



An
Bord
Pleanála

Inspector's Report

ABP-315707-23

| | |
|-------------------------------------|---|
| Development | A foodstore, 3 no. retail units and 72 dwellings. |
| Location | Weaver's Row, Clonsilla Road, Clonsilla, Dublin 15 |
| Planning Authority | Fingal County Council |
| Planning Authority Reg. Ref. | FW22A/0152 |
| Applicant(s) | Aldi Stores (Ireland) Limited and Anne O'Neill |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | First Party against conditions Third Party |
| Appellant(s) | Aldi Stores (Ireland) Limited and Anne O'Neill The Village Estate Residents Association Marie McCartney and Declan Sherlock |

Observer(s)

Mary and Bernard O'Halloran

Cllr. Tania Doyle

Wolfgang Stengel

Alistair White and Louise Cunningham

Date of Site Inspection

18th September 2023

Inspector

Elaine Power

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1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of the Clonsilla Road. This section of the Clonsilla Road is known as Weavers Row. The site is located c. 100m west from Clonsilla village centre, which comprises a row of commercial and retail units fronting onto the Clonsilla Road and c. 700m east of Clonsilla train station. The surrounding area is suburban in nature with a variety of uses, including residential estates, retail, commercial units, educational and community uses. The subject site is also located within 500m of the Coolmine Industrial estate and c. 1.5km of the Blachardstown Shopping Centre.
- 1.2. The site has a stated area of 2.99ha and currently accommodates a derelict cottage (109.4sqm) and a large area of open space that previously formed the rear gardens of dwellings fronting onto the Clonsilla Road. The site is generally flat with a c. 1m difference between the northern boundary with Clonsilla Road and the sites southern boundary with the Old Schoolhouse Site. To the east the site is bound by The Village residential estate and a single storey dwelling that fronts onto the Clonsilla Road and to the west the site is bound by The Church of the Latter day Saints. The southern boundary of the site is also located c. 40m from the Royal Canal.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of an existing derelict house (109.4sqm) and the construction of a mixed use development comprising a food store, 3 no. retail units and 72 no. residential units, comprising 44 no. apartments and 28 no. houses.
- 2.2. The proposed 2-storey food store and single storey retail units sit at the sites northern boundary with frontage onto Weavers Row. The food store has a gross floor area of 2,500sqm and a net sales area of 1,315 sqm and includes an off licence. The food store is generally located at first floor level, over a ground floor car park and associated service area. The food store includes signage and a totem pole.
- 2.3. The scheme also incorporates 191 no. car parking spaces, 326 no. cycle parking spaces. Revised access from Weavers Row and an additional new vehicular access

from Clonsilla Road. All landscaping, boundary treatments and associated development works.

2.4. Key Development Statistics are outlined below:

| | Proposed |
|------------------------|---|
| Site Area | 2.99ha gross |
| No. of Units | 72 no. |
| Unit type | 44 no. apartments 28 no. houses |
| Unit mix | 4 no. 1-beds (5.6%), 37 no. 2-beds (51.3%) and 31 no. 3-beds (43.1%). |
| Density | 37.5 units per ha. |
| Height | 2-4 storeys |
| Other Uses | 1no. food store (2,500sqm GFA) 3 no. retail units (611.8sqm GFA) |
| Open Space | 5,232sqm |
| Car Parking | 191 no. spaces |
| Bicycle Parking | 326 no. spaces |

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 29 no. conditions. The following conditions are considered relevant.

2. Prior to commencement of development the applicant shall submit for the written agreement of the Planning Authority, a revised site layout in which the four units to the south east of the site shall be either omitted, reduced in number or reconfigured to provide a permeable link to The Village development that is suitable and passively safe. If housing units are being retained in the revised layout, then full plans, sections and elevation drawings shall be submitted at the same time for the written agreement of the Planning Authority

3. This permission shall be for a maximum of 70 dwellings, 1 convenience foodstore and 3 no. retail units only.

Reason: In the interest of proper planning and sustainable development of the area.

14. Prior to commencement of development, the applicant is requested to submit a revised site layout for the written agreement of the Planning Authority, showing the public open space provision which excludes the public realm to the front of the proposed convenience store, sections of shared cycle and pedestrian path to the west and the shared cycle / pedestrian path leading to the canal to the south. if the resulting area of public open space does not adhere to the quantity required by Objective DMS57 of the Fingal County Development Plan 2017-2023, the developer shall make p this shortfall by way of a financial contribution in accordance with Section 48(2) of the Planning and Development Act 2000, as amended, in lieu of public open space.

Reason: In the interest of the proper planning and sustainable development of the area.

- 15(b)The developer shall provide a pedestrian crossing facility / Toucan Crossing and all associated works on Clonsilla Road at the developer's own expense. Prior to construction, the location, the design / construction and specification of this crossing shall be agreed in writing with the Planning Authority. The crossing facility shall be in place and operational prior to the occupation of the development.

Reason: In the interest of the proper planning and sustainable development of the area.

- 17(e) Deliveries to the retail units shall be restricted to 7.30 – 20.00 Monday – Friday, Saturday 08.00 – 20.00 and Sunday / Bank Holidays 09.00 -20.00

Reason: To protect residential amenities of the area.

25. (a) Prior to the commencement of the development of any house or duplex unit in the development permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duple unit),

pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (b) an agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for the use by individual purchaser and / or to those eligible for the occupation of social and / or affordable housing, including cost rental housing.
- (c) the determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

- 29. That the developer shall pay the sum of €603,145 to the Planning Authority in respect of the Clonsilla to Dunboyne (Pace) Railway Line. This contribution shall be paid prior to the commencement of development or in such a manner as may otherwise be agreed in writing with the Planning Authority. The rate of contribution payable shall be that pertaining to the particular year in which implementation of the planning permission is commenced. The Supplementary Development Contribution Scheme provides for an annual increase in the levels of contribution payable, as outlined in the scheme, by a factor of 5% compound interest per annum. The levels of contribution will be reviewed annually on the

1st January each year during which the scheme is in force, to take account of the aforementioned increase.

Reason: It is considered reasonable that the payment of contribution be required in respect of the public infrastructure and facilities benefiting development in the area of the Planning Authority and which is provided, or which is intended to be provided, or on behalf of the Local Authority.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

The initial planners report (dated 13th September 2022) considered that there were a number of issues relating to the layout / design, transportation and landscaping which required further consideration. The report recommended that further information be sought regarding 6 no. items.

The response to the request for further information was deemed to be significant and the applicant was requested to provide new public notices. Revised notices were erected and published on the 7th December 2022.

The final report dated 12th January 2022 considered that the concerns raised in the further information request were adequately addressed and it was recommended that permission be granted subject to 29 no. conditions.

3.2.2. ***Other Technical Reports***

Environmental Heath, Air and Noise: Report dated 24th August 2022 raised no objection subject to conditions.

Water Services: Report dated 11th August 2022 raised no objection subject to conditions. Report dated 8th December 2022 raised no objection subject to conditions.

Transportation Section: Report dated 5th August 2022 recommended that further information be sought. Report dated 4th January 2023 raise no objection subject to conditions. These conditions are reflected in the grant of permission. Of particular note are conditions 2 and 15(b) outlined above.

Environment Section (Waste Enforcement and Regulation): Report dated 5th August 2022 raise no objection subject to conditions.

Parks Division: Report dated 20th December 2022 raised no objection in principle subject to conditions. A recommended condition regarding open space provision is reflected in condition no. 14 of the grant of permission.

3.3. **Prescribed Bodies**

An Taisce:

The submission is summarised below:

- The submission notes the planning history of the site.
- Concerns are raised regarding the design approach and 4-storey height of the apartment building fronting onto the Clonsilla Road.
- The development would contravene Objective CLONSILLA 4 '*to protected the historic character of Clonsilla Village by conserving old houses and cottages and only permitting sensitive development*'.
- The proposed height would contravene Objective CLONSILLA 2 to '*develop key sites within the village for mixed use including a residential component to enhance the viability and vitality of the village while ensuring new developments do not exceed three storeys*'.

The Department of Housing, Local Government and Heritage

The site is located in an area of high archaeological potential. It is recommended that pre-development testing be carried out. Standard recommended conditions are included in the submission.

Uisce Eireann: No objection subject to standard conditions.

3.4. **Third Party Observations**

14 no. third party submissions were received by the planning authority. The concerns raised are similar to those outlined in the appeals and observations below.

4.0 Planning History

Subject Site

There are a number of previous applications on the subject site. The most relevant are outlined below: -

ABP 305478-19, Reg. Ref. FW19A/0112: Permission was refused in 2020 for the construction of a mixed use residential and retail scheme on 1.46 ha site that forms a significant portion of the subject site. The reason for refusal considered that the poor design and layout would result in a substandard, uncoordinated form of development, seriously injure the residential amenity of future occupiers and would set an undesirable precedent.

ABP PL06F.245446, Reg. Ref. FW14A/0144: Permission was refused in 2016 for the construction of a mixed use residential and retail development on 1.4 ha site that forms a significant portion of the subject site. The reason for refusal considered that the lack of integration with adjoining areas would result in a disorderly form of development and would set a precedent for similar non-integrated development.

ABP PL06F.226486, Reg. Ref. 07A/1075: Permission was refused in 2008 to demolish 3 no. houses and construct a mixed use residential and retail scheme on a portion of the subject site. The reason for refusal considered that the lack of integration with adjoining areas would result in a disorderly form of development and would set a precedent for similar non-integrated development.

ABP. PL06F.217020, Reg. Ref. F06A/0038: Permission was refused in 2006 for a mixed use residential and retail scheme on a portion of the subject site. The 6 no. reasons for refusal related to (1) disorderly form of development, (2) poor quality residential amenity for future occupants, (3) visually obtrusive, (4) traffic hazard, (5) lack of childcare facility (6) failure to provide connectivity to the Royal Canal.

Surrounding Sites

There are a significant number of planning applications in the immediate vicinity of the site. The relevant applications are noted below.

ABP. PL06F.249188, Reg. Ref. 16A/0176: Permission was granted in 2018 for 103 no. residential units and a neighbourhood centre c. 400m west of the subject site. An extension of duration of permission was permitted in 2022. There are a number of planning applications for this site. The parent permission was **Reg. Ref. FW09/0019**. This parent permission was subsequently amended. Of note is ABP 306980-20, Reg. Ref. FW19A/0233 to allow deliveries between the hours of 8am and 8pm Monday to Saturday (excluding bank holidays) and 9am to 7pm on Sundays and Bank Holidays unless otherwise agreed in writing with the Planning Authority.

ABP309622-21 Strategic Housing Development Application: Permission was refused in 2021 for 198 no. Build to Rent apartments and a childcare facility on the Old Schoolhouse Site, immediately south of the subject site. The reasons for refusal related to (1) the significantly negative impact on the Royal Canal and (2) premature pending completion of further ecological assessments.

Reg. Ref FW21a/0244: Permission was granted in 2022 for 59 no. residential units c. 600 west of the subject site. This decision is currently on appeal under **ABP 313792-22**,

ABP 309878-21 Reg. Ref. FW20A/0050: Permission was refused in 2021 for 8 no. houses on a site located c. 200m east of the subject site. The reason for refusal considered that scheme would be inconsistent with the zoning objective, would have an overbearing impact, would result in undue overlooking and substandard public open space.

ABP312190 Reg. Ref. FW21A/0171: Permission was refused in 2023 for 99 no. apartments on a site c. 400m west of the subject site. The reasons for refusal considered that (1) the design approach result in a visually dominant and obtrusive development that would seriously detract from the visual amenities of the area and (2) inadequate connectivity.

5.0 Policy Context

5.1. Fingal County Development Plan 2023 -2029

The subject site is zoned TC – Town Centre with the associated land use objective to *‘protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities’*.

Clonsilla is identified in the Core Strategy as part of the settlement of Blanchardstown which is located within the Dublin City Metropolitan area and Suburbs Consolidation Area. Table 2.20 states that these areas are the *international business core with a highly concentrated and diversified employment base and higher order retail, arts, culture and leisure offer. Acts as national transport hub with strong inter and intra-regional connections and an extensive commuter catchment.*

Chapter 14 Development Management Standards and the following policies and objectives are considered relevant:

- Policy CSP12 – NPF and RSES
- Policy CSP14 – Consolidation and Re-Intensification of Infill/Brownfield Sites
- Policy CSP15 – Compact Growth and Regeneration
- Policy CSP18 – Promotion of Residential Development
- Policy CSP19 – Compact, Sequential and Sustainable Urban Growth
- Policy CSP20 – Blanchardstown
- Objective CSO21 – Promotion of Higher Densities
- Policy SPQHP35 – Quality of Residential Development
- Objective SPQHO31 – Variety of Housing Types
- Policy SPQHP36 – Private and Semi-Private Open Space
- Policy SPQHP38 – Compact Growth, Consolidation and Regeneration
- Objective SPQHO39 – New Infill Development
- Objective DMSO22 – Daylight and Sunlight Analysis

Table 7.2 identifies Clonsilla is identified as Level 4 in the Retail Hierarchy. Level 4 of the Fingal Retail Hierarchy includes a number of important small towns, urban village centres, and local centres.

These centres should generally provide for one supermarket ranging in size from 1,000–2,500 sqm with a limited range of supporting shops (low order comparison), supporting services, community facilities or health clinics grouped together to create a focus for the local population. This level of centre should meet the everyday needs of the local population and surrounding catchment. The appropriate retail format is stated as lower order comparison (limited to a small number of shops meeting local needs) supermarket.

The following objectives are considered relevant: -

- *Objective EE096 – Level 4 Centres.*
- *Objective EE097 – Retail Provision in Level 4 Centres*
- *Objective EE098 – Ensure Sufficient Retail Offer in Level 4 Towns and Centres*

5.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people’s quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located with the ‘Dublin Metropolitan Area’. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, seeks to focus on a number of large strategic sites, based on key corridors that will deliver significant development in an integrated and sustainable fashion. The followings RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the ‘Sustainable Residential Development in Urban Areas’. ‘Sustainable Urban Housing; Design Standards for New Apartment’ Guidelines, and Draft ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

RPO 5.5: Future residential development in the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, supported by the development of Key Metropolitan Towns in a sequential manner as set out in the Dublin Area Strategic Plan (MASP) and in line with the overall settlement strategy for the RSES.

5.3. ***National Planning Framework***

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

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.4. ***Section 28 Ministerial Guidelines***

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008
- Guidelines for Planning Authorities: Retail Planning, 2012

5.5. Natural Heritage Designations

The following Natura 2000 sites are within 15km of the appeal site:

- Rye Water Valley / Carton SAC (001398) c. 6km from the appeal site.
- South Dublin Bay and River Tolka Estuary SPA (004024) c.12.7km from the appeal site.
- South Dublin Bay SAC (000210) c.14.1km from the appeal site.
- North Bull Island SPA (004006) c 15km from the appeal site.
- North Dublin Bay SAC (000206) c. 15km from the appeal site.

5.6. EIA Screening

5.6.1. An Environmental Impact Assessment Screening Report was not submitted with the application.

5.6.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Construction of more than 500 dwelling units
- 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.
- Item 15: 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.

5.6.3. It is proposed to demolish existing derelict dwelling and the construction of a mixed-use development comprising a food store, 3 no. retail units and 72 no. residential units, comprising 44 no. apartments and 28 no. houses on a site with a stated gross area of c. 2.99ha. The site is located in the urban area (other parts of a built-up area). The site is, therefore, below the applicable threshold of 10ha. There are no excavation works proposed. Having regard to the relatively limited size and the urban location of the development, and by reference to any of the classes outlined above, a mandatory EIA is not required. I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. The proposed development would use the public water and drainage services of Uisce Eireann and Fingal County Council, upon which its effects would be marginal.

5.6.4. Given the information submitted by the applicant, having carried out a site visit on the 18th September 2023 and to the nature and limited scale of the proposed development and the absence of any connectivity to any sensitive location, I am satisfied that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. The planning authority also concluded in their assessment that having regard to the nature of the proposed development no EIA is required. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of the First Party Appeal

The grounds of the first party appeal relate to Conditions 17(e), 25 and 19 only. It is considered that these conditions are unreasonable and that the Board should omit or amend these conditions without determining the entire planning application. The grounds of the appeal are summarised below.

Condition 17(e)

- The delivery hours are unduly restrictive and would inhibit the operation of the stores.
- Most Aldi stores and the majority of supermarkets in Ireland trade from 9am to 10pm Monday to Friday and 9am to 9pm Saturday and Sunday.
- The proximity to residential properties is noted however this site is zoned for commercial purposes. The conditions should not unduly inhibit commercial activity.
- There does not appear to be any restriction on other commercial premises in the vicinity, including an Applegreen service station which operates 24 hours per day.
- Earlier delivery hours are required before trading hours to minimise any potential vehicular conflicts. Aldi typically operates with a single HGV delivery truck once per day, sometimes with another truck during busy trading times. Maximum flexibility is required to enable convenient delivery operations.
- The site incorporates a dedicated loading bay which minimised noise impact. There would be no impact on residential amenity. Deliveries are efficient taking 15 – 20 minutes. The delivery vehicle docks against a purpose built elevated loading bay where goods are taken directly, under cover, to inside the building.
- The loading bay is at a distance to the nearest residential unit and would be separated by the proposed building and boundary walls.
- Aldi has many stores and operates in close proximity to residential properties on a 'good neighbour' principle. This policy will continue at this location.

Condition 25

- This condition should not apply to this application. The guidelines are not binding and do not require a mandatory condition on every permission. The guidelines state that each application requires individual assessment.
- There is no rationale for this condition in the planners report. There is no policy in the development plan or any local area plans.

- The guidelines are clearly aimed at suburban locations. The proposed development is not a traditional lower density, housing estate. It is located on a site zoned town centre.
- The condition does not apply to apartments.

Condition 29

- The deferment of the Navan rail extension results in a suspension of the Section 49 Clonsilla to Dunboyne (Pace) Supplementary Development Contribution Scheme. The contribution should be cancelled.
- Notwithstanding the above, the contribution was incorrectly calculated.
- The contribution of €603,145 is based on a residential levy of €308,413 and a commercial levy of €294,732.
- The areas were inaccurately measured in the calculation. They should be residential (1.7821ha) – €329,115.86 and commercial (0.5175 ha) – €217,891.23. Giving a total contribution of (€547,007.09).
- The public open space proposed with the planning application should not be included as a contribution has already been paid under Section 48 (Condition 28). Excluding the area of public open space, the residential area is c. 1.2589 ha. Therefore, the contribution is €450,383.21.

6.2. **Grounds of Third Party Appeals**

2 no. third party appeal were received by Marie McCartney and Declan Sherlock and The Village Estate Residents Association. The grounds of the appeals are similar and are summarised below:

Permeability

- Concerns regarding the pedestrian access from the site to The Village. The Village has always had a single access / egress point and provides a safe place for children to play.
- The access would result in anti-social behaviour within the established residential estate.

- The access would be used as a short cut to the local school, resulting in littering and noise pollution.
- Additional footfall through the estate would result in a loss of privacy and security for existing residents.
- The Village would be used for overflow car parking for the supermarket. This has the potential to block emergency vehicles.
- The inclusion of these gates has not been agreed with the community.
- There are examples of gates being removed / closed in the Fingal area as they have a negative impact on residents.

Drainage

- Concerns that the sewer has been incorrectly shown on the submitted information and that there is insufficient capacity to accommodate the proposed development.
- If new pipes are to be laid, the existing pipes should be removed and not backfilled. The removal of the existing sewer would have a negative impact on existing landscaping and structures in the rear gardens of adjacent properties.

6.3. Applicant Response

The applicant's response to the third party appeals is summarised below:

- The link between the subject site and The Village is in accordance with the requirements of Fingal County Council. The layout recognised the merits of the urban design requirements of the Clonsilla Urban Centre Strategy (2008). The applicant is happy to provide the link as required by condition no. 2 or alternatively to proceed with the layout submitted by way of further information.
- The link may provide a short cut for local school children. However, it would not result in littering. Aldi operate a strict litter cleaning policy on all their properties.
- There is adequate car parking (83 no. spaces) provided within the development to facilitate customers. The Village is inconvenient for customers to park there.

- The Drainage Layout Plan submitted with the response accurately indicates the route and location of the 300mm foul water sewer. This pipe runs through the rear gardens of existing properties.
- It is proposed to divert this line. It would be cleaned and filled. This eliminates all routes for odour and rodents. The works can be completed from outside third party lands. All works would be carried out in direct liaison with third parties and sufficient notice would be given for all works.
- The large pipe referred to in the appeal is a surface water drain and is located under the public road.
- Drainage has not been an issue on any previous applications.

6.4. **Planning Authority Response**

The planning authority submitted a response on the 28th March 2023 and the 6th April 2023. The response to the first party appeal is summarised below.

Condition no. 17(e)

- The delivery hours are considered reasonable for deliveries, particularly having regard to the proximity of proposed new dwellings and in order to protect the residential amenity of these dwellings in terms of noise.

Condition no. 25

It is considered that the inclusion of this condition is appropriate, relevant and in line with relevant Ministerial Planning Guidelines under Section 28.

Bonds / Contributions

- If permission is granted it is requested that conditions 14 (Open Space), 27 (Bond / cash security), 28 (S48) and 29 (S49) be included.
- The bond condition is the councils sole mechanism to ensure services within the development are built to taking in charge standards.
- The S.49 levy relates to the re-opening of the Navan to Dublin Railway Line - Phase 1 – Clonsilla to Dunboyne (Pace). The area is c. 1km on either side of the proposed railway line and is indicated on a drawing attached with the submission. The levy is applicable and should be applied in full.

The response to the third party appeals is summarised below:

- A key consideration of the development is a need to provide a pedestrian / cycle link to adjoining sites, as envisioned in the Clonsilla Urban Centre Strategy and the Fingal County Development Plan.
- In order to provide a suitable permeable link to The Village a redesign of the proposed layout is required, which would result in the omission or redesign of 4 no. units. It is requested that this element remain in order to ensure strong permeability to adjoining sites.
- The sewer is within the control of Uisce Eireann. The foul drainage proposals were considered during the assessment of the application and they were deemed acceptable.

6.5. **Observations**

4 no. observations were received which raised similar concerns to those raised in the appeals. Additional concerns are summarised below.

- The surrounding road network is at capacity and cannot accommodate the proposed development.
- There is a requirement for a childcare facility in the area.
- The height of 4-storey is not in accordance with development plan standards.
- It would result in a development that is overbearing, intrusive and dominating on the adjoining church.
- The drainage network is at capacity and cannot accommodate the proposed development. Some properties have been flooded due to the inadequate network.
- Clonsilla is already provided for as a Level 4 centre in the Retail Hierarchy and, therefore, does not require an additional large-scale supermarket.
- The greenspace provided is not inclusive.
- 20% of the units should be available for owner occupiers.

- Concerns raised that previous site notices had not been removed and that the application was lodged during a holiday period. Therefore, the public were not adequately informed.

6.6. Further Responses

Both the appellants responded to the Applicants response to the appeal. The responses are similar and are summarised below: -

- The applicant has stated that they are happy to omit the gate between the subject site and The Village. It is requested that the gates be omitted.
- The litter strategy of the applicant is noted. However, the increased footfall would make it impossible to maintain the high standard currently in place.
- Due to congestion, it is highly likely that customers would park in The Village and walk to the supermarket.
- It is almost impossible to completely backfill a sewer. Concerns that there would be a rodent problem. The removal of the sewer is the preferred option.
- The applicant has not addressed concerns regarding safety for children in the estate.
- There is no issue with the current vacant nature of the site.

7.0 Assessment

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design Approach
- Permeability
- Retail
- Transportation

- Water Services
- Material Contravention
- Appropriate Assessment

7.2. ***Principle of Development***

- 7.2.1. The planning authority assessed the scheme against the provisions of the Fingal County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan was adopted in April 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Fingal County Development Plan 2023-2029.
- 7.2.2. The subject site is zoned TC – Town Centre with the associated land use objective to ‘protect and enhance the special physical and social character of town and district centres and provide and / or improve urban facilities. The vision for these lands is to maintain and build on the accessibility, vitality and viability of the existing Urban Centres in the County. Develop and consolidate these centres with an appropriate mix of commercial, recreational, cultural, leisure and residential uses, and to enhance and develop the urban fabric of these centres in accordance with the principles of urban design, conservation and sustainable development. Retail provision will be in accordance with the County Retail Strategy, enhance and develop the existing urban fabric, emphasise urban conservation, and ensure priority for public transport, pedestrians and cyclists while minimising the impact of private car-based traffic. In order to deliver this vision and to provide a framework for sustainable development.
- 7.2.3. Residential and Retail – supermarket ≤ 2,500sqm are permitted in principle and it is noted that the planning authority and the appellants raised no objection in principle to the proposed development.
- 7.2.4. As outlined in section 4 above, planning permission has been refused on 4 no. occasions for a mixed use retail and residential scheme on the subject site. The most recent previous application (ABP 305478-19, Reg. Ref. FW19A/0112) was refused in 2020. The reason for refusal considered that the poor design and layout would result in a substandard, uncoordinated form of development, seriously injure the residential amenity of future occupiers and would set an undesirable precedent. The applicants

Planning Report addresses the previous reasons for refusal on a significant portion (1.4ha) of the subject site and considers that all concerns have been addressed in this current application.

7.2.5. The subject site is also located within the study area of the Clonsilla Urban Strategy, 2008. This document is referenced by the planning authority. It is noted that the current development plan does not make reference to this strategy and, therefore, in my view it has no statutory basis. Notwithstanding this, the document identifies opportunity sites within Clonsilla and design principles for the consolidation and enhancement of the historic village.

7.2.6. In conclusion, I am satisfied that the proposed uses are in accordance with the sites zoning objective and while the previous planning applications are noted it is my opinion that the current scheme should be assessed on its merits.

7.3. ***Design Approach***

7.3.1. The proposed development is located in Clonsilla, c. 100m west from Clonsilla village centre, which comprises a row of commercial and retail units fronting onto the Clonsilla Road and c. 700m east of Clonsilla train station. The surrounding area is suburban in nature with a variety of uses, including residential estates, retail, commercial units, educational and community uses. The subject site is also located within 500m of the Coolmine Industrial estate and c. 1.5km of the Blachardstown Shopping Centre. The site is generally rectangular in shape. It is currently overgrown and previously formed 2 no. separate landholdings which are delineated by a hedgerow which runs in a north – south direction through the site. There is an existing derelict dwelling in the north west corner of the site.

7.3.2. Concerns are raised by An Taisce and in the observations that the design approach and building height proposed along the Clonsilla Road would be out of character with the area and would contravene the development plan. In the interest of clarity, my assessment below relates to the layout and design of the development submitted by way of further information 1st December 2022, with reference to the original application where appropriate. It is noted that the main change relates to the design of the mixed use block (Block 9)

Design and Layout

- 7.3.3. It is proposed to demolish the existing derelict dwelling (109.4sqm) and construct a mixed use development comprising a food store, 3 no. retail units and 72 no. residential units. The applicant Architectural Design Approach Report notes that the proposed design was informed by previous reasons for refusal on the subject site which related to the design and layout.
- 7.3.4. The retail units are located on the northern portion of the site, fronting onto the Clonsilla Road and the residential element is generally located to the rear (southern portion) of the site. Vehicular access is proposed from the Clonsilla Road at the sites north eastern corner. An additional pedestrian / cycle access is proposed from the Clonsilla Road, through the centre of the site.
- 7.3.5. The proposed supermarket is located in the north easter portion of the site, it is set back from the public road by c. 11m to allow for the provision of a public plaza area. The building is 2-storey's (c. 8m) in height. The food store is generally provided at first floor level over undercroft car parking. The predominate external material is red brick with elements of light grey render and glazing. I have no objection to design of the supermarket and consider it to be appropriate for a modern standalone supermarket.
- 7.3.6. The supermarket also incorporates signage. The proposed signage drawing (no. 12-50/220) indicates 4 no. items of signage, in this regard 2 no. internally illuminated 'ALDI' logo signs on the front (northern) and side (western) elevations, a pole sign at the sites northern (front) boundary and a shopfront sign on northern elevation at the entrance to the supermarket. The 2 no. internally illuminated signs are wall mounted. They are c. 2m in width by 2.5m in length and are located c. 4.3m above ground floor level. The pole signage comprises 2no. poles, c. 2m apart and c. 6m in height containing the 'Aldi' logo sign at the top and an area for advertising below. It is assumed this would contain the names / logos of the proposed 3 no. retail units. The shop front sign contains the 'ALDI' logo. It is c. 1.2m in width by 1.4m in length and c. 0.85m above ground floor level. It is located on the front (northern) window of the supermarket adjacent to the entrance. I am satisfied that the retail signage is appropriate for the location and scale of the retail developmetn and would not be

visually obtrusive or have any negative impact on the visual amenities of the streetscape.

- 7.3.7. The mixed use, retail and residential block (block 9) is located in the north western portion of the site. at the sites boundary with the Clonsilla Road. It is set back c. 5m from the public road. This set back allows for a pull in bay for the existing bus stop on the Clonsilla Road. Block 9 is 4 storey (c. 12.7m) in height and accommodates 3 no. commercial units (1 no. café and 2 no. retail units) at ground floor level, all fronting onto the Clonsilla Road and 9 no. apartments above (7 no. 2-bed units and 2 no. 1-bed units). The predominate external material for this block is also red brick with elements of glazing.
- 7.3.8. These mixed use blocks provide sit at the sites boundary with the Clonsilla Road and, therefore, would be the most visible blocks within the scheme. I am satisfied that the high quality contemporary design of these blocks would provide an appropriate urban edge to the Clonsilla Road and that the provision of the non-residential uses and the public plaza would provide an suitable active frontage, at this underutilised brownfield site.
- 7.3.9. The residential element comprises 72 no. residential units (32 no. apartments, 12 no. duplex units and 28 no. houses) and are generally centred around areas of public open. The 28 no. houses are provided in 3 no. rows bookended by duplex units containing 2 no. apartments each. The 6 no. duplex units are referred to as blocks 2-7 by the applicant. The duplex units are not numbered. The floor plans submitted for these blocks are labelled as Blocks 2 and 3, Blocks 4 and 5 and Blocks 6 and 7 and each duplex type is colour coded. However, due to the labelling it is unclear how to differentiate Block 2 from 3, Block 4 from 5 and Block 6 from 7 on the drawings.
- 7.3.10. The houses are all 3- storeys (10m) in height. The duplex units are also c. 10m in height, however, the units are 2-storeys in height, with the first floor apartments contain a double height living / kitchen / dining room.
- 7.3.11. The 32 no. apartments are provided in 3 no. apartment blocks (blocks 1, 8 and 9). As noted above apartment block 9 accommodates 9 no. apartments above the retail units. Block 1 is rectangular shaped apartment block located at the sites rear (southern) boundary. This block is 4-storeys in height and accommodates 14 no. apartments. It

is adjacent to the rows of houses / duplex units and also fronts onto the area of public open space. Block 8 is an L-shaped apartment block located at the sites western boundary, to the rear of the mixed use block (block 9). Block 9 is a 3-storey block, c. 10m in height. It accommodates 9 no. apartments. Blocks 8 and 9 are separated by an area of public open space.

- 7.3.12. All units have a contemporary in design with similar elevational treatments. The predominate external material within the scheme is red brick with elements of glazing. I have no objection to the proposed external materials, however, to ensure a high quality finish it is recommended that a condition be attached to any grant of permission that the final details be agreed in writing with the planning authority.
- 7.3.13. The layout has been designed to allow for potential future connectivity to lands to the south, east and west. Concerns raised regarding connectivity between the subject site and The Village to the east are addressed below.
- 7.3.14. The original submission to the planning authority included a significant number (94 no.) of photomontages from within and immediately adjacent to the proposed scheme. It is my view that the submitted photomontages provide a comprehensive and reasonable representation of how the proposed development would appear. It is acknowledged that the scheme would be highly visible when viewed directly from the site boundaries and that the 4-storey blocks are marginally higher than the adjacent properties.
- 7.3.15. The site is a highly modified brownfield site in the urban area. Given the current vacant nature of the site it is my opinion that the proposed scheme which incorporates blocks with a variety of height, massing and scale, would make a positive contribution to the streetscape, aiding with placemaking and legibility.
- 7.3.16. In conclusion, having regard to the high-quality design and layout of the scheme and the landscaping proposals for the subject site, it is my view that the proposed development represents a reasonable response to its context and would support the consolidation of the urban area. the proposed scheme would not significantly detract from the visual amenities of this urban area and would not be visually obtrusive. It is also noted that the planning authority raised no objection in principle to the design and layout of the scheme.

Unit Mix and Tenure

- 7.3.17. The unit mix submitted by way of further information comprises 6 no. 1-beds (8.3%), 35 no. 2-beds (48.6%) and 31 no. 3-beds (43.1%). There are a variety of residential units proposed ranging from a 52.8sqm 1-bed apartment to a 152.4sqm 3-bed plus study house. A Schedule of Accommodate was submitted with the response to further information which indicates that all the proposed units reach and exceed the minimum standard for room sizes as set out in Table 5.1 of Quality Housing for Sustainable Communities Guidelines, 2007 and Sustainable Urban Housing: Design Standards for New Apartments, 2022. All 28 no. houses and 12 no. duplex units are dual aspect. Of the 32 no. apartments 6 no. (19%) are single aspect. These single aspect units are provided in Block 1 only. 6 no. (43%) of the 14 no. apartments in Block 1 are single aspect. The floor plans for Block 1, submitted with the original application, indicate that 3 no. apartments (1 no. apartment at ground, first and second floor level) would be single aspect north facing. The balconies of the single aspect units have been recessed to provide for cross ventilation, a choice of views, improved access to daylight and sunlight. The north facing units also front onto an area of public open space. Having regard to the limited number of single aspect and single aspect north facing units within the scheme, I am satisfied that the applicant has endeavoured to maximise the number of dual aspect units and I have no objection in this regard. It is noted that no concerns were raised by the planning authority or third parties in this regard. I am satisfied that an appropriate mix of house types has been provided within the scheme, in accordance with Objective CSO17 of the development plan.
- 7.3.18. The corner units are duplexes were designed in the original application as corner units with windows on front and side elevations. It is noted that the revised drawings submitted by way of further information omitted the side windows. It would appear from the information on file that this was not a specific request of the planning authority. It is my opinion that windows should be provided on the side elevations of the duplex units, in particular units 4, 5, 6 and 7 which have frontage onto the public road and car parking areas as this design feature would allow for passive surveillance of streets and public spaces. It is my opinion that these windows could be provided in accordance with the provisions Objective DMSO23, which requires that there be a separation distance of 22m between opposing windows.

7.3.19. With regard to compliance with Part V, a copy of correspondence with the Housing Department of Fingal County Council is submitted with the Planning Report. The correspondence notes that the unit types and quantum is to be determined. The Affordable Housing Act, 2021 requires that land purchased on or after the 1st of August 2021 or prior to September 2015 must have a 20% Part V requirement. In this regard at least half of the Part V provision must be used for social housing. The remainder can be used for affordable housing, which can be affordable purchase, cost rental or both. It is unclear from the documentation submitted when the land was purchased. However, I am satisfied that if permission is being contemplated it would be appropriate to attach a condition to any grant of permission that the final details of the Part V provision be agreed with the planning authority.

Density

7.3.20. The stated density for the residential element of the scheme is 37.5 units per ha. This is based on a residential area of 1.9ha. As outlined below there are some discrepancies in the total site area provided, however, I am satisfied that the density is based on the correct residential site area of 1.9ha. Objective SCO21 of the development plan aims to promote higher densities of 50+ units per ha at appropriate locations in urban built up locations. This is supported by Objectives 4, 13, 33 and 35 of the National Planning Framework, RPO 5.4 and RPO 5.5 of the Regional Spatial and Economic Strategy 2019-2031 and SPPR3 and SPPR4 of the Urban Development and Building Heights Guidelines, which all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

7.3.21. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2022 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and that apartments are most appropriately located within urban areas, and the scale and extent should increase in relation to proximity to public transport as well as shopping and employment locations. The Apartments Guidelines (2022) identify intermediate urban locations as sites within or close to i.e. reasonable walking distance of a principal town or suburban centres or employment locations and/ or sites within reasonable walking distance of high frequency urban bus services. The site is located in Clonsilla village and is zoned town

centre. It is within 500m of the Coolmine Industrial estate, c. 1.5km of the Blanchardstown Shopping Centre and c. 2km of James Connolly Memorial (Blanchardstown) Hospital. There is bus stop located at the sites northern boundary and the site is within 700m of Clonsilla train station.

7.3.22. Having regard to the above, it is my opinion that the subject site is capable of absorbing a higher density (50 + units per ha), in accordance with local, regional and national policy. However, having regard to the established pattern of development in the vicinity of the site the proposed density is considered acceptable in this instance. It is noted that the planning authority and third parties raised no concerns regarding the proposed density.

Building Height

7.3.23. Concerns are raised by An Taisce and in the observations that the building height proposed along the Clonsilla Road would be out of character with the area and would materially contravene the development plan.

7.3.24. As outlined in Section 4 above, there are a number of recent planning permissions in the vicinity of the site and the area is in transition from a traditional low density suburban area to a higher density suburban centre with a variety of uses and housing typologies.

7.3.25. The scheme is predominately 3 storeys with a maximum height of 4-storeys. The 4 storey buildings are Block 1 at the rear of the site and Block 8 at the front of the site, fronting directly onto the Clonsilla Road. The development plan does not set out blanket limitations on height. Section 14.5.3 of the development plan makes reference to the provisions of the Building Height Guidelines. Section 3 of the Building Height Guidelines refers to the Development Management Process. It is noted that 'building heights must be generally increased in appropriate urban locations'.

7.3.26. It is my opinion that the site is of a sufficiently large scale to accommodate the proposed height, which is relatively limited with a maximum height of 4-storeys. I have no objection to the height and consider that the higher element is appropriately located at the main entrance and adjacent to an area of open space and to the rear of the site. The variation in height and design within the scheme creates a visual interest and allows for passive overlooking of open spaces, which is welcomed. It is also my view

that the continuation of low-rise developments is not appropriate at this urban location, simply because the prevailing heights are single to 2-storeys.

- 7.3.27. In addition, Chapter 2 of the Design Standards for New Apartments Guidelines, 2022 notes that it is necessary to significantly increase housing supply, and City and County Development Plans must appropriately reflect this and Section 2.1 states that *‘increased housing supply must include a dramatic increase in the provision of apartment development.’* Sites that may be suitable for limited, very small-scale apartment development include sites within small towns and villages.
- 7.3.28. The concerns raised by An Taisce and the observers that the proposed height is excessive are noted and it is acknowledged that the proposed scheme would be taller than the surrounding buildings. However, having regard to the urban location and the size (2.99ha) of the site and to the high-quality design and layout of the scheme, the changing character of the area, I am satisfied that the proposed height is not excessive in this instance and that the proposed development represents a reasonable response to its context.
- 7.3.29. The subject site is located on lands zoned town centre and in my opinion is capable of absorbing a contemporary urban scheme. Having regard to the current vacant nature of this site it is my opinion that the proposed scheme would make a positive contribution to the streetscape, which would aid with placemaking and legibility. I am satisfied the proposed 4- storey height would not significantly detract from the visual amenities of the area and would not be visually obtrusive and would be generally have a positive due to the current vacant nature of the site, the existing gap in the urban streetscape on the Clonsilla Road and the high-quality contemporary design of the scheme with an appropriate variation in height, massing and scale.

Conclusion

- 7.3.30. Overall, given the infill nature of this site, its size, proximity to public transport and services and amenities it is my opinion that the proposed design and layout, height, mix of uses and density of the proposed development successfully integrates into the streetscape and would support the consolidation of the urban environment. The scheme would also support the redevelopment of this underutilised brownfield site and

the consolidation of the urban area, which is welcomed. It is also noted that the planning authority raised no objection in principle to the proposed height.

7.4. Residential Amenity

Overlooking and Overbearing Impact

- 7.4.1. The subject site is located in the urban area with frontage onto the Clonsilla Road . The site is generally bound to the east by the rear gardens of dwellings in The Village and the rear garden of a single storey dwelling fronting onto the Clonsilla Road. To the south the site is bound by an undeveloped plot of land known as the Old Schoolhouse site and to the west by The Church of the Latter day Saints.
- 7.4.2. The rear gardens of the proposed 3-storey dwellings and duplex in the south eastern portion of the site generally sit at the boundary with existing dwellings in The Village. There is a separation distance of c. 24m between rear opposing windows of the proposed and existing dwellings. While it is acknowledged that the proposed scheme would be visible from the existing dwellings to the west of the site, it is my opinion that due to the separation distances and the relatively limited height of the proposed scheme it would not result in an overbearing impact or any undue overlooking of existing dwellings.
- 7.4.3. A portion of the 4-storey mixed use block (Block 9) is located c. 12m from the church located to the west. It is noted that the church building is generally bound by open space within the scheme. Again, it is acknowledged that the proposed scheme would be visible from the adjacent site, however, it is my opinion that due to the separation distance, the nature of the building, and the relatively limited height of the proposed scheme it would not result in an overbearing impact or any undue overlooking of the church site. The rear gardens of the proposed 3-storey dwellings and duplex in the south west portion of the site also sit at the boundary within open space lands within the church site. The rear gardens of these dwellings are a minimum of 11m in length and I am satisfied that the proposed scheme would not impede any future potential re-development of the adjacent site.
- 7.4.4. Objective DMSO23 of the development plan states that a separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall

generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occur. The proposed scheme generally provides a minimum separation distance of 22m. It is noted that the separation distance between the apartments in Block 8 and the adjacent duplex units is c. 11m. However, these duplex units are designed without windows on the eastern elevation. Therefore, there are no directly opposing windows. I am satisfied that the proposed design and layout of the scheme is in accordance with Objective DMSO23.

- 7.4.5. In addition, to prevent undue overlooking from the balconies of the first floor duplex units it is proposed opaque screens the side elevations of the balconies.
- 7.4.6. Overall, it is my opinion that the proposed separation distances between the proposed and existing units and the design and layout of the scheme achieves a balance of protecting the residential amenities of future occupants from undue overlooking and overbearing impact and achieving high quality urban design, with attractive and well connected spaces that ensure a sense of enclosure and passive overlooking of the open spaces.

Daylight, Sunlight and Overshadowing

- 7.4.7. Objective DMSO22 requires that a Daylight and Sunlight analysis for all proposed developments of 50+ units or as required by the Planning Authority, depending on the context of the site and neighbouring property as well as the design of the development. A Daylight and Sunlight Assessment was not submitted with the application and it was not requested by the planning authority during the request for further information. Therefore, it is assumed that having regard to the site context the planning authority considered that a Daylight and Sunlight Assessment was not required in this instance. It is also noted that no concerns were raised by third parties regarding overshadowing.
- 7.4.8. Section 14.6.6.1 of the development plan states that developments shall be guided by the principles of 'Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice – (Building Research Establishment Report) 2011 or any updated guidance. The BRE sets out recommended values (eg. ADF, VSC, APSH, etc) to measure

daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy / criteria.

External Daylight, Sunlight and Overshadowing

- 7.4.9. The proposed scheme has a maximum height of c. 13m (4-storeys). As noted above the site is bound to the west by the rear gardens of dwellings in The Village. A minimum separation distance of 24m is provided between the existing dwellings and the proposed scheme.
- 7.4.10. The lack of a submitted daylight / sunlight assessment is noted. However, I am satisfied that this does not have a material bearing on my assessment and that potential daylight / sunlight impacts upon existing residents in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site. Specifically, having regard to the separation distances to existing dwellings, the relatively low rise height of the proposed development and the orientation of the site. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development has been designed in consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.
- 7.4.11. Overall, I am satisfied that that the proposed scale and form of the development limits the potential for reduced daylight and sunlight to surrounding properties and would not impede the potential future development of lands to the south and west of the site. As such, I consider that the proposed development makes adequate provision for daylight and sunlight to surrounding properties and site in accordance with BRE considerations that I have applied.

Internal Daylight, Sunlight and Overshadowing

- 7.4.12. It is also noted that no daylight / sunlight assessment has been provided for the proposed uses and amenity spaces within the scheme. In general there is minimum separation distance of 22m between buildings, however, there is a pinch point

between Block 8 and the opposing duplex units, with a minimum separation distance of 11m.

7.4.13. As noted above, the scheme has a maximum height of 13m (4-storeys) with the majority of the scheme, the houses and duplexes being 3 storeys. The separation distance is considered acceptable as the relatively limited height of these units (3-storeys) would limit the degree of obstruction. Buildings proximate to the subject site are not of a scale or height that would generate significant obstruction to light or overshadowing of areas. I am satisfied that potential daylight / sunlight impacts within the scheme are in accordance with the criteria described in the BRE guidelines can be determined as negligible and reasonable for the location of the site.

Conclusion

7.4.14. In conclusion, I do not consider the omission of a specific daylight, sunlight and overshadowing assessment to be a critical deficit of the application proposal given the characteristics of the proposed development. The absence of this information has had no material bearing on my assessment, given the nature, scale and design of the proposal, and guidance in the BRE. The proposed development is at an appropriate scale for the site location, with properties between 3 and 4 storeys in height, limiting the extent of overshadowing that may result.

7.4.15. As detailed above, the BRE guidelines are clear that access to natural light is only one of many factors in site layout design. I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between the units, relevant to the scale of the development. As such, I am content that daylight, sunlight and overshadowing conditions for the units within the proposed development will be within an acceptable range. While I acknowledge that the applicant has not submitted their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances and scale. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines and carried out a site visit. As such and noting that the guidelines state that numerical targets should be applied flexibly

and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines.

7.4.16. It is also noted that the planning authority did not raise any concerns regarding undue overshadowing. On this basis it is reasonable to interpret that the proposed accommodation is within best practice limits.

7.5. **Open Space**

Public Open Space

7.5.1. Objective DMSO51 of the development plan requires a minimum provision of 2.5 hectares of public open space per 1,000 persons. The objective also sets out an occupancy rate of 3.5 persons per dwelling with three or more bedrooms and an occupancy rate of 1.5 persons per dwelling with two or fewer bedrooms. The unit mix consists of 4 no. 1-beds, 37 no. 2-beds and 31 no. 3-beds. Therefore, the scheme has a potential capacity for 170 no. persons and a requirement to provide 4,250sqm of public open space.

7.5.2. Objective DMO52 states that public open space shall be provided in accordance with Table 14.12. Table 14.12 sets out a standard for public open space in new residential developments on infill / brownfield sites as a minimum of 12% of the site area. This figure is in accordance with the provisions of the Sustainable Residential Development Guidelines.

7.5.3. As outlined below, there are some discrepancies in the total site area. However, based on a site area of 2.42ha, which in my opinion is the correct site area, the required provision of public open space (4,250sqm) equates to 17.5% of the total site area. Based on the stated site area of 2.99 ha, the required public open space provision equates to 14.2% of the total site area. The Public and Private Open Space Plan submitted by way of further information indicates that a total of 5,232sqm of public open space is provided within the site. This equates to 21.6% of the total site area (2.42 ha). Therefore, it is my opinion that the stated quantum of public open space proposed is in excess of the development plan standard of both 2.5 hectares per 1000 population and 12% of the site area.

- 7.5.4. The proposed public open space (5,232sqm) is divided into 2 no. separate areas which are connected by the internal pedestrian / cycle route that runs in a north south direction through the centre of the site. One area of public open space has a stated area of 2,719sqm. This space generally comprises a square area of green space located at the sites western boundary, between Apartment Block 8 and the mixed use block (block 9) and the public plaza fronting onto the Clonsilla Road. A section of the pedestrian / cycle route that connects the two spaces is also included in the area of public open space. The central area of green space includes an open lawn area and hard landscaping with seating. The plaza area is hard landscaped with trees and benches. The second area of public open space is located to the rear of the site. It has a stated area of c. 2,513sqm and includes a rectangular area of green space directly overlooked by the houses, Apartment Block 1 and the duplex units (Blocks 2-7) and a section of the pedestrian / cycle route. The landscape drawings submitted indicate that this area of public open space would include a central lawn area, flower garden, enclosed play area, seating areas and a hard landscaped civic square. The taking in charge drawing indicates that areas of public open space would remain in private ownership and would not be taken in charge by the local authority. I have no objection to the quality of public open space and consider that it would accommodate both passive and active uses for future residents and the general public.
- 7.5.5. Condition 14 of the grant of permission states that the public open space provision should exclude the public realm to the front of the proposed convenience store, sections of shared cycle and pedestrian path to the west and the shared cycle / pedestrian path leading to the canal to the south and that if the resulting quantum of public open space does not adhere to the quantity required by Objective DMS57 of the Fingal County Development Plan 2017-2023, the shortfall should be made up by way of a financial contribution.
- 7.5.6. It is noted that Objective DMS57 of the Fingal County Development Plan 2017-2023 is similar to Objective DMSO51 of the current development plan in that it requires a minimum of 2.5 hectares per 1000 population. I agree with the planning authority that the internal pedestrian / cycle route does not comprise public open space. However, as the public plaza to the front of the site comprises an external landscaped open space which makes a contribution to the public domain and is accessible to the public

for the purposes of active and passive recreation, it is my opinion that this is public open space and should be included in the calculation of open space. It is also noted that Section 14.13.2 of the development plan states that consideration may be given to the inclusion of civic spaces within overall open space quantum calculations.

- 7.5.7. Based on the landscape drawings and excluding the pedestrian / cycle route it is my opinion that the total area of public open space provided is c. 4,642sqm. This figure is in excess of the requirement of 4,250sqm or 2.5ha per 1,000 population as set out in Objective DMSO51 and equates to 19% of the total site area, which is in excess of the 12% required by Objective DMSO52. I am satisfied that sufficient quantum and quality of public open space is provided within the development to ensure high quality residential amenity in accordance with Objective DMS51. It is also noted that the subject site is located within 900m of Millennium Park, which includes a playground and skatepark and provides a significant amenity for the surrounding area.

Private Open Space

- 7.5.8. Objective DMS027 sets out a minimum standard of 60sqm of private open space for each house which is reflective of the standard set out in the Quality Housing for Sustainable Communities Guidelines. Each dwelling has been provided with rear open space in excess these standards and it is my view that sufficient good quality useable private open space has been provided for each dwelling. I am also satisfied that the quantum of private open space for all the apartment / duplex units has been provided in accordance with the standards set out in the Apartment Guidelines, 2022 which are reflected in Table 14.14 of the development plan.

Communal Open Space

- 7.5.9. Table 14.7 of the development plan sets out standards for communal open space, which are reflective of the standards set out in Appendix 1 of the Apartment Guidelines. In this regard a minimum of 5sqm of communal open space per 1-bed, 6sqm per 2-bed (3 person), 7sqm per 2-bed (4 person) and 9sqm per 3-bed.
- 7.5.10. As per the response to further information there are 32 no. apartments proposed within the scheme. In this regard 14 no. units in Apartment Block 1 (4 no. 1-beds, 7 no. 2-beds and 3 no. 3-beds), 9 no. apartments in Apartment Block 8 (9 no. 2-beds) and 9 no. units in Mixed Use Block 9 (2 no. 1-beds and 7 -2-beds). This unit mix requires c.

218sqm of communal open space to be provided. It would appear from the information submitted that there are no proposals to provide communal open space for the apartment units.

7.5.11. The 6no. duplex units comprise 2 no. 2-bed units each. It is noted that each of the ground floor units include rear private open space (c. 40sqm). The 6 no. first floor level units have balconies in accordance with the private open space standards. Having regard to the limited number of first floor duplex units, the sites town centre zoning objective and the high quality public open space provided within the scheme I am satisfied that there is no requirement to provide communal open space for these units.

7.5.12. It is noted that the planning authority raised no concerns regarding the lack of communal open space. However, it is my opinion that communal amenity space is required to ensure a high quality of accommodation for future residents. Therefore, it is my recommendation that a condition be attached to any grant of permission that a minimum of 200sqm of communal open space be provided within the scheme. It should be noted that communal open space may be provided as a garden within areas of public open space. Communal open space should also be of high-quality design, easily accessible, overlooked and conveniently located for use of residents. It is acknowledged that this condition may impact on the level of public open space provided within the scheme. I am satisfied that the proposed modification it would not reduce the quantity of public open space below the required provisions under Objectives DMSO51 and DMSO52 and outlined above.

Trees

7.5.13. A Tree Survey has not been submitted with the application. However, it would appear from the information submitted and from my site visit on the 18th September 2023 that there are existing trees, shrubs and vegetation along the sites boundaries and a through the centre of the site, running in a north south direction. From the information submitted it would appear that it is proposed to remove the existing vegetation, shrubs and trees from the site to facilitate the proposed scheme. The loss of existing tress and vegetation has not been raised by the third parties or the planning authority and I have no objection in principle to the loss of existing trees, shrubs or vegetation to accommodate the proposed development. It is also noted that extensive landscaping

and planting is proposed as part of the scheme. Notwithstanding this, having regard to the location of existing trees, shrubs and vegetation along the sites boundaries there may be potential to retain and incorporate them into the proposed design. In this regard it is recommended that a condition be attached to any grant of permission that a tree survey be carried out prior to commencement of development and any high quality trees located in the areas of public open space / landscaped areas be retained, where feasible. This is considered to be in accordance with Objective DMSO125 of the development plan to protect, preserve and ensure the effective management of trees and groups of trees and hedgerows.

Public Art

- 7.5.14. Objective DMSO194 requires new residential developments in excess of 100 units and commercial/retail developments in excess of 2000 sqm to provide for a piece of public art to be agreed with the Council. It is noted that condition no. 24 of the grant of permission requires that a piece of public art, sculpture or architectural feature be provided within the scheme. As outlined in Section 14.19.8 of the development plan public art can make a positive contribution to the cultural identity and visual appearance of an area and can be utilised to identify historic events and features adding to the quality and engagement of the public realm. Given the size of the site and the provisions of Objective DMSO194 it is my opinion that is an appropriate development to incorporate a piece of public art and that it would add to the visual interest of the scheme and aid with legibility and placemaking. Therefore, it is recommended that a condition be attached to any grant of permission that a piece of public art be provided within an area of public open space.

7.6. ***Permeability***

- 7.6.1. The site fronts directly onto the Clonsilla Road. It is proposed to provide a vehicular access and an additional pedestrian / cycle access from the Clonsilla Road. Currently there is no access to the site from its southern, eastern or western boundary.
- 7.6.2. To the south the site is bound by an overgrown landholding (known as the Old Schoolhouse site) which is immediately adjacent to the Royal Canal. Permission was refused in 2021 (ABP309622-21 Strategic Housing Development Application) for 198 no. Build to Rent apartments and a childcare facility on this site. The proposed

development includes 2 no. potential vehicular / pedestrian access points to the south. Although the future layout of the adjacent site is unknown the provision of 2 no. potential access points to this site is welcomed.

7.6.3. To the west the site is bound by lands associated with The Church of the Latter day Saints. The proposed scheme includes a potential pedestrian access point to this site. The provision of additional permeability through the site is welcomed and it is noted that no concerns are raised by the landowner in this regard.

7.6.4. To the east the site is bound by The Village residential estate and a single storey dwelling which fronts onto Clonsilla Road, and its associated rear open space. The original application to the planning authority included 3 no. access points at the sites eastern boundary, in this regard a pedestrian access The Village, at the sites south east corner, and 2 no. potential access points to the site of the single storey dwelling. In the initial assessment the planning authority raised some concerns regarding how the pedestrian access in the south east corner of the site would connect to existing infrastructure in The Village. In response to the request for further information and concerns raised by third parties the applicant omitted the pedestrian access in the revised layout submitted in response to further information. The planners report considered that the lack permeability and connectivity was unacceptable and attached condition 2 to the grant of permission, which required the applicant to submit a revised site layout in which the 4no. units to the south east of the site shall be either omitted, reduced in number or reconfigured to provide a permeable link to The Village development that is suitable and passively safe.

7.6.5. The 2 no. appeals and observers all raised concerns regarding a potential negative impact on existing residential amenities from increased pedestrian movements through The Village. Permeability and connectivity promote good placemaking and aid legibility. They also promote walking and cycling as these options are safer and more efficient. The Urban Design Manual, The Permeability Best Practice Guide and the Design Manual for Urban Roads and Streets (DMURS) all support increased connectivity and aim to improve permeability in existing developed areas.

7.6.6. Policy CMP14 of the development plan aims to implement the provisions of the Design Manual for Urban Roads and Streets 2019 (DMURS) and the DMURS Interim Advice

Note – Covid 19 Pandemic Response 2020 in relation to the delivery of safe streets and overall best practice design and promote the principle of filtered permeability in new developments to ensure that all pedestrian entrances are opened as soon as any new development is occupied where feasible and seek opportunities to improve permeability in existing developed areas in accordance with NTA's Permeability Best Practice Guide.

- 7.6.7. I am also satisfied that the proposed pedestrian link is in accordance with Policy CMP12 to support and facilitate the provision of high-quality and attractive public realm that is accessible for all with a focus on improving connectivity and permeability in accordance with best practice public realm and guidance documents and Objective CM019 to support and facilitate improvements to the pedestrian and cycle network and public realm that prioritise the removal of barriers to active movement, to improve connectivity and permeability and optimise accessibility for all users.
- 7.6.8. In addition, The Clonsilla Urban Strategy also supported the re-development of backland sites to enable more permeability and pedestrian friendly access to encourage pedestrian movement over vehicular trips. This was supported by Strategic Objective MO1 to enable permeability by interlinking pedestrian routes through new development areas.
- 7.6.9. The concerns of the third parties are noted, however, in my opinion the provision of additional connectivity would have wider benefits to the area including decreased travel times to services, amenities and public transport and would support pedestrian movements over vehicular trips, which is welcomed.
- 7.6.10. It is also noted that the layout of The Village includes a footpath up to the boundary with the subject site and a carriageway is located c. 0.5m from the site boundary. It is my opinion that during the development of The Village it was envisioned that a link would be provided between the two sites.
- 7.6.11. While the principle of connectivity to The Village is welcomed, I agree with the planning authority that the layout submitted with the initial application (20th July 2022) was unacceptable. The proposed layout provided a pedestrian / cycle route at the south east corner of the site. This route did not connect to existing infrastructure (footpath) within The Village and opened onto an area of public open space. It is also my opinion that this route was not adequately overlooked by the proposed residential units.

7.6.12. If permission is being contemplated it is recommended that a condition be attached that the proposed pedestrian / cycle route connect to the existing footpath within The Village. It is noted that this would require significant amendments to the proposed layout of the scheme and therefore it is my view that it is not appropriate to amend the scheme by way of condition. In this regard it is my recommendation that the terrace of residential units (6 no. House Type A and 2 no. Duplex Units) at the sites eastern boundary with the public open space in The Village should be permanently omitted and replaced with open space until such time as a revised planning application is lodged with a more suitable design and layout which results in passive overlooking of this proposed pedestrian / cycle route and the public open space within The Village. It is my view that this would be more appropriately achieved through the provision of duplex or apartment units.

7.6.13. In conclusion, I am satisfied that the applicant has made significant attempts to improve connectivity within and through the site, which would open up this large urban site and provide a planning gain for the wider area.

7.7. **Retail**

7.7.1. Concerns are raised in an observation that in accordance with the Retail Hierarchy set out in the development plan there is no requirement for a large scale supermarket as Clonsilla already has a supermarket.

7.7.2. Table 7.2 of the development plan identifies Clonsilla as Level 4 in the Retail Hierarchy. The development plan states at Level 4 centres *should generally provide for one supermarket ranging in size from 1,000–2,500 sqm with a limited range of supporting shops (low order comparison), supporting services, community facilities or health clinics grouped together to create a focus for the local population. This level of centre should meet the everyday needs of the local population and surrounding catchment.*

7.7.3. A Retail Impact Assessment was submitted in support of the application. The RIA provides an assessment of the catchment population, expenditure patterns and the proposed turnover. It is noted that there is an existing Lidl supermarket located c. 500m from the subject site. This supermarket is listed in Table 6.1 of the RIA. However, other sections of the report fail to acknowledge the proximity of the subject site to the existing

supermarket and states that the only existing retail facilities within walking distance of the subject site is a small centre. Notwithstanding this, having regard to the site's zoning objective, the urban location and the information provided in the RIA I am satisfied that there is demand for an additional supermarket. While the concerns of the observer are noted it is my opinion that the proposed development would not undermine the retail hierarchy as set out in the development plan and that the proposed use would be in accordance with Objective EE096 to ensure sustainable, vibrant and prosperous centres to meet the needs of the immediate population and catchment area and Objective EE097 to ensure a sufficient scale, type and range of retail use is provided without adversely impacting on or diverting trade from the higher order retailing locations. It is also noted that the planning authority raised no objection in principle to the provision of a supermarket at this location.

7.7.4. It is also noted that Section 7.5.5 of the plan states that these centres should '*generally*' provide for one supermarket. I am satisfied that there is sufficient flexibility in the wording of the plan and that the proposed development would not be a material contravention of the development plan. It is also noted that it does not relate to a policy or objective of the development plan.

7.7.5. The public notices state that the foodstore would include an ancillary off licence sales area. Objective EEO104 of the development plan aims to prevent an over-supply or dominance of off licences and Section 7.5.5 states that the occurrence of off-licences needs to be monitored. The documentation and drawings submitted do not indicate the size or location of the proposed off licence and no information regarding existing off licences within the vicinity of the subject site were submitted. Therefore, it is unclear if the provision of an off licence at this location would result in an over proliferation of such uses. Notwithstanding this, it is acknowledged that in general an off licence forms a standard part of a retail supermarket. It is noted that the planning authority and third parties raised no objection to the provision of an off licence within the supermarket. Therefore, in my view it is acceptable in this instance.

7.8. **Archaeology**

7.8.1. Objective HCA07 of the development plan aims to ensure archaeological remains are identified and fully considered at the very earliest stages of the development process,

that schemes are designed to avoid impacting on the archaeological heritage. The submission from the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage states that site is located in an area of high archaeological potential and recommends that pre-development testing be carried out. Condition no. 20 of the grant of permission requires that the developer engage the services of a qualified archaeologist to carry out pre-development testing at the site. Having regard to the submission from the DAU and the provisions of Objective HCA07 it is recommend that an archaeological monitoring condition be attached to any grant of permission.

7.9. ***Transportation***

- 7.9.1. The subject site is located on the southern side of the Clonsilla Road. This section of the Clonsilla Road is known as Weavers Row. It is proposed to provide a single access point to the development from the Clonsilla Road and an additional pedestrian / cycle access route.
- 7.9.2. There is an existing high-quality footpath on both sides of Clonsilla Road. The site is served by public transport in the form of bus, with bus stops on both sides of the Clonsilla Road immediately adjacent to the site. These stops are served by the 39 and L52. The 39 provides connectivity between Ongar and Dublin city centre. This route operates every 15 minutes in the peak period. The L52 provides connectivity between Blanchardstown Shopping Centre and Adamstown and operates every hour. The site is also located c. 700m east of Clonsilla train station. The train services provide connectivity between Longford and / or Connolly and Grand Canal Dock in Dublin city centre. In the peak period the service operates at a high frequency of every 10 minutes. Full details of the timetable for the station are available on www.irishrail.ie. It is my view that this is a highly accessible urban site within close proximity to a variety of services and amenities, both within Clonsilla / Blanchardstown environs and the city centre.
- 7.9.3. In addition, the Clonsilla train station forms part of DART + West, which would significantly increase rail capacity and frequency on the Maynooth / M3 Parkway to city centre line. It is my view that the site would most likely benefit from improved levels of public transport accessibility / public transport service provision via DART + West in the medium to long term.

7.9.4. The subject site is located c. 170m from the signalised junction of Clonsilla Road and Shelerin Road which includes pedestrian lights. The documentation submitted with the application indicates that it is proposed to provide a controlled pedestrian crossing outside the subject site on the Clonsilla Road to improve pedestrian access to the site. These works do not form part of the development outlined in the statutory notices and the planning authority attached a condition (15(b)) that the applicant to provide a pedestrian crossing facility outside the site on the Clonsilla Road. If permission is being contemplated it is my recommendation that a similar condition be attached.

Capacity

7.9.5. The observers raised concerns that the surrounding road network is at capacity and cannot accommodate the proposed development. It is also noted in the appeals that congestion is experience in the area.

7.9.6. The applicants Traffic Impact Assessment (TTA) indicates that traffic counts were carried out over a 1-week period in September 2021 at the junction of the Clonsilla Road and Castlefield Residential Estate. A 5% growth rate has been added to the counts. I am satisfied that the traffic counts provide a realistic reflection of traffic on the local road network.

7.9.7. The TRICS database was used to estimate the number of trips potentially generated by the proposed development. Table 7 of the applicants TTA provides a breakdown of estimated trips for each use within the development. TRICS estimated that the residential development would generate 29 no. trips (9 no. arriving and 20 no. departing) in the AM peak and 28 no. trips (18 no. arriving and 10 no. departing) in the PM peak. With regard to the retail use TRICS estimated that it would generate 83 no. trips in the AM peak and 178 in the PM peak. It is also noted from the information provided in Section 4.8 of the report that the peak period for the supermarket (11.00 – 13.00) is outside of the main peak traffic period on the surrounding road network, with an estimated 209 no trips (104 no. arriving and 105no. departing) between 11.00 – 13.00. To allow for the worst-case scenario the TTA assumes that all trips to the proposed development are new trips, however, I agree with the TTA that a significant number of trips to the retail element in the PM peak period would be diverted trips.

- 7.9.8. The junction of the Clonsilla Road and the proposed site access was modelled in the PM peak period. As a junction approaches values of 85% this typically indicates traffic congestion, with queues beginning to form. The figure (85%) is generally assigned to unsignalised junctions which rely on human behaviour. The modelling indicates that the proposed junction would operate within capacity with a maximum RFC (ratio of flow to capacity) of 17% for the right turn from the site access onto the Clonsilla Road (Arm B-A) 17.30 – 17.45 in 2023 (opening year). Having regard to the urban nature of this site, the proximity to the signalised junction at Clonsilla Road and Shelerin Road, the traffic count date and the concerns raised by the third parties regarding traffic congestion it is my opinion that the modelling, which indicates free flowing traffic in both directions on the Clonsilla Road during the peak period of 17.30-17.45 is unpredictably low. The Clonsilla Urban Strategy (2008) also notes that the village experiences heavy traffic at peak periods. Notwithstanding this, I am satisfied that the traffic generated by the proposed scheme would not have a significant negative impact on the capacity of the surrounding network which in my opinion is within the norm of a busy urban environment.
- 7.9.9. While the concerns of the third parties are noted given the sites zoning objective, its proximity to public transport and overall national, regional, and local policy to consolidate the urban area, it is my view that the potential traffic generated by the proposed development is acceptable in this instance. It is also noted that the planning authority raised no objections to the impact of the proposed development on the capacity of the road network.
- 7.9.10. Concerns were also raised by the third parties that due to congestion on the surrounding road network that customers of the retail units would park in The Village and walk to the retail units. As per my recommendation that the proposed pedestrian access connect to the existing infrastructure (footpath) within The Village, there would be a c. 200m separation distance between the pedestrian access and the front entrance to the supermarket. Having regard to the separation distance, the availability of car parking within the site and the nature of the retail units I am satisfied that the provision of a pedestrian link between the 2 no. sites is unlikely to result in overspill car parking within The Village. It is also noted from the applicants TTA that the

envisioned peak period for trips to the supermarket would be outside of the AM and PM peak periods.

Car Parking

7.9.11. The proposed scheme includes 191 no. car parking spaces, in this regard 83 no. retail spaces and 108 no. residential spaces. The retail spaces are provided at under-croft level within the supermarket and the residential spaces are communal spaces provided along the street network.

7.9.12. Table 14.19 of the development plan sets out car parking standards for developments located in Zone 1. These are outlined below.

| Use | Development Plan Standard | Max provision permitted | Proposed Provision |
|--------------------------------|----------------------------------|--------------------------------|---------------------------|
| Residential - 1-2 bed (41 no.) | 0.5 per unit | 20.5 no. | 108 no. |
| Residential - 3-bed (31 no.) | 1 per unit | 31 no. | |
| Retail Food Store (2,500sqm) | 1 per 20sqm | 125 no. | 83no. |
| Retail Convenience (611.8sqm) | 1 per 60sqm | 10no. | |
| | | 186.5 no. | 186 no. |

7.9.13. It is noted that the total number of spaces proposed (186 no.) is in accordance with the development plan standards. However, the proposed layout provides for an over provision of residential spaces (1.5 per unit) and an under provision of retail spaces (1 per 30sqm). I have no objection in principle to the quantum of car parking proposed and not that no concerns were raised by the planning authority or the third parties. However, having regard to the dominance of car parking along the internal street network it is my opinion that a number of on-street car parking spaces should be omitted and replaced with street trees or shrubs. It is proposed to provide 15 no. bike and bin storage units (c. 1.1m in height by 4.2m in length by 0.95m in width) within the car parking areas. It is my opinion that these units should be screened with trees / shrubs to improve the visual amenity of the scheme. It is my opinion that c.15 no. car parking spaces would be lost. This reduction would result in the provision of 93 no. residential car parking spaces which equates to 1.3 no. spaces per unit, which is still in excess of the standards set out in the development plan. I am satisfied that this concern could be addressed by way of condition.

Bicycle Parking

7.9.14. It is proposed to provide a total of 365 no. bicycle spaces within the scheme. It is noted that no concerns were raised by the third parties or the planning authority regarding the provision of bicycle parking. However, condition 15 (c) required that prior to commencement of development that the applicant submit revised design proposals for the brick and wooden cycle storage structures. There are 5 no. bicycle storage units are located within the scheme and it would appear from the layout that they are generally intended to serve the duplex and apartment units. A typical unit is c.8.3m in width by 4.7m in depth by 2.6m in height. Each unit would accommodate 18 no. double stack spaces (total 36 no. spaces). The layout of the units results in c. 0.4m per double space. I have concerns that the proposed layout does not allow for efficient access and egress for bicycle parking. I have similar concerns for all bicycle storage facilities provided within the scheme. Therefore, if permission is being contemplated it is recommended that, to ensure there is sufficient space to accommodate an appropriate number of bicycles within the scheme, that a condition be attached that the final design and layout of bicycle storage units be agreed with the planning authority,. In addition, while I have no objection in principle to stacked spaces details of how these spaces could be accessed and egressed independently of one another should also be submitted to the planning authority. To ensure occupants are not reliant on members of other households for access.

7.10. **Water Services**

7.10.1. The subject site is located within the urban area and the applicants Engineering Report notes that the site would connect to the existing foul water, main water and drainage networks.

7.10.2. The appeal by Marie McCartney and Declan Sherlock raised concerns regarding the foul drainage proposals within the site as the removal of the existing sewer would have a negative impact on existing landscaping and structures in the rear gardens of the appellants property. The appeal also requests that if new pipes are to be laid, the existing pipes should be removed and not backfilled.

7.10.3. The applicants Engineering Report states that there is an existing 300mm diameter foul sewer under the southern portion of the site. It is proposed divert a section of this

sewer to facilitate the proposed layout. Drawing no. P200 submitted with the response to the appeal indicates that a section of the sewer to be diverted is located under the appellants side and rear garden (no. 166 The Village). The Engineering Report also notes that the diversion works result in a planning gain as the public sewer would no longer be located under private property and the proposed infrastructure would replace a substandard section of the public sewer where self-cleansing velocities are not currently achieved. In response to the appeal the applicant notes the appellants concerns regarding both backfilling and removing the pipe and considers that backfilling the pipe is the appropriate response as it addresses current issues with odours and rodents and the works can be carried out without impacting on existing landscaping and structures in the appellants garden. In the response to the appeal the Planning Authority note that foul drainage proposals were considered during the assessment and were deemed acceptable. I am satisfied that this is a reasonable approach, and it is noted that no concerns were raised in the submission from Uisce Eireann.

- 7.10.4. Concerns were also raised in the appeal that the sewer has been incorrectly shown on the submitted information. In response to the appeal the applicant submitted a Drainage Layout Plan which indicates the location of the foul water sewer. The applicant also clarifies that there is a surface water drain to the front of the appellants property. The applicant notes that this information is provided by Fingal County Council. I am satisfied that information submitted is evidence based and provides an accurate location of the existing infrastructure.
- 7.10.5. The third party also considered that there is insufficient capacity to accommodate the proposed development. It is proposed to split the site into 2 no. catchment areas for foul water which would both connect to the existing infrastructure on the site. No concerns were raised by Uisce Eireann. Therefore, I am satisfied that there is sufficient capacity within the public network to accommodate the proposed development.
- 7.10.6. In conclusion, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts.

7.11. **Condition 17(e)**

- 7.11.1. Condition 17(e) of the grant of permission restricted delivery times to the retail units to between 7.30 – 20.00 Monday – Friday, Saturday 08.00 – 20.00 and Sunday / Bank Holidays 09.00 -20.00. the applicant raised concerns in the first party appeal that the delivery hours are unduly restrictive and would inhibit the operation of the stores. It is requested that condition no. 17(e) be amended to allow for deliveries between 06.00 – 22.00 Monday to Saturday and 07.00 – 20.00 on a Sunday / Bank Holidays.
- 7.11.2. The applicant states that Aldi stores and the majority of supermarkets in Ireland trade from 9am to 10pm Monday to Friday and 9am to 9pm Saturday and Sunday and there does not appear to be any restrictions on other commercial premises in the vicinity, including an Applegreen service station which operates 24 hours per day. The applicant acknowledges the proximity to residential properties however the appeal states that this site is zoned for commercial purposes and the planning conditions should not unduly inhibit commercial activity.
- 7.11.3. In response to the appeal the planning authority consider that the delivery hours are reasonable, particularly having regard to the proximity of proposed new dwellings and in order to protect the residential amenity of these dwellings in terms of noise.
- 7.11.4. The proposed supermarket incorporates an enclosed, dedicated loading bay at its eastern elevation. The loading bay is located c. 30m from the nearest existing residential dwelling in The Village and c. 35m from the nearest proposed residential unit within the scheme. The applicant has stated in the appeal Aldi typically operates with a single HGV delivery truck per day and during busy trading times this increased 2 no. deliveries. It noted that deliveries are take approximately 15 – 20 minutes.
- 7.11.5. There is an existing Lidl supermarket located c. 400m west of the site. It is noted that (under ABP 306980-20, Reg. Ref. FW19A/0233) deliveries are limited to between 08.00 – 20.00 Monday to Saturday and 09.00 – 19.00pm on Sundays and Bank Holidays.
- 7.11.6. While the delivery hours of the Lidl supermarket are noted it is my opinion that given the relatively limited number of HGV movements envisioned within the site, the sites Town Centre zoning objective, the enclosed nature of the loading bay and the

separation distances to existing and proposed residential units that the extended delivery hours would not negatively impact on residential amenities by way of noise or nuisance. Therefore, it is recommended that a condition be attached to any grant of permission allowing deliveries between 06.00am – 22.00 Monday to Saturday and 07.00 – 20.00 on a Sunday / Bank Holidays.

7.12. **Condition 25 - Regulation of Commercial Institutional Investment in Housing**

7.12.1. Condition no. 25 of the grant of permission ensures that own door houses and duplex units in the scheme cannot be bulk-purchased by a commercial institution in a manner that would cause the displacement of individual purchases and / or social and affordable housing. The first party appeal raised concerns regarding the inclusion of this condition and considers that it does not apply to this application. In response to the appeal the planning authority consider that the inclusion of this condition is appropriate, relevant and in line with relevant Ministerial Planning Guidelines under Section 28.

7.12.2. It is noted that this condition is in accordance with the provisions of Regulation of Commercial Institutional Investment in Housing Guidelines, 2021 and Circular NRUP 03/2021 issued in May 2021 which relates to houses and duplexes within a scheme. Therefore, I agree with the applicant that it does not apply to the proposed apartments.

7.12.3. The applicant considers that there is no rationale for this condition in the planners report and there is no policy in the development plan or any local area plans. The guidelines were issued under Section 28 of the Planning and Development Act 2000 (as amended). As such, planning authorities and An Bord Pleanála are required to have regard to these guidelines. This is acknowledged in Section 1.9.6 of the development plan.

7.12.4. The applicant considers that the guidelines are aimed at lower density schemes and, therefore, does not apply to the proposed development which is located on lands zoned Town Centre. The provisions of the guidelines apply to all developments of 5 or more houses and / or duplexes. Therefore, I do not agree with applicant that the guidelines do apply to the proposed scheme.

7.12.5. As stated in the guidelines, given the extent of housing need, where the delivery of new houses for market purchase by individual households to achieve home ownership is generally viable and might otherwise be achieved, the phenomenon of commercial institutional investors bulk-purchasing 'own door' housing units is not desirable. While it is acknowledged that there is flexibility within the guidelines and each scheme should be assessed on its merits it is my opinion there are no material considerations that would justify or support a deviation from the provisions of the guidelines. Therefore, I agree with the planning authority that this condition is appropriate and relevant and should be attached to any grant of permission.

7.13. **Condition 29 – Financial Contribution**

7.13.1. Condition 29 requires a supplementary development contribution of €603,145 in respect of the Clonsilla to Dunboyne Railway Line. The first party appeal considers that the deferment of the Navan rail extension results in a suspension of the Section 49 Supplementary Development Contribution Scheme. Therefore, the contribution should be cancelled.

7.13.2. In response to the appeal the planning authority note that the Section 49 levy relates to the re-opening of the Navan to Dublin Railway Line - Phase 1 - Clonsilla to Dunboyne. The area subject to the levy is c. 1km on either side of the proposed railway line. This area is indicated on a drawing attached with the planning authority response. The map clearly indicates that the appeal site is within the catchment area. The Supplementary Development Contribution Scheme for the Re-Opening of the Navan to Dublin Railway Line – phase 1 – Clonsilla to Dunboyne was made in 2006 and full details are available on the planning authority's website (www.fingal.ie). I am satisfied that the appeal site is within the catchment area for the supplementary development contribution and, therefore, the contribution should be applied.

7.13.3. The first party appeal also considered that the contribution was incorrectly calculated, as the residential and commercial areas were inaccurately measured. The scheme sets out a residential levy of €308,413 and a commercial levy of €294,732. The applicant considers that the residential area is 1.7821ha which equates to a contribution of €329,115.86 and the commercial area is 0.5175 ha which equates to €217,891.23. Giving a total contribution of €547,007.09 and not €603,145.

- 7.13.4. Given the site areas provided by the applicant the site has an area of 2.2996 ha, (1.7821 ha residential and c. 0.5175 ha commercial). This is c. 0.6 ha less than the total site area of 2.99 ha is stated in the submitted documentation (including the application form).
- 7.13.5. Further to this there is a discrepancy between the residential area provided by the applicant for the purposes of calculating the financial contribution and that provided in the applicants documentation with regard to the density calculation, which was based on a residential area of 1.9172ha. Therefore, there is a discrepancy of c 0.13ha between the figures.
- 7.13.6. The rates of contribution set out in the Scheme are €184,678.67 per gross site hectare for residential development and €421,045.85 per gross site ha for commercial development. Based on these rates it would appear that the planning authority measured the residential area as 1.669 ha and the commercial area as 0.7 ha. This results in a total site area of 2.369 ha.
- 7.13.7. It is further noted that the applicants Engineering Report considers the overall site to have a stated area of 2.29ha, which is similar to that stated by the applicant in the first party appeal.
- 7.13.8. As noted above, there are discrepancies regarding the total site area and, therefore, the contribution to be paid. The site is c. 220m in length by c. 110m in width (at the centre of the site). These dimensions give an approximate area of 2.42 ha. I am satisfied that the subject site has a total area of c. 2.42 ha. The residential element is c. 1.9172 (based of the density calculation) and the commercial area is c. 0.5028. It is my opinion that the financial contribution should be based off of these estimates. This equates to a total contribution of €565,767.79, in this regard €354,065.94 for the residential element and €211,701.85 for the commercial element.
- 7.13.9. The first party appeal further states that the public open space proposed with the scheme should not be included as a contribution has already been paid under Section 48 (Condition 28). Public open space is a requirement of any residential development and is not considered to be a separate element within the proposed scheme. As such it is my opinion that it is not appropriate to provide a reduction to the supplementary financial contribution, as the development contribution of €565,767.79,

is in accordance with the provisions of the Supplementary Development Contribution Scheme for the Re-Opening of the Navan to Dublin Railway Line – phase 1 – Clonsilla to Dunboyne.

7.14. ***Material Contravention***

7.14.1. Concerns are raised that the proposed 4-storey building height would be a material contravention of the development plan. It is noted that the previous development set a recommended height limited of 3 storeys in Clonsilla. As noted above, the application was assessed by the planning authority against the provisions of the Fingal County Development Plan 2017 - 2023, which was the relevant statutory plan in place when the application was decided. The current development plan was adopted in April 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Fingal County Development Plan 2023-2029. There are no blanket limitations on height in the current development plan and I am satisfied that the proposed 4-storey height is not a material contravention of the current development plan.

7.15. ***Appropriate Assessment***

7.15.1. An Appropriate Assessment Screening Report has not been submitted and Section 7 of the applicants Planning Report notes that there is no requirement to undertake Appropriate Assessment for the proposed development.

Stage 1 AA Screening

7.15.2. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Brief Description

7.15.3. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the construction of a mixed use retail and residential development comprising 1 no. food store (2,500sqm GFA), 3 no. retail units (611.8sqm GFA) and 72 no. residential units. The surrounding area is suburban in nature with a variety of uses, including residential estates, retail, commercial units, educational and community uses. The site is serviced by public water supply and foul drainage networks. The development site is located in a heavily urbanised environment close to noise and artificial lighting. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

Zone of Influence

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

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

7.15.5. As outlined in Section 5.5 above, the designated sites within 15km of the subject site are outlined below

- Rye Water Valley / Carton SAC (001398) c. 6km from the appeal site.
- South Dublin Bay SAC (000210) c.14.1km from the appeal site.

- North Dublin Bay SAC (000206) c. 15km from the appeal site.
- South Dublin Bay and River Tolka Estuary SPA (004024) c.12.7km from the appeal site.
- North Bull Island SPA (004006) c 15km from the appeal site.

| Rye Water Valley / Carton SAC (001398) c. 6km from the appeal site | |
|---|---|
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] |
| South Dublin Bay (000210) 14.1 km from the appeal site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] |
| North Dublin Bay (000206) 15km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. |
| <i>Qualifying Interests/Species of Conservation Interest</i> | Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimi) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] |

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| | Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395]. |
| South Dublin Bay and River Tolka Estuary SPA (Site Code 004024): 12.7km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] / Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999] |
| North Bull Island SPA (004006) 15 km from the subject site | |
| <i>Conservation Objective</i> | To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA |
| <i>Qualifying Interests/Species of Conservation Interest:</i> | 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] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] |

| | |
|--|---|
| | Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999] |
|--|---|

7.15.6. The proposed development has no potential source pathway receptor connections to any other European Sites.

7.15.7. I am satisfied that the potential for impacts on the Rye Water Valley / Carton SAC (001398) site can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature and scale of the proposed development, the absence of a hydrological link and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites.

7.15.8. Therefore, I consider that only the designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA could reasonably be considered to be within the downstream receiving environment of the proposed development and on this basis these sites are subject to a more detailed Screening Assessment.

Consideration of the Impacts

7.15.9. It is considered that there is nothing unique or particularly challenging about the proposed development, either at construction or operational phase.

7.15.10. There are no watercourses within the site. The southern boundary of the site is located c. 40m from the Royal Canal, which is elevated c. 1m above the site. It is intended that surface water would flow by gravity to the public network which currently runs under the southern portion of the site and ultimately discharge to Dublin Bay. The habitats and species of Natura 2000 sites in Dublin Bay are between 12.7km and 15km downstream of the site and water quality is not a target for the maintenance of any of the QI's within Dublin Bay. The surface water pathway could create the potential for

an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

7.15.11. The scheme includes attenuation measures which would have a positive impact on drainage from the subject site. SUDS are standard measures which are included in all projects and are not included to reduce or avoid any effect on a designated site. The inclusion of SUDS is considered to be in accordance with the Greater Dublin Strategic Drainage Study (GDSDS) and are not mitigation measures in the context of Appropriate Assessment. I also note that the proposal would not generate significant demands on the existing municipal sewers for surface water.

7.15.12. The foul discharge from the proposed development would drain via the public sewer to the Ringsend WWTP for treatment and ultimately discharge to Dublin Bay. There is potential for an interrupted and distant hydrological connection between the subject site and the designated sites in Dublin Bay due to the wastewater pathway. The subject site is identified for development through the land use policies of the Fingal County Development Plan 2023-2029. This statutory plan was adopted in 2023 and was subject to AA by the planning authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 areas. I also note the development would not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing (D0034-01) and associated Appropriate Assessment Screening. It is my view that the foul

discharge from the site would be insignificant in the context of the overall licenced discharge at Ringsend WWTP, and thus its impact on the overall discharge would be negligible. It is also noted that the planning authority and Uisce Eireann raised no concerns in relation to the proposed development.

7.15.13. The site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

7.15.14. No significant flight paths related to protected birds have been identified in this area. There is no reason to believe a bird would not fly over or around the proposed structures.

7.16. ***Cumulative In-Combination Effects***

7.16.1. I am satisfied that there would be no potential cumulative effects given the nature and scale of the proposed development and the distance to any European sites.

7.17. ***AA Screening Conclusion***

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

7.17.2. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project,

no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.

7.17.3. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.17.4. It is noted that the planners report also concluded that the proposed development by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European Sites

8.0 Recommendation

8.1.1. It is recommended that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the site's 'Town Centre' zoning objective, its location within an existing urban area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 20th July 2022 as amended by

the further plans and particulars submitted on the 1st December 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The proposed development shall be amended as follows: -
 - a. A pedestrian and cycle route shall be provided from the subject site to The Village. This route shall connect to the existing footpath within The Village. To facilitate this connection the terrace of 8 no. residential units (6 no. House Type A and 1 no. Duplex Unit) at the sites south eastern boundary shall be omitted and replaced with suitably landscaped open space. Any proposal for residential use
 - b. on these lands, incorporating the pedestrian route, shall be the subject of a new planning application to the Local Authority
 - c. A minimum of 200sqm of communal open space, which is of high-quality design, easily accessible, overlooked and conveniently located for use of residents shall be provided within the scheme.
 - d. Approximately 15 no. on-street car parking spaces shall be omitted and additional street trees and planting shall be provided in lieu of these spaces. The additional trees and planting shall be provided adjacent to the proposed bike storage units.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity and to secure the integrity of the proposed development

3. The developer shall provide a pedestrian crossing facility / Toucan Crossing and all associated works on Clonsilla Road at the developer's own expense. Prior to

commencement of development, the location, design / construction and specification of this crossing shall be agreed in writing with the Planning Authority. The crossing facility shall be in place and operational prior to the occupation of the development.

Reason: In the interest of pedestrian safety.

4. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates or security barrier at the entrance to the development or within the development in a manner which would prevent pedestrian access.

(b) Prior to the occupation of any residential unit, the developer shall ensure that the public open spaces, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

5. Prior to commencement of development the applicant shall carry out a tree survey and shall submit for the written agreement of the planning authority proposal to retain existing trees, shrubs and vegetation within the site, where feasible.

Reason: In the interest of biodiversity

6. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of the number and location of bicycle parking spaces to be provided within the scheme.

Reason: In the interest of residential amenity and to promote sustainable travel.

7. Prior to commencement of development the applicant shall agree in writing with the Planning Authority the requirement for a piece of public art within the site. All works shall be at the applicant's expense.

Reason: In the interest of place making and visual amenity.

8. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs including any signs installed to be visible through the windows, advertisement structures, banners, canopies, flags, or other projecting elements shall be

displayed or erected on the retail units or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

9. The boundary planting and areas of communal open space and public open space shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before the nursing home is made available for occupation.

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

10. A schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

11. Deliveries to the retail units shall be restricted to between 06.00 – 22.00 Monday to Saturday and 07.00 – 20.00 on a Sunday / Bank Holidays.

Reason: To protect residential amenity.

12. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate

how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

13. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles

14. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

15. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

16. Proposals for a naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

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

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.
- d) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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

Reason: In the interests of visual and residential amenity.

19. The developer shall enter into water and waste water connection agreement with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

20. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity

22. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

23. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

24. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

25. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

26. Prior to the commencement of the development of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such

agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

27. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

29. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

30. The developer shall pay to the planning authority a financial contribution of €565,767.79 in respect of the Clonsilla to Dunboyne (Pace) Railway Line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

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.

Elaine Power
Senior Planning Inspector

2nd October 2023