancy and, dated 28th October, 2022, accompanies the planning application as lodged with the Planning Authority. This document concluded that the proposed development is located within a densely populated urban environment noting the nearest Natura 2000 sites as being North Dublin Bay SAC (Site Code: 000206) and North Buil Island SPA (Site Code: 004006) with the nearest watercourse being 235m to the northeast of the site boundary (Note: Nanniken Stream). This AASR considered that there was no direct or indirect hydrological connection between the site and this watercourse. It noted that the surface water drainage from the proposed development would ultimately outfall to the marine environment of Dublin Bay. With foul water discharging to an existing foul sewer on Sybil Hill Road which would then be treated at Ringsend Wastewater Treatment Plan, under licence, prior to discharge to Dublin Bay.

This AASR also considered that there was an indirect hydrological pathway for foul and surface water drainage from the proposed development via the existing foul sewer to Dublin Bay, via an existing storm drain. Notwithstanding, given the distance between the site and the nearest Natura 2000 site any pollutants, dust, or silt laden run off would be dispersed, diluted within the existing network and foul wastewater that would ultimately be treated within the public network prior to reaching the marine environment of Dublin Bay. This report therefore considered that in the absence of mitigation that no significant effects on Natura 2000 sites are likely and that no specific mitigation is required to prevent impacts on any Natura 2000 site or sites, with this considered to be the case in terms of both the construction and operation phases of the proposed development sought under this application as lodged. On this basis it concluded that the proposed development would not impact on the conservation objectives of qualifying interests of any Natura 2000 site or sites and therefore the progression to 'Stage 2 of the Appropriate Assessment' process was not necessary in this case.

In addition I note that the Planning Authority as part of their determination of this planning application carried out an Appropriate Assessment of the proposed development under the provisions of Article 6(3) of the EU Habitats Directive and Regulation 30 of SI No. 94/1997 European Communities (Natural Habitats) Regulations (1997) which provides for any plan or project which has the potential to significantly impact on the integrity of a Natura 2000 site must be subject to Appropriate Assessment. This requirement is also provided for under Section 177(U) of the Planning & Development Act, 2000, as amended.

The Planning Authority's primary concern in relation to the accompanying AASR provided with this application was that in their view it did not have appropriate regard to site's location which is adjacent

to St. Pauls an *ex-situ* feeding site for the Light Bellied Brent Goose and the potential of this project to give rise to significant effects on this bird species. On this point the Planning Authority considered that by virtue of the Light Bellied Brent Goose being a Qualifying Interest (QI) of both North Bull Island Special Protection Area (Site Code: 004006) and South Dublin Bay & River Tolka Estuary Special Protection Area (Site Code: 004024) which are located c1.4km and c1.6km to the east of the site at their nearest separation distance, respectively, there was potential for an indirect pathway between the site and both of these named Natura 2000 sites during the construction and operation phase of the proposed development. Thus, the Planning Authority considered that there is a potential for impact on the conservation interests of both names Natura 2000 sites which is to maintain or restore the favourable conservation conditions of this species listed as one of their qualifying interests.

I note that the Planning Authority raised no concern in relation to North Dublin Bay SAC (Site Code: 000206). The Planning Authority also noted in relation to the Construction Management Plan that Article 6(3) of the Habitats Directive states that: "*it is not appropriate, at the screening stage, to take account of measures intended to avoid or reduce the harmful effects of the plan or project on that site*".

The Planning Authority on the basis of these considerations together with applying the precautionary approach concluded that a Stage Two Appropriate Assessment (and Natura Impact Statement) was required.

In my view there is a clear conflict in the conclusion of the Planning Authority's Appropriate Assessment directly conflicts with that of the applicants Appropriate Assessment Screening Determination conclusion as provided for in their document titled: 'Appropriate Assessment Screening for a Proposed Senior Living Scheme', Sybil Hill Road, Raheny, Co. Dublin.

Having regards to the above and having examined all relevant documentation on file, I concur with the Planning Authority's Appropriate Assessment conclusion that a Stage Two Appropriate Assessment (and Natura Impact Statement) is required and necessary for the determination of this proposed developments environmental effects individually and in combination with other plans/projects on the environment given the potential for negative impacts to arise on the aforementioned QI of North Bull Island SPA and South Dublin Bay & River Tolka Estuary SPA on foot of the activities associated with the construction and operational phases of the proposed development.

To this I also note that the Light Bellied Brent Goose, which is a QI of the aforementioned SPA's, is recognised as an internationally important population of this bird species with the adjoining former St. Pauls College playing pitches recognised as an important *ex-situ* feeding area for them.

I further consider that there is a potential concern arising in this site context for displacement to have arisen in recent years for the Light Bellied Brent Goose *ex-situ* feeding sites within this largely urban setting where the potential for suitable *ex-situ* feeding sites is limited. This concern is based on the fact that St. Pauls former playing pitches have become overgrown and are now not likely to be suitable as an *ex-situ* feeding site for the internationally important population of Light Bellied Brent Goose associated with the North Bull Island SPA and the South Dublin Bay & River Tolka Estuary SPA.

There is also of note a level of porosity between the site and these lands particularly at the end of the eastern boundary wall. There is a lack of clarity in terms of how this change to this habitat has impacted the Light-Bellied Brent Goose, *ex-situ* feeding site's in this locality through to certainty that this site is not used as an *ex-situ* feeding site despite the significant area of manicured grass lawn it contains. With these manicured lawns not subject of any active recreational amenity use through to the site itself has a limited percentage covered by buildings with the eastern and western pockets of woodland providing visual and physical buffering of the site from the more urbanised environment to the north, south and west of the site.

Such habitats are recognised as being utilised by this bird species for *ex-situ* feeding during winter months and it is unclear whether or not this is the case for the manicured grass land pockets on this site which are located at the western edge of what is a green corridor that extends westwards from the marine environment of Dublin Bay where the aforementioned SPA's are within very close proximity.

Though I am cognisant that inland feeding sites like St. Pauls former playing pitches are not designated as forming part of North Bull Island SPA and South Dublin Bay & River Tolka Estuary

SPA boundaries they are nonetheless protected, as previously noted under Article 10 of the EU Habitats Directive which provides for the protection of connectivity of habitats with this being legally required to ensure the sustainability of populations of species in its Annexes.

Having regard to this environmentally sensitive to change site setting, it is my considered opinion that the applicants initial AA screening report does not adequately or robustly in a manner that accords with best practices examine the proposed development potential impact on the Light Bellied Brent Goose in terms of their inland *ex-situ* feeding habitats. In turn there is a lack of certainty whether or not there is a likely potential impact upon a recognised biodiversity corridor that potentially links this site, the adjoining St. Pauls College former playing pitch grounds via the green corridor of St. Anne's Park which I further note contains recognised habitat for SPA species, to the North Bull Island SPA and South Dublin Bay & River Tolka Estuary SPA Natura 2000 sites, either individually or in combination with other plans or projects. Further, I am also not satisfied that there is sufficient clarity provided with the AASR and accompanying assessment documents on this matter that in recent years there has been no displacement, fragmentation through to any additional reliance on the Light Bellied Brent Goose on other sites which have habitat that is suitable for ex-situ feeding by this internationally important bird species.

However, this appeal submission is accompanied by a revised Appropriate Assessment Screening report which noted the site's location within a densely populated urban environment noting the nearest Natura 2000 sites as being North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) at c1.4km to the east of the site as well as the nearest watercourse being 235m to the northeast of the site's boundary.

In similarity with its initial lodged Appropriate Assessment Screening report this document notes that surface water drainage will be directed to an existing storm sewer located on Sybil Hill Road which would ultimately discharge to the marine environment of Dublin Bay. Also, it notes that foul water would be discharged to an existing foul sewer on the same road, and that it would be treated ultimately at the Ringsend Wastewater Treatment Plant, subject to licence, prior to discharge to the marine environment of Dublin Bay. As a precaution it therefore considered that there was an 'indirect' hydrological pathway from the proposed development site to the following Natura 2000 sites: Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA via foul and surface water discharge. This was given on the basis of treatment of the foul wastewater at the Ringsend Wastewater Treatment Plant and given that any pollutants, dust, or silt laden run off would be dispersed, diluted within the existing foul and surface water drainage infrastructure that in the absence of mitigation no significant effects on the aforementioned Natura 2000 sites or any other such sites would arise.

However, in relation to the adjacent St. Pauls *ex-situ* feeding site for the Light-Bellied Brent Goose, as discussed above, a QI of South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA, this report indicates that having regard to the removal of trees along the boundary of this site that during construction and operation: *"and out of an abundance of caution there is potential for significant effects via visual and noise disturbance"* to this bird species.

This report concludes that acting on a strictly precautionary basis that an NIS is required in respect of the two aforementioned SPAs: *"because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures in relation to visual and noise disturbance during construction and operation, that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect"* on these named Natura 2000 sites. Therefore, an NIS is required for both South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA.

Natura 2000 Sites

Table 2 of the AASR accompanying this appeal submission provides a list of the qualifying interests (QIs)/special conservation interests (SCIs) and the conservation objectives for all Natura 2000 sites within a geographical radius of 15km, with this including the aforementioned two SPA sites. It also identifies potential direct and indirect pathways between the project and these Natura 2000 sites (Note: hydrological, hydrogeological and air). This information is provided under Table 1. In this regard the said table sets out the following 16 No. Natura 2000 sites as having no direct hydrological/biodiversity connection to the site:

Special Areas of Conservation

North Dublin Bay (Site Code: 000206) is 1.4km
South Dublin Bay SAC (Site Code: 000210) is 3.7km
Baldoye Bay SAC (Site Code: 000199) is 4.9km
Howth Head SAC (Site Code: 000202) is 6.2km
Rockabill to Dalkey Island SAC (Site Code: 003000) is 6.8km
Malahide Estuary SAC (Site Code: 000205) is 8km
Irelands Eye SAC (Site Code: 002193) is 8.8km
Rogerstown Estuary (Site Code: 000208) is 13.5km

Special Protection Areas

North Bull Island SPA (Site Code: 004006) is 1.4km
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) is 1.6km
Baldoye Bay SPA (Site Code: 004016) is 5.1km
Irelands Eye SPA (Site Code: 004117) is 8.6km
Malahide Estuary SPA (Site Code: 004025) is 8.6km
Howth Head Coast SPA (Site Code: 004113) is 9.1km
Dalkey Islands SPA (Site Code: 004172) is 12.3km
Rogerstown Estuary SPA (Site Code: 0041015) is 13.7km

In addition, Table 2 of the report provides an initial screening of the above Natura 2000 sites, in light of their conservation objectives and qualifying interests, concluding whether or not there is potential for hydrological connection to the proposed development.

This examination screened out 14 of the aforementioned Natura 2000 sites to have no direct and/or negligible indirect pathway to or connection with the site. In this regard it screened in North Bull Island SPA and South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) on the potential impacts arising during construction and operational phases of the proposed development on the conservation interests of these two sites on the basis of removal of natural boundary screening and features between it and the adjoining St. Pauls former playing pitches which are utilised as an *ex-situ* feeding site for the Light-Bellied Brent Goose (*Branta bernicla hrota*) which is one of their qualifying interests.

In relation to the 14 screened-out Natura 2000 sites it identifies during the operational phase indirect hydrological connections between the site, the project and Dublin Bay during construction as well as operational phases. Specifically, through surface water discharges via the public surface water network to Dublin Bay, and secondly, through wastewater discharges via the public drainage system (effluent will be treated at Ringsend WwTP under licence prior to being discharged) to Dublin Bay. As such it considers that there is an indirect hydrological pathway arising from the projects foul water discharge to Natura Sites within Dublin Bay. In particular South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA. In relation to surface water discharge the minimum lateral separation distance between the site and these Natura 2000 sites is c1.4km. Any pollutants, dust or silt arising from the project critically during construction phase will be dispersed, diluted within the existing network prior to reaching the marine environment associated with these Natura 2000 sites. It also indicates that there are no hydrological connection direct or indirect to the Nanniken Stream.

It therefore concludes that the potential for significant effects on the above 14 Natura 2000 sites is unlikely in the absence of mitigation, the proposed development and the project would not give rise to any significant effects on them. It states: "*acting on strictly precautionary basis, NIS is required in respect of the effects of the project on South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures in relation to visual and noise disturbance during construction and operation, that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European Site/s*".

Natura 2000 Sites at Risk

The AASR accompanying this appeal identifies the following two Natura 2000 sites in the zone of influence at potential risk from the proposed project either alone or in combination (Note pg. 37):

- North Bull Island SPA (Site Code: 004006)
- South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024)

This is consistent with the findings of the Planning Authority, and I concur with this inclusion after having regard to the fact that the list of Natura 2000 sites identified in the amended AASR does not include the North West Irish Sea SPA (Site Code: 004236). On this point for clarity I note that this Natura 2000 site was designated after the lodgement of this subject planning application. I note to the Board that this SPA is located c4.2km at its nearest point to the site as the bird would fly.

In relation to the North West Irish Sea SPA, I note that like the two Natura 2000 sites identified at risk it is an important resource for marine birds. It extends offshore along the coasts of counties Louth, Meath, and Dublin, and is approximately 2,333km² in area. It is ecologically connected to several existing SPAs providing supporting habitat for foraging and other maintenance behaviours for seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands. Alongside for seabirds outside of the breeding period also. The North West Irish Sea SPA is designated for twenty-one marine bird species including non-breeding and breeding populations.

The non-breeding species for the North-West Irish Sea SPA include Red throated Diver, Great northern Diver, Common Scoter, Black headed gull, common Gull Great Black-backed Gull, and Little Gull. Breeding seabirds include: Fulmar, Manx Shearwater, Cormorant, Shag, Lesser Black-backed Gull, Herring Gull, Kittiwake, Roseate Tern, Common Tern, Artic Tern, Little Tern, Guillemot, Razorbill, Puffin. Conservation objectives to main or restore favourable conservation condition for its Qualifying Interest species.

I am satisfied that having regard to its lateral separation distance together with its QI's/SCI's it would not have changed the conclusion in terms of the potential impact of the proposed development during construction and operational phases on the conservation interests of Natura 2000 sites. This is based on the lateral separation distance between the site and this Natura 2000 site which is in my view significantly beyond the zone of influence of this project. I am satisfied that there are no meaningful direct or indirect connectivity between the site and the North West Irish Sea SPA.

In Table 1 below I have provided an overview of the Natura 2000 sites identified at risk, their lateral separation distance from the site, their qualifying interest, and a summary of the general potential for connectivity between the project and these particular sites of conservation interest.

Table 1: Natura 2000 Sites at Potential Risk from the Project

Natura 2000 site	Qualifying Interests	Distance	Connections
North Bull Island SPA (EI004006)	Qualifying Interests Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056]	1.4km	Yes <u>Indirect hydrological pathway</u> from the proposed development via foul and surface water drainage which will be directed to existing storm and foul infrastructure on Sybil Hill Road, with these ultimately out falling to the marine environment of Dublin Bay (with the foul wastewater treated at Ringsend WwTP, under licence, before out falling to the marine environment of Dublin Bay). Adjoining site to the east is <u>ex-situ</u> feeding site for <u>Ligh-bellied Brent Goose</u> . Proposed development along this boundary during construction and operation could give rise to

	<p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</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>Black-tailed Godwit (Limosa limosa) [A156]</p> <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>		disturbance of this QI bird species, including noise and light.
South Dublin Bay & River Tolka Estuary SPA (004024)	<p>Qualifying Interests</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p>	1.6km	<p>Yes</p> <p>Indirect hydrological pathway from the proposed development via foul and surface water drainage which will be directed to existing storm and foul infrastructure on Sybil Hill Road, with these ultimately out falling to the marine environment of Dublin Bay (with the foul wastewater treated at Ringsend WwTP before out falling to the</p>

	Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]		marine environment of Dublin Bay). Adjoining site to the east is <u>ex-situ</u> feeding site for Ligh-bellied Brent Goose. Proposed development along this boundary including the felling of mature trees during construction and operation could give rise to disturbance of this species, including noise and light.
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Effect Mechanisms on the Natura 2000 sites at Risk

Having regard to the site and its setting locational characteristics, the project scale and nature of works involved, through to the separation distance between the site and the 14 screened out Natura 2000 sites and including the North West Irish Sea SPA, that there is potential for impacts to arise during the construction and operation phase of the project on the conservation interest of the two Natura 2000 sites identified in Table 1 and as concluded upon by the Planning Authority as well as in the amended AASR accompanying this appeal. I therefore propose to examine the potential effect mechanisms in Table 2 below based on the precautionary principle on these identified Natura 2000 sites as follows:

- A) Surface water pollution during construction phase.
- B) Surface water pollution during operation phase.
- C) Foul water pollution during construction.
- D) Foul water pollution during operation phase.
- E) Visual, Noise, Vibration and Air Disturbance during construction phase.

F) Visual, Noise, Vibration and Air Disturbance during operation phase.

Table 2

Natura 2000 sites at risks from impacts of the proposed project based on the precautionary principle.			
Effect Mechanism	Impact Pathway/Zone of Influence	Natura 2000 Site(s)	Qualifying/ Conservation Interest Features at risk
<p>A) Surface water pollution during construction phase.</p> <p>B) Surface water pollution during operation phase.</p> <p>C) Foul water pollution during construction phase.</p> <p>D) Foul water pollution during operation phase.</p> <p>E) Visual, Noise, Vibration and Air Disturbance during construction phase.</p> <p>F) Visual, Noise, Vibration and Air Disturbance during operation phase.</p>	<ul style="list-style-type: none"> • Impact via a direct hydrological pathway. • Impact via an indirect hydrological pathway. • Impact via a direct hydrogeological pathway. • Impact via an indirect hydrogeological pathway. • Impact via a direct visual, noise, vibration, and air pathway. • Impact via an indirect visual, noise, vibration, and air pathway. 	<p>South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024)</p>	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p>
As above	As above	<p>North Bull Island SPA (Site Code: 004006).</p>	<p>Light-Bellied Brent Goose (Branta bernicla hrota) [A046]</p>

Identification of likely significant effects on the Natura 2000 sites 'alone'

Table 2 – Appendix 3

Could the project undermine the Conservation Objectives 'alone'

North Bull Island SPA (Site Code: 004006): Natura 2000 Site & Qualifying Feature	Conservation Objective:	Could the Conservation Objectives be undermined (Y/N)?					
		Effect A	Effect B	Effect C	Effect D	Effect E	Effect F
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qis for this SPA.	Y	N	Y	N	Y	Y
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024): Natura 2000 Site & Qualifying Feature	Conservation Objective:	Effect A	Effect B	Effect C	Effect D	Effect E	Effect F
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qis for this SPA.	Y	N	Y	N	Y	Y

Effect Mechanism A (Surface water pollution during construction phase)

- Potential surface water run-off from the project via the public network to marine environment of Dublin Bay and in turn to the pathway to both named Natura 2000 SPA sites at risk, however, given the distance between the site and the marine environment of Dublin Bay all QI's for the two identified at risk Natura 2000 sites can be excluded on the basis of the dilution and dispersal of surface water contaminants prior to reaching the boundaries of these sites and the QI's they contain. This is not the case with the Light Bellied Brent Goose, a QI of both named Natura 2000 sites identified at risk, due to their use of St. Pauls College former pitches to the immediate east as an ex-situ feeding site and the lack of clarity that the site itself is also in use by this QI as a result of it containing areas of manicured grass. As such potential pathway to both named Natura 2000 SPA sites at risk.
- As above. There is potential pathway for surface water run-off during an adverse weather or pollution event from the project site onto the adjoining St. Pauls College lands utilised by the Light-Bellied Brent Goose as an ex-situ feeding site. As such potential pathway to both named Natura 2000 SPA sites at risk.

- Mitigation measures, in the form of standard construction measures, are proposed to protect any adverse impact on Natura 2000 sites during the course of the construction phase.

Effect Mechanism B (Surface water pollution during operation phase).

- None. Surface and storm water via public network which discharges to the marine environment of Dublin Bay at its nearest point c1.4km from the site. Project use of standard best practice surface water drainage as part of the project. Any pollutants would be dispersed, diluted within the existing network prior to reaching the marine environment of Dublin Bay. Therefore, no pathway to both named Natura 2000 SPA sites. Further, in making this conclusion regard was had to the topography of the site which falls away in a southerly direction and generally not towards the adjoining lands to the east of the site. I am satisfied that there is no uncertainty over effects on the status of any Natura 2000 sites, particularly those identified at potential risk from surface water pollution during the operational phase, even if an adverse event were to occur.

Effect Mechanism C (Foul water pollution during construction phase).

- Yes. There is potential for an adverse pollution event to arise in the form of a foul water discharge from the project site onto the adjoining St. Pauls College lands utilised by the Light-Bellied Brent Goose as an *ex-situ* feeding site during construction and in turn to the pathway to both named Natura 2000 SPA sites at risk. With the residential institutional use at Sybil Hill House likely to be maintained during construction works and with this use dependent on an existing discharge of foul water to public foul water sewer on Sybil Hill Road alongside significant ground works surrounding this existing use in facilitating works associated with this project. An adverse pollution event resulting in foul water discharge from the management of foul water arising from the activities associated with the site being a people intensive construction site during this phase would be matters that the project proposes to manage in accordance with best practices and standards. I am satisfied that there is no uncertainty over effects on the status of any Natura 2000 sites identified at risk or any other at a further lateral separation distance. For clarity purposes I am also satisfied that outside of the Light Bellied Brent Goose that there is no likelihood of adverse effects on any other QI's of the named Natura 2000 sites identified as being at risk.

Effect Mechanism D (Foul water pollution during operation phase).

- No. Foul water run-off from the project via the public network to marine environment of Dublin Bay and in turn a potential pathway to both named Natura 2000 SPA sites at risk. However, should an adverse foul water pollution event arise at the project site associated contaminants would be dispersed, diluted within the existing network prior to reaching the marine environment of Dublin Bay and therefore not be likely to have a pathway to either named Natura 2000 SPA's sites at risk. Further, this project would discharge foul water to Sybil Hill Roads existing foul drainage which would be treated at Ringsend WwTP, under licence, prior to being discharged to Dublin Bay. There are no capacity issues in relation to accommodating the proposed development.

Effect Mechanism E (Visual, Noise, Vibration and Air Disturbance during construction phase).

- Yes. There is potential for adverse effects on Light-Bellied Brent Goose, a Qualifying Interest of both named Natura 2000 SPA sites due to visual, noise, vibration and air disturbances arising during the overall construction phase of the project. This potential impact arises because of the site adjoining an *ex-situ* feeding site of this QI and as such there is a pathway between the project site and the named Natura 2000 sites at risk. There is also uncertainty on whether this QI utilise the project site as an *ex-situ* feeding site arising from the over recent years increasingly overgrown habitat at the adjoining St. Pauls former playing pitches *ex-situ* site. This type of habitat is not favoured by the Light Bellied Brent Goose, with the site containing habitat that is recognised to be used by this QI for *ex-situ* feeding, i.e., low cut grass. There are no other QI's of the named Natura 2000 sites at risk due to the significant lateral distance between the site and habitat associated with their other named QI's.

Effect Mechanism F (Visual, Noise, Vibration and Air Disturbance during operation phase).

- Yes. There is potential for adverse effects on Light-Bellied Brent Goose, a Qualifying Interest of both named Natura 2000 SPA sites due to visual and noise disturbances arising during the operation phase. There is significant lateral separation distance between the project site and habitats associated with the other QI's of the named Natura 2000 sites at risk to be certain that no adverse effect would arise to them from this project.

Appropriate Assessment: Stage 1 Conclusion - Screening Determination

In accordance with Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of objective information, having carried out Appropriate Assessment Screening (Stage 1) of the project, it has been determined that the project may have likely significant effects South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006) in view of their conservation objectives and qualifying interests. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of both of these named Natura 2000 SPA sites in light of their conservation objectives.

The possibility of likely significant effects on other Natura 2000 sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other Natura 2000 sites. Including those set out in the accompanying Table 1 and 2 of the accompanying AA Screening & NIS report.

No measures intended to avoid or reduce harmful effects on Natura 2000 sites have been considered in reaching this conclusion.

Appropriate Assessment - Stage 2

Aspects of the Proposed Development

Construction Phase

The project involves preparatory site works of excavation (removal of top and subsoils), reprofiling of ground levels through to the excavation for foundations for the proposed buildings, structures, and ancillary infrastructure. Construction works also include laying of services infrastructure, pouring of concrete for foundations and other hard surfaces.

During construction works, especially during periods of wet weather, there is potential for an increase in siltation and pollution of surface water run-off with hydrocarbons, cement, and other suspended materials. There is the potential for contaminated run-off to be discharged to the existing public surface water network and in turn to the marine environment of Dublin Bay which could have significant effect on South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006). There is also a potential, in an adverse event, for contaminated run-off due to change in ground levels to have indirect hydrogeological impact on the adjoining St. Pauls College *ex-situ* feeding site for the Light-Bellied Brent Goose, a QI of both named SPA's, for

which it is a conservation interest to maintain or restore the favourable conservation conditions. This arises from the significant ground works proposed alongside and in close proximity to the western boundary of the St. Pauls *ex-situ* feeding site.

Construction activities at the site will likely result in an increase in noise, vibration, illumination, airborne pollutants through to dust deposition over and above the current baseline levels. Such activity could potentially impact upon the South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA as a result of this site's proximity to the said St. Pauls College *ex-situ* feeding site utilised by the Light-Bellied Brent Goose, a QI of both named SPA's, for which it is a conservation objective to maintain or restore the favourable conservation conditions.

On this basis it is considered that the construction phase could potentially impact upon this particular QI and the Conservation Interest of South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA via indirect pathways. However, I consider the extent of this potential impact is uncertain given the limited scope, robustness and up-to date surveying carried out in the documentation provided on file on this matter in particular in relation to the site itself, the adjoining lands to the east of the site which consist of the former playing pitches of St. Pauls College which are recognised up to recent times as being an important *ex-situ* feeding site for the internationally important population of Light Bellied Brent Goose, a qualifying interest of both above named SPA's.

Operation Phase

Once operational, the project will be served by and connected to the public water networks. It is proposed to be operated and maintained in accordance with the requirements of Uisce Eireann as well as the Planning Authority. The on-site surface water system incorporates attenuation and treatment stages prior to discharge to the public system. As the public networks are enclosed piped systems, the project does not directly discharge to any surface watercourse, and there is limited potential for pollution events to groundwater including during any adverse event, no likely significant effects on the QI and the Conservation Interests of South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA, are reasonably anticipated from this project during its operational phase.

The project will result in an increase in human activity (noise, light, odour, and the like) during the operational phase of the project. As a result there is potential for disturbances arising from the project on the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006) as a result of the site adjoining an *ex-situ* feeding site of St. Pauls College which is utilised by the Light-Bellied Brent Goose, a Qualifying Interest of both named SPA's, for which it is a conservation interest to maintain or restore the favourable conservation conditions. In particular, there is potential for disturbances to arise from Block 'B', other structures and associated spaces that are proposed alongside and in close proximity to the eastern boundary of the site which bounds the aforementioned *ex-situ* feeding site of St. Pauls College.

Mitigation Measures

The description and consideration of the impacts of the proposed development are the subject of the Ecological Impact Assessment, Appropriate Assessment Screening Report, Natura Impact Statement, Arboricultural Report/Survey, Engineering Report, and an outline Construction Management Plan.

Additionally, the First Party Appellants appeal submission proposes amendments to the design of Block 'B' to remove balconies and instead provide enclosed winter gardens facing towards the eastern boundary of the site which, as discussed, is located in close proximity to the *ex-situ* feeding site of St. Pauls for the Light Bellied Brent Goose. It also includes early implementation of ecological measures on site at the initial mobilisation and enabling works. Particularly in relation to implementation of specific proposed mitigation measures which have the potential for reducing significant impacts on Light-Bellied Brent Goose. A range of other mitigation measures are also identified during the construction and operation phases of the project to protect surface water quality, prevent pollution events to groundwater, limit discharges of surface/storm water, limit potential for noise, vibration and air disturbances, harmful materials/substances containment, in a manner that accords with best practices and more climate resilient measures.

Overall, the NIS considered that the series of mitigation measures proposed as well as those incorporated into the amended design option would ensure minimal adverse disturbance on the Light-Bellied Brent Goose populations that have been noted to utilise St. Pauls as an *ex-situ* feeding site and that no significant impacts are foreseen from the demolition, site clearance works through to the operational phase of the project. The NIS acknowledges however that there would be residual impacts from the project, but that these would be localised to the immediate vicinity of the site and would not impact on the integrity of proximate Natura 2000 sites, including the two named Natura 2000 SPA sites that on the basis of precaution were potentially at risk. It further considers that it is essential that its construction and operational mitigation measures are complied with. This is based on ensuring that the project would not give rise to any adverse disturbances including noise and visual impacts on the Light-Bellied Brent Goose noted to utilise the adjacent St. Pauls site as an *ex-situ* feeding site.

The Appropriate Assessment Screening and NIS report concludes that it outlines the information required for the competent authority to screen for Appropriate Assessment and therefore in turn to decide on whether or not this project, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the named sites conservation objectives deemed potentially to be at risk, to affect their integrity.

For clarity I note that the mitigation measures relevant to protecting the Natura 2000 sites deemed at risk are included under Table 5 of the NIS and the adverse effects likely to occur are summarised also summarised at Page 55.

Where relevant, likely significant effects on the Natura 2000 site(s) 'in-combination with other plans and projects'

Table 3

Plans and projects that could act in combination with effect mechanisms of the proposed project (e.g. approved but uncompleted, or proposed)	
Plan / Project	Effect mechanism
<p>Listed in Table 3 of the NIS (pg. 35) and supplemented by information in section 5.0 of this report.</p> <p><i>*Note: At the time this report was prepared there were no other more recent plans and projects permitted that could act in combination with effect mechanisms of the project (e.g. approved but uncompleted, or proposed).</i></p>	A-F as per Table 1 above.

I have had regard to the information included in the Appropriate Assessment Screening Report, Natura Impact Statement, Ecological Impact Assessment, outline Construction Management Plan, Engineering Service Reports through to Arboricultural Reports/Surveys. I have had regard to recent and relevant planning history of the site's setting (proposed/ decided) under Section 4 of this report. I do not identify any significant in-combination effect from any permitted plans or projects. Notwithstanding, I advise caution to the Board in relation to the LRD Foxland's scheme, as if this concurrent appeal case were to be permitted, with it relating to the *ex-situ* feeding site lands of St. Pauls College former playing pitches there is potential for in-combination with effect mechanisms of the subject project.

Additionally, I have had regard to the policies and objectives set out in the Dublin City Development Plan, 2022-2028, relevant to this subject matter. I also identify that a Strategic Environmental Assessment (SEA) was undertaken by the Planning Authority in respect of this Development Plan prior to its adoption, with the adopted Development Plan having regards to the SEA findings.

Moreover, the Dublin City Development Plan, 2022-2028, includes policies and objectives seeking environmental protection; pollution prevention and requiring projects to be constructed as well as operate within industry standards with connection as well as servicing by public water services

infrastructure, in a manner that accord with higher level planning policy documents and guidance on such matters.

Table 4

Could the project undermine the Conservation Objectives in combination with other plans and projects?							
Natura 2000 Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/ N/Uncertain)?					
		Effect A	Effect B	Effect C	Effect D	Effect E	Effect F
North Bull Island SPA (Site Code: 004006): Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]	To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qis for this SPA	N	N	N	N	<u>Uncertain</u>	<u>Uncertain</u>
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024): Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]	As above	N	N	N	N	<u>Uncertain</u>	<u>Uncertain</u>

Appropriate Assessment: Stage 2 Conclusion

The project has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of objective information, I have assessed the implications of the project on the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006) in view of their conservation objectives. I have had regard to the applicant's NIS; all other relevant documentation and submissions on the case file. I also have had regard to planning history of the site setting through to had regard to all relevant local through to national planning provisions as well as guidance.

I consider that the information included in the case file is not adequate to allow the carrying out of an Appropriate Assessment. I also consider it is not adequate to make an informed scientifically based conclusion that with certainty it can be determined that the project, individually or in-combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA in view of the sites' conservation objectives and qualifying interests.

This consideration is based on:

- The lack of a scientifically objective and robust up-to-date examination of the bird species utilising the site and its setting. In particular, the Light-Bellied Brent Goose, a qualifying interest of both South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006), inland *ex-situ* feeding habitats in this locality.

- An assessment of all aspects of the project, including proposed mitigation measures during construction and operation, in relation to potential direct and indirect pathways to Natura 2000 sites, in particular SPA's within Dublin Bay for which the Light Bellied Brent Goose is a qualifying interest.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.
- There is reasonable scientific doubt as to the absence of adverse effects on the integrity of South Dublin Bay & River Tolka Estuary SPA and North Bull Island SPA.

Conclusion:

In light of the above, following an Appropriate Assessment, it has been ascertained that the proposed development alone, would adversely affect the integrity of both South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) and North Bull Island SPA (Site Code: 004006), in view of their conservation objectives. This conclusion is based primarily on the increased human activities at the site during construction and operational phases which have the potential to result in disturbance to the Light Bellied Brent Goose *ex-situ* feeding sites at this locality, particularly that adjoining the eastern boundary of the site at St. Pauls College former playing pitches. I therefore recommend for this reason that the Board refuse planning permission for the project proposed under this application.

Inspector: _____

Date: 11th day of March, 2025.

Appendix 2

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-315672-23		
Proposed Development Summary	Permission is sought for 78 senior residential living apartments within an integrated retirement community development comprising three new blocks in the curtilage of 'Sybil Hill House', a Protected Structure, the use of 'Sybil Hill House' for associated communal uses & facilities to support the integrated retirement community together with all associated site works. A NIS was submitted as part of the appeal		
Development Address	'Sybil Hill House', Sybil Hill Road, Raheny, Dublin 5, D05 AE38.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	<input checked="" type="checkbox"/>	
	No		No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	<input checked="" type="checkbox"/>	<i>Is of a class but does not exceed the relevant quantity, area or limit of that class.</i>	Proceed to Q3.
No			No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	<input checked="" type="checkbox"/>	<i>Does not equal or exceed Class 10. Infrastructure Projects (b)(i) Construction of more than 500 dwelling units or (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. It is also considered subthreshold having regard to Class 15(b).</i>	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Screening determination remains as above (Q1 to Q4)
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____

Date: 11th day of March, 2025.

Appendix 3

EIA - Preliminary Examination

An Bord Pleanála Case Reference	ABP-315672-23
Proposed Development Summary	Permission is sought for 78 senior residential living apartments within an integrated retirement community development comprising three new blocks in the curtilage of 'Sybil Hill House', a Protected Structure, the use of 'Sybil Hill House' for associated communal uses & facilities to support the integrated retirement community together with all associated site works. A NIS was submitted as part of the appeal
Development Address	'Sybil Hill House', Sybil Hill Road, Raheny, Dublin 5, D05 AE38.
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development site has a stated area of c1.57ha and currently mainly comprises of manicured green space on which sits the Protected Structure of Sybil Hill House, a Protected Structure, and its associated spaces as well as an ancillary storage shed structure. The development as lodged consists of modest demolition totalling 80m², the construction of three blocks that in total contain 78 senior living apartments within an integrated retirement community use of the entire site that would include the use of Sybil Hill House as part residential institutional use as well as residential amenity and community space for the retirement community. The proposal seeks to retain 1,164.46m² of existing floor area and 6,156m² new floor area. The resulting site coverage of buildings is 16.36%.</p> <p>The alternative design set out as part of the appellants submission to the Board proposes a reduction in senior living apartment unit number from 78 to 75 by way of modifications to Block B, one of the three new blocks proposed as part of this integrated senior living development. I note that the footprints of the three blocks proposed remain the same with modest repositioning and a reduction in floor area to c5,949m².</p> <p>The nature, extent and scale of the proposed development is not exceptional in its suburban context alongside that supported under local, regional through to national planning provision. However, in its localised context of 'Z15' zoned land under the current Dublin City Development Plan, 2022-</p>

	<p>2028, the proposed development is subject to demonstrating compliance with specific considerations.</p> <p>The proposed development would produce standard expected waste, emissions/pollutants that correlate with the demolition and removal of an existing shed structure from the site. It would also result in the loss of some existing natural features through to the excavation required for the new built forms and ancillary spaces proposed. It is also a type of development that does not require the use of substantial natural resources or give rise to significant risk of pollution or nuisance. Further it is a type of development that can be dealt with by standard construction and operational stage best practice measures and controls for the nature of development proposed.</p> <p>Additionally, the development involves treatment and disposal of effluent to the public sewer and surface water. There are no capacity issues in terms of the public infrastructure accommodating the quantum of development sought. With Ringsend Wastewater Treatment Plan currently undergoing significant upgrading works that will enable increasing volumes of wastewater arriving at the plant to be treated to the required standard, enabling future housing and commercial developments, with these works likely to be completed prior to the occupation of the proposed development were it to be granted permission and implemented. Subject to standard design of the wastewater and surface water new infrastructure/modifications to existing wastewater and surface water on-site infrastructure, these components of the proposed development are acceptable in principle and would not result in pollution risk.</p> <p>Moreover, the site is served by an upgrade of the existing vehicle entrance onto Sybil Hill Road. Under the amended design option an additional pedestrian/cycle access is proposed to the north of the vehicle entrance. Both are in proximity to a number of bus routes with quality connectivity in between. Additionally, the site is within walking distance of two DART stations. Again, with quality connectivity in between. Permeability to the public domain of The Meadows would improve overall connectivity to these public transport options, however this is not proposed. Moreover, permeability to the wider public domain could be achieved through co-ordination with any redevelopment of the St. Pauls College former playing pitch lands.</p> <p>The quantum of traffic generated by the proposed development during construction and operations would not be exceptional or likely to result in any significant transport emissions.</p> <p>There are no ecological designations attached to this site. However, the site adjoins a green corridor that extends</p>
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	<p>westwards from Dublin Bay over St. Anne's Park and St. Pauls College former playing pitches.</p> <p>A landscaping scheme is submitted with the proposed development which shows proposals to retain some of the sites existing mature trees and part of an existing woodland pockets. This scheme also provides for compensatory and additional planting. Additionally, it shows that the historic 'ha-ha' drainage feature would be retained as part of the proposed development.</p> <p>The development, by virtue of its type, nature, scale, extent, serviced location within a wider suburban context to the north of Dublin city, a suburban location, which has undergone significant change does not pose a major risk of accident and/or disaster, or is it vulnerable to climate change.</p> <p>It presents no risks to human health.</p> <p>The subject site is not located on lands that are at risk of flooding.</p> <p>The Appropriate Assessment Screening, a Natura Impact Statement and Ecological Impact Assessment provided in support of the application concludes no real likelihood of significant effects on the environment.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, Natura 2000 sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development site is located within the suburban serviced area of Raheny/Clontarf East which lies c5km to the north of Dublin's city centre and is located in an area which has undergone significant redevelopment. With the setting of the site being one that has a predominant mature residential character.</p> <p>The site setting is zoned 'Z15', a land use zoning that limits redevelopment subject to demonstrating compliance with required considerations.</p> <p>The site is one that has a transitional character with it bound by a mature existing built-up suburban neighbourhood to its north, south, west, and northeast.</p> <p>The site is located on the western edge of a strategic green corridor that is identified of significance in the Dublin City Development Plan, 2022-2028.</p> <p>Additionally, the adjoining 'Z9' lands are recognised to be an <i>ex-situ</i> feeding site for the Light Bellied Brent Goose which is a Qualifying Interest of both the North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA, Natura 2000 sites, which are located c1.4km and c1.6km to the east of the site, respectively. With the lands to the east of the site forming a green corridor that links to Dublin Bay c1.4km</p>

	<p>away. The main area in between is comprised of the public and historical parkland associated with St. Anne's Park. This municipal parkland is recognised as containing a number of Protected Species, including but not limited bats and badgers. With these two species also found on the adjoining 'Z9' zoned lands to the immediate east of the site consisting of the former playing pitches of St. Pauls College. These adjoining green field lands are an <i>ex-situ</i> feeding site for Light Bellied Brent Goose, a QI of both mentioned SPA's above and are recognised as hosting bats and badger species. With this fact also referenced in planning applications for development on it (Note: I refer the Board to Section 4 of this report above).</p> <p>These adjoining lands are subject to a planning application for the construction of 7 blocks containing a total of 580 residential units between them, a creche, a 100-bedroom nursing home together with ancillary site services and works. The status of this application which was appealed to the Board is 'Stay on Decision'. However, an Appropriate Assessment Screening, a Natura Impact Statement and Ecological Impact Assessment provided in support of the application concludes that no individual or in-combination effects from other projects would arise from the proposed development.</p> <p>Notwithstanding, past applications on this land have been refused on the basis of potential for resulting negative impacts to arise to qualifying interests of SPA's in the marine environment of Dublin Bay including North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA and the potential for negative impacts on their <i>ex-situ</i> feeding habitats and disturbances arising from increased human activity associated with the construction and operational phases of the proposed projects (Note: I refer the Board to Section 4 of this report above).</p> <p>The subject site does not form part of, nor does it adjoin any landscapes of identified significance in the said Development Plan. It appears to overlap with a green corridor identified in the Development Plan that mainly relates to the area associated with St. Anne's Park. Objective GIO18 of the Development Plan indicates that the City Council will seek to investigate its suitability of designation as a Landscape Conservation Area during the timeframe of this plan. This designation has not been adopted at the time this report was prepared. Of note however under objective GIO26 of the Development Plan the City Council also seeks to implement a conservation management plan for St. Annes Park. One such plan has been prepared for St. Anne's Park which is identified as one of the City Councils 13 Flagship parklands.</p> <p>Additionally, ecological surveys and habitat management plans for woodlands St. Anne's have been prepared. With this recognising the sensitivity of flora and fauna within</p>
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	<p>including species afforded specific protection including but not limited to bats and badgers.</p> <p>The proposed development site consists of the grounds of Sybil Hill House, a Protected Structure, with this building being highly intact and its curtilage retaining elements of its original designed intent. The proposed works whilst appearing to include no physical interventions to Sybil Hill House, does include significant interventions within its curtilage.</p> <p>The site is remote from the zone of potential archaeological interest of Recorded Monuments & Places.</p> <p>Having regard to the characteristics of the development as lodged and the amended design, the documentation provided with this application and on appeal, the characteristics of this site and its setting as described, it is considered based on objective evidence that having regard to the location of the subject site relative to sensitive habitats/features, that it has not been satisfactorily demonstrated by the documentation provided with this application and on appeal that the likely magnitude and spatial extent of effects arising from the proposed development, and when considered in combination with other plans or projects, that it can be definitively concluded that there would be no potential for significant effects on the environmental factors listed in section 171A of the Act arising from the proposed development.</p>
<p>Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>This appeal site is not located on or within proximity to any designated Natura 2000 site(s). It is located a distance of circa 1.4km from the nearest such sites that being North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA which are both located to the east of the site at a lateral separation distance of c1.4km and c1.6km, respectively.</p> <p>The proposed development would not adversely impact on known archaeology.</p> <p>The site contains a drainage ditch (Note: a period design garden feature known as a 'Ha-Ha' which forms part of the curtilage of Sybil Hill House, a Protected Structure) on its southern side there are no watercourses running through the site or adjoining the sites' boundary. The nearest watercourse is the Nanniken Stream which is located c235m to the northwest of the site as the bird would fly with no drainage channels or any direct or indirect drainage channels connecting the site to it.</p> <p>There would be no rise in waste, pollution, or other nuisances over and above that associated with the nature of the residential use proposed. These are not considered to be exceptional within the site's suburban setting where there is capacity in its infrastructure to accommodate the additional</p>

	<p>demands that would be generated by the quantum of development sought.</p> <p>The proposed development would not give rise any known risks to human health and it is a type that would not give rise to any risk of major accidents.</p> <p>There are existing residential, educational through to institutional development adjacent to the site. However, there is no real likelihood of significant cumulative effects with the existing and permitted projects or plans in the area. In this regard, I note that at the time this report was prepared there was no permitted yet to be implemented grants of planning permission for development on the adjoining St. Pauls College former playing pitch lands, but I refer the Board as a precaution to the LRD Foxland's scheme identified in Section 4 of this report above.</p> <p>Despite the above, there are environmental sensitivities in the immediate vicinity of the site that are set out in the previous sections of this table as well as in the main assessment above. Of concern, it is unclear from the information on file whether the site subject of this application supports any Protected Species on adjoining and neighbouring land including that of the former St. Pauls College pitches and St. Anne's Park by virtue of it being largely comprised of green space that includes mature natural features in the form of trees and woodland groups with limited building footprints thereon or active use of maintained manicured lawn areas.</p> <p>With this concern relating to mainly the potential for impact on <i>ex-situ</i> feeding habitat for the Light Bellied Brent Goose a qualifying interest of the nearest Natura 2000 SPA sites (Note: North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA) as well as other vulnerable to change species, including bat species and badgers, that are recorded in the immediate setting of the site. Alongside bat activity being recorded in this appeal site in the past as part of a previous planning application with the site being unchanged by way of any significant development in the intervening time and with the St. Pauls College former pitches becoming more overgrown with no recent functional use thereon.</p> <p>The documentation provided with this application is of a limited scope and best practice scientific rigour in terms of examining the potential ecological, biodiversity and environmental impacts of this project alone or in combination with other plans and/or projects in what is a sensitive to change setting. Particularly in relation to the potential effects on the local internationally important population of Light Bellied Brent Goose, a qualifying interest of North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA, with both SPA's having a conservation objective of maintaining or restoring the favourable conservation status of this species of community interest.</p>
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	<p>Additionally, in relation to potential effects arising to bats and badgers, during construction through to operational phases of the proposed development there is a lack of certainty in relation to the potential effects of the project on these species. It is also a concern that the design and layout of the proposed development is not informed by the potential for impact on protected species and habitats. These cumulatively give rise to deficiency concerns in relation to making an informed determination of the significant effects of this project as lodged or as amended on the environment.</p> <p>The Appropriate Assessment screening undertaken in this report concludes that it has not been demonstrated that the proposed development would not likely have a significant effect on any Natura 2000 site, in particular the North Bull Island SPA and South Dublin Bay & Tolka River Estuary SPA, by virtue of potential impacts on Light Bellied Brent Goose that are recorded to have used in recent times the former St. Pauls College playing pitches as an <i>ex-situ</i> site and that its increasing overgrown unkept state in recent years has resulted in displacement of this species to other suitable locations, including potentially the subject site itself, which contains manicured maintained grass which is a habitat preferred for winter feeding of this bird species.</p> <p>It is also concluded in the assessment above that the proposed development would materially and adversely impact upon the sensitivities of Sybil Hill House, a Protected Structure, by virtue of the addition of buildings, ancillary structures, and spaces within its grounds.</p> <p>Having examined all the documentation on file, the project as lodged and the amended design option set out by the Appellant in their appeal submission to the Board, taking into account of its likely potential for significant effects on: population and human health; biodiversity, with particular attention to potential for impact on 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; it is considered that the applicant, has not adequately identified and described the direct, indirect, secondary and cumulative effects of the proposed development on the environment. In particular, in relation to the local bats, badgers and Light Bellied Brent Goose population during construction works and operational phases.</p> <p>It is not clearly demonstrated that the construction and operational measures are informed by a robust analysis of the environmental sensitivities of the site and its setting.</p> <p>Additionally, the proposed significant and material changes to buildings and spaces within the surviving reduced curtilage of Sybil Hill House, a Protected Structure, are such that it would erode its distinctive character and the surviving</p>
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	<p>legibility of its original design intention which included its designed landscaped setting.</p> <p>Conclusion: I am not therefore satisfied that the information contained with this application and on appeal demonstrates that the proposed development would not have any unacceptable direct, indirect, or cumulative effects on the environment. In this case, having regard to the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU an EIAR is required for the Board to make an informed decision on this matter. However, even the other substantive concerns, in particular in relation to conflicting with Z15 of the that arise in relation to the proposed development which in themselves are sufficient to support a refusal of permission it would be contrary to Article 33 of the Planning & Development Regulations, 2001, as amended, which sets out that applicants should not have to suffer unnecessary delay or expense if a refusal is likely.</p>
Conclusion	
<p>Likelihood of Significant Effects:</p> <p><u>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</u></p>	<p>Conclusion in respect of EIA:</p> <p><u>Schedule 7A Information required to enable a Screening Determination to be carried out.</u></p>

Inspector:

Date: 11th day of March, 2025.

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)