



An
Bord
Pleanála

Inspector's Report

ABP-315984-23

Development

Permission is sought for the demolition of existing buildings on site, with the exception of No. 168 Phibsborough Road, and the construction of 80 apartments, 2 retail units, a coffee shop, all associated site works and services.

Location

'Former Des Kelly Site', a site of 0.262ha bounded by No.s 364-374 North Circular Road, Royal Canal Bank and No.s 168-169 Phibsborough Road, Dublin 7.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4145/22.

Applicant(s)

Garvagh Homes Ltd.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

First Party - Vs - Condition No. 4.

Third Party - Withdrawn.

Appellant(s)	Garvagh Homes Ltd.
Observer(s)	None.
Date of Site Inspection	3 rd July, 2024.
Inspector	Patricia-Marie Young.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	7
3.1. Decision	7
3.2. Planning Authority Reports	8
3.3. Prescribed Bodies	9
3.4. Third Party Observations	10
4.0 Planning History	10
5.0 Policy Context	14
5.1. Development Plan	14
5.2. Local	14
5.3. Regional	19
5.4. National	20
5.5. Natural Heritage Designations	23
5.6. EIA Screening	23
6.0 The Appeal	23
6.1. Grounds of Appeal	23
6.2. Planning Authority Response	25
6.3. Observations	25
7.0 Assessment	25
8.0 Appropriate Assessment (AA) Screening	44
9.0 Recommendation	46
10.0 Reasons and Considerations	47
Appendix 1 – Form 1: EIA Pre-Screening	
Appendix 2 - Form 2 - EIA Preliminary Examination	

1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a stated 0.262ha area and it is centrally located within Phibsborough village.
- 1.2. The site includes frontage onto the southern side of North Circular Road (Regional Road R101). With this consisting of No.s 364 to 374 which is located c17m to the east of North Circular Road's junction with Phibsborough Road (Regional Road R108) and with this street having an east west alignment. The North Circular Road street frontage occupies a highly visible location which includes its northeastern most end addressing Blaquiere Bridge and the Royal Canal Park. At this point, the site contains a four-storey cinema building that dates to the 1950s whose most recent use was as a retail premises for 'Des Kelly Interiors'. This street frontage measures c55m in its length and is also comprised of single storey as well as two-storey buildings that are vacant and in a poor state of repair.
- 1.3. Adjoining the north westernmost end of the North Circular Road street frontage is a Victorian three storey former bank building that is also a designated Protected Structure (Note: No.s 162-165 North Circular Road).
- 1.4. Double yellow lines run alongside the North Circular Road street frontage and on the opposite side of the street is Bus Stop ID81 which serves Dublin Bus Route 46A.
- 1.5. Located to the rear of the North Circular Road street frontage are large warehouse/light industrial type buildings that are not in any active use and in a poor state of repair.
- 1.6. The Royal Canal Park runs alongside the eastern boundary of the site and the ground levels fall away from the North Circular Road to the southeastern corner of the site where the site bounds Royal Canal Bank. The southern boundary of the site adjoins the part three-storey and part two storey residential scheme of St. Peters Court.
- 1.7. The site also includes frontage addressing the eastern side of Phibsborough Road. This frontage is located c34m to the south of Phibsborough Roads junction with the North Circular Road and it consists of No.s 168 to 169 Phibsborough Road. The street frontage onto Phibsborough Road is c16m in its length with this street having a north south alignment.

- 1.8. No. 168 Phibsborough Road is a Victorian terrace building and it forms part of a once highly coherent group of three. On the northern side of its front elevation, it contains a former carriage access. This connects to a garage type structure to the rear of this plot.
- 1.9. The adjoining building to the south of No. 169 Phibsborough Road would appear to also date to Victorian times but it is not as intact as No. 168 Phibsborough Road. With both buildings being vacant and in a poor state of repair. To the rear of these building there appears to be two shed structures which are also vacant and in a poor state.
- 1.10. This appeal site is located c2km to the north of Dublin's historic city centre and forms part of a mixed use urban landscape that centres around Doyle's corner in the heart of inner-city area of Phibsborough.

2.0 Proposed Development

2.1. Planning permission is sought for:

- With the exception of No. 168 Phibsborough Road, which is to be retained, the application proposes to demolish all the existing buildings on the site.
- The proposed development consists of:
 - With the exception of no. 168 Phibsborough Road, which is to be retained, the application proposes to demolish all the existing buildings on the site (Note: 104 sq. m. floor area to be retained and the total area of buildings to be demolished is 2,819 sq. m.).
 - 2 no. retail units with a total of 1,950 sq. m. at ground floor level, coffee shop of 40 sq. m. facing Royal Canal Bank at lower ground level.
 - 80 no. apartments (19 studios, 19 one-bedroom, 41 two-bedroom and 1 three-bedroom apartments) in upper floor development.
 - The new buildings to North Circular Road shall be 6-storeys in height (ground floor retail with apartments on upper floor) with an 8-storey apartment building at the corner of North Circular Road and Royal Canal bank with an eight-storey section above park level are proposed. Within the site, the apartment buildings surrounding a central amenity open space for residents.

- 28 no. car parking spaces (13 spaces for retail, 13 spaces for residential and 2 club car spaces (2 spaces of the allocation will be e-charging), 186 no. cycle spaces and bin stores and collection areas at lower ground level.
- It is proposed to demolish No. 169 Phibsborough Road and replace it with a three-storey building with vehicular entrance at ground floor level giving access to lower ground level parking and service area.
- PV panels on the roof and c.975 sq. m. green roofs to be incorporated in the proposed scheme.
- A substation together with all ancillary services and works associated with the proposed mixed use development scheme.
- The total area of new buildings proposed is 9,611 sq. m.; the total floor area new and retained is 9,715 sq.m; the proposed Plot Ratio is 3.8 and Site Coverage is 95%. . A breakdown of classes and their associated floor areas in this mixed-use scheme is given below:

Class of Development	Sq. m.
Residential	7,101
Retail	1,950
Café	40

2.2. On the 12th day of December, 2022, the applicant submitted significant information response. This response was accompanied by new public notices on the 12th day of January, 2023. In relation to the subject matter of this appeal the unit mix of this mixed-use scheme the further information revisions resulted in a reduction in apartment unit number to 77 which can be broken down as follows:

Unit Type	Number	% of Total
Studio	20	25.97
1-Bedroom	18	23.37
2-Bedroom	38	49.35
3-Bedroom	1	1.29

2.3. Of note the average apartment floor area of proposed units as revised is as follows:

- Studios: 40sq.m
- 1-Bedroom: 50sq.m.
- 2-Bedroom: 80sq.m.
- 3- Bedroom: 92-sq.m.

Additionally, the number of apartments with dual aspect is 68%; the revised bike spaces is 208 for residents & other; the number of units with more than 1 bedroom is 42; the floor to ceiling height ranges from 2.6m to 2.65m for the residential floors; and, the community amenity space provision is given as 686-sq.m.

3.0 Planning Authority Decision

3.1. Decision

Permission was **granted** (08.02.2023) subject to 19 no. standard in nature conditions. Of relevance to the grounds of this appeal are the requirements of Condition No. 4. It reads:

“The development hereby permitted shall incorporate the following amendments: The internal layout shall be altered to ensure that a minimum of 15% of the residential units have a minimum of three bedrooms and no more than 30% are one-bedroomed or studio units. All of the residential units shall comply with the minimum requirements set out in the DHLGH ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines for Planning Authorities in respect of floor area, room sizes, internal storage and private open space and a revised schedule of accommodation shall be submitted demonstrating this, together with revised floor plans. The revisions shall be achieved where possible through amalgamation of units and the location of balconies and windows to habitable rooms shall remain as shown on the plans submitted as additional information unless a further permission is granted for revisions to this.

Development shall not commence until revised plans, particulars and specifications showing the above amendments have been submitted to the Planning Authority and written agreement obtained.

Reason: To comply with development plan requirements in relation to housing mix, in the interests of residential amenity.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer's report** (08.02.2023) is the basis of the Planning Authority's decision. It notes that since the request for further information a new Development Plan has been adopted and that under it the site now forms part of a key urban village, which is a top tier centre outside the city centre. Of specific note in relation to the subject of this appeal this report notes that Section 15.9.1 sets out the unit mix for apartment developments and that there is no minimum provision of three-bedroom spaces.

It also notes that a HNDA has been carried out for the city which has identified two areas of the city where a different unit mix to that set out in the Sustainable Urban Housing: Design Standards for New Apartments will be required.

The Planning Officer considered that they were otherwise generally satisfied that the applicant had addressed the items of the further information request satisfactorily and concluded with a recommendation to grant permission subject to safeguards.

The **initial Planning Officer's report** (28.07.2022) concluded with a request for further information on the following:

- Item No. 1: Sought amendments to the design in relation to its Victorian streetscape and the Royal Canal Bank setting.
- Item No. 2: Further clarity was sought on No. 169 Phibsborough Road.
- Item No. 3: Concern in relation to the lack of active uses at street level elevation addressing Royal Canal Park. Concern also raised in relation to the extent of anodised metal façade panel used in the elevational treatment addressing this park.
- Item No. 4: Details on public open space provision sought.
- Item No. 5: Concern raised in relation to loss of sunlight to the amenity space to the rear of No. 167 Phibsborough Road.
- Item No. 6: Details sought to address overlooking arising to No. 167 Phibsborough Road.

Item No. 7: Applicant requested to respond to the Transportation Planning Division further information request. This request seeks information on a wide variety of matters including but not limited to Metrolink, BusConnects, zero car parking justification, more adequate provision of bicycle parking spaces, pedestrian pathways, permeability, servicing, and deliveries.

3.2.2. Other Technical Reports

Transportation: Final report (27.01.2023) raised no objection subject to safeguards.

The following comments are noted:

- They are satisfied with the level of consultation had between the applicant and the NTA in relation to the amended MetroLink and Bus Connects.
- The zero-car parking provision addresses a number of their concerns as has the increased number of bicycle space provision, the widening of the footpath along North Circular Road through to the improvements arising to the active street frontage.
- The zero provision is considered acceptable in this isolated instance.
- A condition should be attached that no part of the development impinges onto the public footpath.

Drainage: Final report (10.01.2023) recommended a refusal of permission as the proposed development does not comply with the following requirements of Dublin City Development Plan, 2022-2028, in relation to not providing a Basement Impact Assessment and green blue roof with attenuation storage provided at roof level.

Environmental Health: No objection, subject to safeguards.

3.3. Prescribed Bodies

- **National Transport Authority:** This submission notes that the proposed MetroLink substratum alignment travels near to the northeast corner of the proposed development, located at the approximate midpoint of Glasnevin Station and Mater Station. Given the proximity of the basement and foundations of the proposed development to the Metrolink alignment, the NTA recommends that additional information is sought from the applicant.

- **Transport Infrastructure Ireland:** No objection. It notes that the proposed development falls within the adopted Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen's Green to Broombridge Line) under S.49 Planning and Development Act 2000, as amended. The proposed development is not exempt and therefore a condition to apply the Section 49 Luas Line Levy should be imposed as part of a grant of permission.

3.4. Third Party Observations

3.4.1. 15 No. Third Party Observations were received by the Planning Authority during their determination of this application. A number of the observations welcomed the proposed development as it would reverse the vacant state of this site. The majority of observations raised a wide variety of concerns including:

- Potential to give rise to adverse visual & residential amenity impact.
- Height of the new building was excessive.
- Substandard residential amenity for future occupants.
- Lack of car parking to meet the needs of the proposed scheme and potential to give rise to an overspilling of car parking on the surrounding streets.
- Potential to give rise to traffic hazard and other road safety concerns.
- Considered that the proposal does not successfully integrate with the streetscape scene of Phibsborough Road and North Circular Road, including its ACA setting.
- Potential for adverse structural impact on adjoining No. 167 Phibsborough Road.
- Concern in relation to construction through to operational nuisance.

4.0 Planning History

4.1. Site – Recent & Relevant

- **P.A. Ref. No. 3909/21** (Address: As per this application).

Planning permission was **refused** for a development consisting of parking spaces (17 spaces for retail, 19 spaces and 2 club car spaces for residential and 210 cycle spaces) at lower ground level, retail space of 1925 sq.m at ground floor level, coffee

shop of 37 sq. m. facing Royal Canal Bank at lower ground level, with 96 dwellings (23 studios, 25 one bed, 47 two bed and 1 three bedroom apartments) overhead in upper floor development. With the exception of no. 168 Phibsborough Road, which is to be retained, the application proposes to demolish all the existing buildings on the site. The new buildings to North Circular Road shall be 6-storeys in height (ground floor retail with apartments on upper floor) with a 12-storey apartment tower at the corner of North Circular Road and Royal Canal bank with a 9-storey section above park level are proposed. Within the site, the apartment buildings will surround a central amenity open space for residents. It is proposed to demolish 169 Phibsborough Road and replace with a three-storey building with vehicular entrance at ground floor level giving access to lower ground level parking and services. A substation is proposed with PV panels on the roof together with all ancillary services.

The stated reasons for refusal read:

“1. The proposed development, by reason of its overall scale, height, bulk and massing will be visually intrusive and overbearing when viewed on approach from the east along the North Circular Road and from the south along Phibsborough Road. The excessive height and architectural quality together with the material selection and fenestration pattern of the proposed corner building will likely impact adversely on the character of the surrounding Phibsborough Architectural Conservation Area and fails to provide an adequate design response necessitated by this prominent location, contrary to Policy CHC5 of Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area. The proposed development is therefore contrary to Specific Planning Policy Requirement 3 of the Urban Development and Building Height Guidelines for Planning Authorities 2018 as the application fails to demonstrate satisfactory compliance with the criteria set out in Section 3.2 to justify the proposed height of the development.

2. The proposed development, by reason of its anticipated impact on adjoining properties in respect of their daylight/sunlight accessibility, in combination with the lack of adequate or detailed justification for such impacts in the submitted Daylight & Sunlight Assessment (Digital Dimensions, October 2021) would likely seriously injure the residential amenities of adjoining properties, contrary to the proper planning and sustainable development of the area.

3. *The development proposes residential accommodation which is considered to be sub-standard, taking into account the lack of compliance of a number of units with a number of requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020), including the requirement to Safeguard Higher Standards through the provision of additional floor space across the development, inadequate storage and private amenity space quantities and failure to achieve minimum bedroom sizes and widths in a number of units. The development would therefore constitute an overdevelopment of the site and likely seriously injure the residential amenities of future residents and would, therefore, be contrary to the proper planning and sustainable development of the area."*

Decision date: 21.01.2022.

4.2. In the Vicinity of the Site

- **ABP-314610-22**

This application relates to BusConnects for the Ballymun/Finglas to City Centre Core Bus Corridor Scheme which would run alongside the sites Phibsborough Road and North Circular Road side boundary which was approved subject to conditions on the 12th day of March, 2024.

- **ABP-314724-22**

(Address: the site is 15m to the west of the Metrolink. Estuary through Swords, Dublin Airport, Ballymun, Glasnevin and City Centre to Charlemont, corridor).

This case is yet to be decided it is currently at 'requires further consideration'.

- **ABP-307115-20 (P.A. 3964/19)**

(Address: 378A North Circular Road, Phibsborough – Note: c26m to the east of the site's North Circular Road street frontage of the site at its nearest point)

Planning permission was granted for a development consisting of the demolition of the existing derelict structures on the site and the construction of a 2 to 4 storey over basement mixed-use building, accessed via a pedestrian entrance on the North Circular Road, to include 5 no. residential units (3 no. 3-bed, 1 no. 2-bed & 1 no. studio), with roof-terraces, inset-balcony & garden space, 2 commercial units, 16 no. bicycle

parking spaces at ground & lower-ground levels and associated site works. Decision date: 08.03.2021.

- **ABP-308875-20 (SHD Application)**

(Address: Phibsborough Shopping Centre and No. 345-349 North Circular Road – Note c70m to the north west of the North Circular Road frontage of the site at its nearest point)

Planning permission was granted for a development consisting of alterations to previously permitted P.A. Ref. No. 2628/17 and ABP-300241-18 to now provide 321 no. Build to Rent shared accommodation bed spaces and associated site works. Of note this development related to a four to six storeys in height building over the existing parade of retail units and their associated roof top parking at the existing Phibsborough Shopping Centre. Decision date: 12.04.2021.

- **ABP-318730-23(P.A. Ref. No. 4173/23)**

(Address: 61 Royal Canal Bank, Phibsborough – Note: c132m to the south of the site at its nearest point).

Currently with the Board on a First Party Appeal is an application relating development consisting of alterations to the development previously approved under P.A. Ref. No. 3251/22 comprising of: (i) provision of a fourth floor level setback that includes for 1 no. additional two-bedroom apartment located to the rear of the development, served by private balcony; (ii) provision of 03 no. additional bicycle parking spaces at ground level; (iii) all ancillary works necessary to facilitate the proposed development. The cumulative works will result in the provision of 5 storeys apartment block consisting of 10 no. apartments as follows; 2no. studio units, 2no. one-bedroom units and 6no. two-bedroom units.

- **ABP-310686-21 (P.A. Ref. No. 3391/20)**

(Address: 146-147 Phibsborough Road & 10 Eglinton Terrace, Dublin 7 – Note c08m to the north of the site).

Permission was granted for demolition of mixed-use buildings and a derelict dwelling. Construction of mixed-use development, consisting of a restaurant & cafe, 17

apartments in 2 buildings and also consists of 2 townhouses. Decision date: 13.12.2021.

5.0 Policy Context

5.1. Development Plan

5.2. Local

- 5.2.1. The Dublin City Development Plan, 2022-2028, is the operative plan. The site forms part of a larger parcel of land zoned 'Z4 - Key Urban Villages/Urban Villages'. The stated land use for 'Z4' land is: *"to provide for and improve mixed-services facilities"*. Permissible land uses include residential, retail, and café/tearoom.
- 5.2.2. Section 14.7.4 of the Development Plan states that the: *"Key Urban Villages and Urban Villages (formerly District Centres) function to serve the needs of the surrounding catchment providing a range of retail, commercial, cultural, social and community functions that are easily accessible by foot, bicycle or public transport; in line with the concept of the 15-minute city. Key Urban Villages form the top tier of centre outside the city centre. They typically have retail outlets of a greater size selling convenience and comparison goods or provide services of a higher order. The catchment area generally extends spatially to a greater extent than that of Urban Villages and Neighbourhood Centres (see Chapter 7: The City Centre, Urban Villages and Retail, and Appendix 2: Retail Strategy for further detail). Urban Villages zoned Z4 are typically smaller in scale and provide a more localised role for the daily shopping needs and local services of a residential community"*. Additionally, the site forms part of 'Key Urban Village 8 – Phibsborough' (KUV 8). In this regard it states that: *"these centres have, or will in the future have, the capacity to deliver on a comprehensive range of integrated services along with residential development."*
- 5.2.3. Section 14.7.4 sets out that in KUVs proposals for development within these areas should be in accordance with these principles in addition to complying with the land-use zoning:

- *“Mixed-Use: Promote an increased density of mixed-use development including residential development with diversity in unit types and tenures capable of establishing long-term integrated communities.*
- *Density: Ensure the establishment of higher density development capable of sustaining quality public transport systems and supporting local services and activities. Encourage the development/redevelopment of under-utilised sites and intensification of underutilised areas such as surface parking. Opportunity should be taken to use the levels above ground level for additional commercial/retail/services or residential use.*
- *Transport: Ensure provision is made for quality public transport systems. Provide improved access to these systems and incorporate travel plans, which prioritise the primacy of pedestrian and cyclist movement and address the issue of parking facilities and parking overflow. Ensure that enhanced connectivity and permeability is promoted.*
- *Commercial/Retail: Promote the creation of a vibrant retail and commercial core with animated streetscapes. A diversity of uses should be promoted to maintain vitality throughout the day and evening.*
- *Community and Social Services: Encourage these centres to become the focal point for the integrated delivery of community and social services.*
- *Employment: Encourage the provision of employment uses incorporating office, work hub, live-work units, professional and financial services, and the creation of small start-up units.*
- *Built Environment: Ensure the creation of high-quality, mixed-use urban districts with a high-quality public realm, distinctive spatial identity and coherent urban structure”... “Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area.”*

5.2.4. The adjoining land to the south is zoned ‘Z1’ – Sustainable Residential Areas’. The stated objective for ‘Z1’ zoned land is: “to protect, provide and improve residential amenities” and to the east ‘Z9 – Amenity, Open Space, Green Networks’. The stated objective for ‘Z9’ land is: “to preserve, provide and improve recreational amenity, open space and ecosystem services”.

5.2.5. The site lies within the green hatched 'Architectural Conservation Area' (ACA) and the larger red hatched conservation area that encompasses part of the North Circular Road and Phibsborough Road. These areas are recognised as areas that have architecture and conservation merit that warrant protection through zoning and policy application. Of note, Policy BHA7 of the Development Plan states:

"(b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.

(c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged."

5.2.6. Section 11.5.3 of the Development Plan deals with the matter of 'Built Heritage Assets of the City'. In relation to the red-lined area of the city it sets out that they "are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application."

5.2.7. Policy BHA11 of the Development Plan on the matter of 'Rehabilitation and Reuse of Existing Older Buildings'. It states:

"(a) To retain, where appropriate, and encourage the rehabilitation and suitable adaptive reuse of existing older buildings/structures/features which make a positive contribution to the character and appearance of the area and streetscape, in preference to their demolition and redevelopment.

(b) Encourage the retention and/or reinstatement of original fabric of our historic building stock such as windows, doors, roof coverings, shopfronts (including signage and associated features), pub fronts and other significant features.

(c) Ensure that appropriate materials are used to carry out any repairs to the historic fabric."

5.2.8. Policy QHSN10 of the Development Plan sets out that the Planning Authority will seek to promote sustainable densities with due consideration for design standards and the surrounding character. It refers to Appendix 3 of the Development Plan which it sets

out provides guidance on urban density, compact growth, building height, plot ratios and site coverage.

5.2.9. The Development Plan includes several policies addressing and promoting apartment developments. These include policies: QHSN36, QHSN37, QHSN38 and QHSN39.

5.2.10. Section 4.5.4 and Policy SC15 to SC17 of the Development Plan set out the Planning Authority's strategy and criteria when considering appropriate building heights, including reference to the performance-based criteria contained in Appendix 3.

5.2.11. Section 15.9.1 of the Development Plan on the matter of Unit Mix states: "*Specific Planning Policy Requirement 1 states that housing developments may include up to 50% one bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms unless specified as a result of a Housing Need and Demand Assessment (HNDA) carried out by the Planning Authority as part of the development plan process*". It also sets out that the outcome for the two local HNDAs carried out, which of note includes the North Inner City, "*indicates increased demand for two and three person households and declining demand regarding single person households. (Section 2.4.1 of Appendix 1, Annex 3 refers.)*". It further sets out that:

"The following requirement for unit mix are, therefore, required in these two sub-city areas; (i) the Liberties and (ii) the North Inner City" ... "to require planning applications that include residential accommodation of 15 residential units for more in the North Inner City and Liberties Sub-City Areas (as per Figure 1.2 as part of Appendix 01, Annex 3) include the following mix of units:

- *A minimum of 15% three or more bedroom units.*
- *A maximum of 25%-30% one bedroom / studio unit".*

It also states:

"SPPR 2 provides some flexibility in terms of unit mix for building refurbishment schemes on sites of any size, urban infill schemes on sites up to 0.25 ha, schemes up to 9 units and for schemes between 10 and 49 units. The planning authority will assess each application having regard to SPPR 2 on a case by case basis. For further details, please refer to The Sustainable Urban Housing: Design Standards for New Apartments (December 2020) guidelines. For clarity, in accordance with SPPR 8, the

unit mix requirement for the North Inner City and Liberties Sub-City Areas does not apply to units that are designed to a BTR standard”.

5.2.12. Annex 3 to Appendix 1 of the Development Plan deals specifically with Housing Need & Demand Assessment with the site forming part of North Inner City HNDA.

5.2.13. Table 15-1: Thresholds for Planning Applications sets out that a Retail Impact Assessment Retail development will be required for developments of 2,000 sq. m (net comparison floorspace) and 1,500 sq. m. (net convenience floorspace) outside of the city centre and KUV's.

5.2.14. Section 15.5.1 of the Development Plan on the matter of Brownfield, Regeneration Sites and Large-Scale Development sets out that regard will be had to several considerations including but not limited to:

- Encourage innovative, high quality urban design and architectural detail in all new development proposals.
- Review the surrounding built environment to ensure the new development is consistent with the character of the area.
- Contribute to the streetscape creating active and vibrant public realm.
- Create animation and create activity at street level and vertically throughout the building.
- Provide an appropriate mix of uses comprising retail, residential, recreational, cultural, community- and/or employment generating uses to improve the existing range of uses and facilities in the area.

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

- Section 4.5.2 - Approach to the Inner Suburbs and Outer City as Part of the Metropolitan Area (Policy SC8).
- Section 4.5.3 – Urban Density (Policy No.s SC10, SC11, SC12 and SC13).
- Section 4.5.9 – Urban Design & Architecture (Policy No.s SC19, SC20, SC21, SC22 and SC23).
- Section 8.5.1 - Climate Change through Sustainable Mobility.
- Section 15.4 – Key Design Principles.

- Section 15.5 – Site Characteristics and Design Parameters.
- Section 15.8 - Residential Development.
- Section 15.9 – Apartment Standards.

5.3. Regional

5.3.1. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES), 2019.

This Strategy Document supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. The following regional policy objectives (RPOs) are considered relevant to this application:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. It advocates sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs.

Section 9.3 of RSES deals with the matter of Housing and Regeneration. It states on the matter of 'Housing Need Demand Assessment' that the NPF: *"requires each local authority, with coordination from the Regional Assemblies, to undertake a Housing Need Demand Assessment (HNDA) for their administrative area that will provide a robust common evidence base to inform housing and land use zoning policies and support the preparation of local authority housing strategies and development plans"* and that: *"the HNDA evidence base includes a range of housing data, along with wider economic, demographic and affordability trends, to understand key housing market drivers and give a statistical estimate of all current and future housing needs, by tenure. The HNDA will inform policy responses about the future location, typology and tenure of housing needs, including affordable housing and single houses in the*

countryside, which in turn will inform the provision of a sufficient land supply in the right locations to deliver future additional housing.”

Of note:

RPO 9.4 states: *“design standards for new apartment developments should encourage a wider demographic profile which actively includes families and an ageing population.”*

RPO 9.5 states: *“support local authorities, either individually or combined, in the provision of a Housing Need Demand Assessment that will inform housing policy that provides for diverse housing demand and is in accordance with statutory guidelines.”*

5.4. National

- 5.4.1. **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant population and employment growth.

The NPF supports the requirement set out in the Government’s strategy for ‘Rebuilding Ireland: Action Plan for Housing and Homelessness’, 2016, to ensure the provision of a social and affordable supply of housing in appropriate locations.

National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF.

Section 6.6 of the NPF on the matter of Housing Need Demand Assessment states: *“in order to ensure that the plan-making system is supported by a robust methodology to inform policies and funding initiatives around housing and associated land requirements, a Housing Need Demand Assessment (HNDA) will be developed by each Local Authority to support the preparation of housing strategies and all related housing policy outputs, e.g. city and county development plans, local area plans, traveller accommodation plans etc. The purpose of the Housing Need Demand Assessment tool is to:*

- *Assist local authorities to develop long-term strategic views of housing need across all tenures.*

- *Provide a robust evidence base to support decisions about new housing supply, wider investment and housing related services that inform an overall national housing profile.*
- *Inform policies about the proportion of social and affordable housing required, including the need for different types and sizes of provision.*
- *Provide evidence to inform policies related to the provision of specialist housing and housing related services.”*

It further states that: “*HNDA*s are designed to give broad, long run estimates of what future housing need might be, rather than precision estimates.”

Of relevance National Policy Objective 37 states:

“A ‘Housing Need Demand Assessment’ (HNDA) is to be undertaken for each Local Authority Area in order to correlate and accurately align future housing requirements. The HNDA is:

- to be undertaken by Local Authorities with coordination assistance to be provided by the Regional Assemblies, and also at a Metropolitan scale, particularly where inter-county and inter-regional settlement interactions are to be planned for and managed;*
- to primarily inform housing policies, housing strategies and associated land use zoning policies as well as assisting in determining where new policy areas or investment programmes are to be developed; and*
- to be supported, through the establishment of a coordination and monitoring unit to assist Local Authorities and Regional Assemblies in the development of the HNDA (DHPLG, Regional Assemblies and the Local Authorities). This will involve developing and coordinating a centralised spatial database for Local Authority Housing data that supports the HNDA being undertaken by Local Authorities.”*

5.4.2. Housing for All – A New Housing Plan for Ireland, 2021.

The government’s vision for the housing system over the longer term is to achieve a steady supply of housing in the right locations with economic, social, and environmental sustainability built into the system. The policy has four pathways to achieving housing for all. This includes addressing vacancy and efficient use of existing stock.

5.4.3. **Rebuilding Ireland – Action Plan for Housing and Homelessness, 2016.**

Pillar 3 of this Plan relates to increasing the output of private housing to meet demand at affordable prices.

5.4.4. **Climate Action Plan, 2024.**

This plan refers to the need to reduce car parking, both for developments and on-street. Alternative construction materials should be substituted for high carbon products.

5.4.5. I consider that the following **Section 28 Ministerial Guidelines** and other national policy documents are relevant to residential development at this location:

- Circular Letter Housing 14/2021, Re: Housing Need and Demand Assessment (HNDA), DHLGH The Department's Circular Letter, 14/2021 clarifies that a HNDA is to be used as the central evidence base to inform the housing strategy preparation (under section 94 of the Planning and Development Act 2000).
- Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018). These outline the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.
- The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020, updated December 2022, and July 2023).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the accompanying Urban Design Manual.
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Retail Planning Guidelines for Planning Authorities (2012) and the Retail Design Manual.
- Appropriate Assessment of Plans and Projects in Ireland - Guidelines for Planning Authorities (2009, updated 2010).
- Smarter Travel – A Sustainable Transport Future. A New Transport Policy for Ireland 2009 – 2020 (Department of Transport, 2009).

- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).
- Part V of the Planning and Development Act 2000 (including Circular PL 10/2015 and Housing Circular 36/2015) (January 2017).

5.5. Natural Heritage Designations

- 5.5.1. This appeal site is located c2.8km to the west of Special Protection Areas: South Dublin Bay and River Tolka Estuary (Site Code: 004024) and c4.8km to the north west of South Dublin Bay (Site Code: 000210) as the bird would fly.
- 5.5.2. I also note that this appeal site is located c328m to the north of the Proposed Natural Heritage Area: Royal Canal (Site Code: 002103).

5.6. EIA Screening

- 5.6.1. See completed EIA Pre-Screening Form attached. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of the First Party Appeal in summary seeks that the Board omit Condition No. 4 from the Planning Authority's notification to grant permission. It can be summarised as follows:
- Concern is raised that the Planning Authority under Condition No. 4 requires 15%, i.e., 11 of the units to be 3-bedroom units. The applicant did not apply for this.
 - The residential units in this development are being developed for sale and the 11 three-bedroom units would have to be sold at a price that covers their development costs. In this case there is no funding that can be obtained for a development of this nature as funding agencies go through standard models of appraisals in order to agree funding for developments. From this research it has shown that the 3-

bedroom units at this location in Phibsborough could not be sold for the figure required to recoup their cost. In turn funding could not be obtained for the entire project which would mean it could not proceed and this site would remain vacant.

- The number of dwelling units on this site have already been significantly reduced from that originally proposed and the development is marginally viable in its current formation.
- This development has been subject to significant amendments on foot of a further information request.
- The request for a unit mix change should have been requested as part of the further information.
- Considerable time has been spent on ensuring that this development meet and exceeded the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, standards.
- The requirements of meeting Condition No. 4 reduces the architectural quality of the proposal severely yet provides no appreciable gain for the future occupants, streetscape, or neighbours.
- Increasing the number of 3-bedroom units in this scheme would not increase the number of families living in a particular development or area.
- There is a large uncatered demand in this area by individual for one bedroom, studio or 2-bedroom accommodation to purchase.
- Prior to making the application they conducted a viability examination.
- This location is not one that is attractive for families with young children.
- It is difficult to amend the format of the building internally to accommodate the 3-bedroom unit requirement without impacting on the building volume, configuration, windows through to balconies. From trying to meet the requirement of Condition No. 4 the outcome for this scheme would be the loss of 10 units.
- Ireland has seen significant demographic changes in recent years with more people living in smaller households.
- The loss of this proposal would condemn this site to continuing vacancy.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The Board is requested to uphold their decision to grant permission.
- It is requested that conditions including Section 48 development contribution; Section 49 Luas X City development contribution; a condition requiring a payment of a bond; a condition requiring the payment of a contribution in lieu of open space; a social housing condition, a naming and numbering condition and a management condition be applied.

6.3. Observations

6.3.1. None received.

7.0 Assessment

7.1. Preliminary Comment

7.1.1. I have read the entire contents of this appeal case file, conducted an inspection of the site as well as its surroundings and I have had regard to relevant planning policy relating to the proposed development sought under this application. I also note that during the course of the determination of this application by the Planning Authority that a further information response from the First Party resulted in a number of qualitative improvements to the scheme. With these improvements including a much improved and considered elevational through to building volume and external palette response to its sensitive to change streetscape scene. It also included additional measures to deal with potential adverse residential amenity impact including addressing overlooking concerns. Additionally, the revised scheme now proposes a zero-car parking provision at this highly accessible site to address traffic hazard and other road safety concerns, including in terms of its potential to adversely impact on the functioning of the regional roads it fronts onto. These improvements together with the other amendments made to the scheme to address the various concerns of the Planning Authority have resulted in a more positive site context responsive mixed-use development for this key urban village site within a sensitive to change setting.

- 7.1.2. Notwithstanding, in the intervening time between this application being lodged with the Planning Authority and to when the Planning Authority determined the First Party's further information response the planning context at a local through to national level has evolved. In particular at a local level by way of the adoption of the Dublin City Development Plan, 2022 to 2028.
- 7.1.3. The now applicable Development Plan includes housing unit mix standards for residential developments throughout the city and it includes two sub city area Housing Need and Demand Assessments. With the site itself falling within the boundaries of the North Inner City Sub-City Area.
- 7.1.4. This recently adopted Development Plan was operative at the time the applicant submitted their further information response and as such its provisions were taken account of as part of the determination on the planning merits of the proposed development as revised. During this stage, the issue of housing mix for this mixed-use scheme became a new issue for the Planning Authority for consideration. I therefore note that the final Planning Officer's report which is the basis of the Planning Authority's decision considered that given the change in planning provisions, particularly at a local level, that in order to achieve compliance with the Development Plans housing mix requirements that it was appropriate in their view to address the proposed developments non-compliance with the required housing mix for this location by way of condition. This was the only substantive issue arising with the Planning Officer considering that the applicants had otherwise successfully addressed the concerns raised in their further information request.
- 7.1.5. This was therefore the basis of Condition No. 4 of the Planning Authority's notification to grant permission and it required the internal layout of the proposed scheme to be altered to provide a minimum of 15% of the residential units with three bedrooms and that no more than 30% of the units be one bedroom or studios. The basis for this was given as compliance with the minimum standards of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines. This condition also sought that the provision of the three-bedroom apartment units be achieved where possible by maintaining the location of the balconies and windows to habitable rooms. The stated overall reason for the requirements of this condition was given as in the interests of complying with the Development Plan requirements for housing mix and in the interests of residential amenity.

- 7.1.6. The First Party by way of their appeal to the Board request the omission of Condition No. 4 in its entirety from the Planning Authority's notification to grant permission. The effect of this condition is the provision of 11 three-bedroom units and with this being only achievable by the loss of 10 units from the residential component of this mixed-use development which as revised contained 77 apartment units.
- 7.1.7. They contend that this development has been designed for sale and that the design of the residential element of this mixed-use development was based on research of the market for apartments in the Phibsborough locality where it was found that the cost for three-bedroom units is such that they could not be sold at a figure required to recoup their cost and that this particular location is not one that would necessarily result in an increase in family occupation of the additional three bedroom units sought. They further argue that the Planning Authority should have requested this change as part of the extensive further information sought and that the proposed residential scheme is consistent with the standards set out in Sustainable Urban Housing: Design Standards for New Apartment Guidelines and to impose this condition would effectively result in this scheme not securing funding with the resulting outcome of this being that this site would remain in its vacant state.
- 7.1.8. The Planning Authority in their response to the grounds of this First Party appeal simply request the Board to uphold their decision. They make no specific comment in relation to the omission of Condition No. 4 from their notification to grant permission. They request that the Board should it be minded to grant permission include a number of specified conditions relating to other matters such as development contribution levies and the like.
- 7.1.9. Outside of the issue of housing mix and having examined the proposed development as lodged as well as revised against relevant local through to national planning provisions I concur with the Planning Authority that the proposed development is otherwise consistent with the proper planning and sustainable development of the area subject to the safeguards. I am also satisfied that the Board were it to have determined this application de novo would have reached a similar decision with similar conditions attached as safeguards.
- 7.1.10. On this point I note that the principle of mixed-use development containing residential, retail and a café, all of which are permissible land uses on 'Z4' zoned land is

acceptable subject to safeguards. Alongside the site is one that is located within the Key Urban Village of Phibsborough (KUV8) where compact mixed use is promoted as part of increased density of developments through to the creation of integrated communities with vibrant retail and commercial cores that maintain their vitality throughout the day and evening. Further the new replacement building which includes an eight-storey element addressing the corner of North Circular Road and the Royal Canal Park is consistent with the Development Plan's Building Height Strategy and the considerations for tall buildings as set out under Section 3.2 of the Urban Development and Building Height Guidelines. Further, the density through to site coverage is consistent with the Development Plan provisions together with the Development Plan in a consistent manner with RSES, the NPF and other national planning provisions supportive of channelling compact, denser redevelopment of brownfield underutilised sites at appropriate serviced and accessible locations, subject to safeguards. Further the site is one where there is no issue in terms of water supply, foul drainage, and surface water drainage, subject to standard safeguards.

7.1.11. It is therefore my considered opinion that the determination by the Board of the application, as if it had been made to it in the first instance, would not be warranted and I recommend that it determine the matters raised in the appeal only in accordance with Section 139 of the Planning and Development Act 2000, as amended.

7.1.12. For clarity, my assessment below examines the matter of the housing mix of the proposed residential component of this mixed-use scheme as revised. That is to say that the revised residential component consists of a reduction in total apartment units from 80 to 77. I note also that the 77 apartment units consist of: 20 No. Studio Units; 18 No. 1-Bedroom Units; 38 No. 2-bedroom Units and 1 No. 3-bedroom Units. I further note that the Board received no Third-Party submissions and I propose to deal with the matter of '*Appropriate Assessment*' separately under Section 8 of this report below.

7.2. Condition No. 4 of the PA's Notification – Mix of Units

7.2.1. As discussed above the key issue for consideration in this appeal case is the matter of whether or not the proposed housing unit mix in the residential component of this mixed-use scheme accords with the proper planning and sustainable development of the area.

- 7.2.2. Of particular relevance is since the proposed development was originally lodged with the Planning Authority that the local planning provision have evolved by way of the adoption of the Dublin City Development Plan, 2022 to 2028, with it including a more detailed examination of local housing needs for the city. I am cognisant that this Development Plan had cognisance to and aligned with the changed regional through to national planning context which seeks a more nuanced consideration for residential schemes unit mix so that they are responsive to local housing needs and demands.
- 7.2.3. Of relevance in this regard is Section 6.6 of the National Planning Framework which seeks to ensure that the plan-making system is supported by robust methodology including recommending Housing Need and Demand Assessment to support the preparation of housing strategies and all related housing policy outputs including as part of the Development Plan. This I note aligns with Section 9.3 of RSES which also advocates the provision of evidence-based Housing Need and Demand Assessments as part of delivery of future additional housing. Also, the New Apartment Guidelines for Planning Authorities, as amended, sets out under SPPR 1 that developments may include up to 50% 1-bed or studio type units, with no more than 20-25% of the total proposed development as studios. It further sets out under SPPR 2 flexibility in the application of SPPR 1 in the case of urban infill schemes on sites of up to 0.25ha on a case-by-case basis, having regard to the overall quality of a proposed development. But also states that SPPR 1 shall apply to the entire development in schemes of 50+ units.
- 7.2.4. At a local planning context level Section 15.9.1 of the Development Plan sets out the housing unit mix for residential schemes align with the requirements of SPPR 1. However, as said this Development Plan has conducted a general analysis of the housing need and demands across the city but also included two Housing Need and Demand Assessment for two sub city areas, i.e. the North Inner-City (NIC) and the Liberties.
- 7.2.5. In relation to the North Inner City Sub City Area this analysis captured what the Development Plan described as a complex housing market dynamics and it sets out the specific housing needs of the North Inner City based on the findings of its detailed HNDA. In this regard it estimated that based on intercensal changes and the current dwelling type distributions that new dwelling type in the North Inner City would be predominantly apartments by the end of the plan period.

- 7.2.6. In relation to the proposed mixed-use development is that its revised scheme of 77 apartment units is comprised of 25.97% studios, 23.37% 1-bedroom, 49.35% 2-bedroom and 1.29% 3-bedroom. Whereas Section 15.9.1 of the Development Plan requires all residential applications of 15 units or more in the North Inner City to include the following mix of units: a minimum of 15% three or more-bedroom units and a maximum of 25%-30% one bedroom / studio units.
- 7.2.7. Given the breakdown of the residential component of this mixed-use development it is clear that the housing mix does not accord with Section 15.9.1 requirements in terms of its provision of three bedroom and studio/one-bedroom units.
- 7.2.8. The First Party sets out that at the time this application was lodged that this specific housing mix requirement was not included in the previous Dublin City Development Plan that was applicable at the time and the scheme was designed to accord with relevant local through to national standards, including those applicable at the time it was revised.
- 7.2.9. They contend that the site is located within the heart of Phibsborough where there is no pressing need to restrict the unit type number within a residential scheme like that proposed and it is a location where their research has found that the increase in three-bedroom unit numbers would not necessarily result in an increase in families living in a particular development or area. Additionally, their research has found that the overwhelming demand for apartments in the city is either to purchase or rent with one bedroom as well as studio units occupied by singles or couples. Their research also found that there is large uncatered demand in this area by individuals for studios, one bedroom and two-bedrooms apartment accommodation to purchase with this demand driven by a desire to achieve a greater level of privacy and affordability.
- 7.2.10. The implications of applying the requirements of Condition No. 4 to the internal space of the permitted building envelope would result in a loss of ten apartments were no changes to occur to this envelope. They also raise concern that the configuration of the site and its relationship to other properties makes it difficult to make the required changes of Condition No. 4 without the need to make another planning application. Additionally, they raise the concern that the scheme as it is marginally viable and the ability to attain the funding for the entire project subject to these changes, where three

bedrooms units would not recoup their cost, would result in funding of this scheme being lost.

7.2.11. They contend that the mix of the scheme as revised is entirely appropriate given the sites north inner city location, the constraints arising from the size, the fact that this location is not one that would be likely to be attractive for family living, the overwhelming need for single person and couple apartment units through to the positives that would arise from the activation of the streetscape scenes of the North Circular Road and Phibsborough Road from this proposed development. In the absence of the proposed development as revised being granted in its revised form would likely result in the site remaining vacant for the foreseeable.

7.2.12. In relation to the New Apartments Guidelines for Planning Authorities I note that Section 1.18 of the said guidelines stating that: *“An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions”*. Further Section 2.19 of the said Guidelines state: *“having regard to the purpose of a nationally determined apartment mix parameter as a broad and consistent but flexible safeguard, rather than as part of an area-specific tool to accommodate projected housing demand.”* Of relevance therefore to this appeal case are its following SPPR's:

- Specific Planning Policy Requirement 1:

“Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).”

- Specific Planning Policy Requirement 2:

“For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:

- *Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units;*
- *Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th;*
- *For schemes of 50 or more units, SPPR 1 shall apply to the entire development;*

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.”

- 7.2.13. Having regard to the above SPPR's of the New Apartments Guidelines for Planning Authorities it is my reading that they include a measure of flexibility for planning authorities (and the Board in the case of an appeal) to exercise discretion on a case-by-case basis, having regard to the overall quality of the proposed development, should a proposed scheme not demonstrate that it meets their stated housing unit mix standard.
- 7.2.14. In relation to the local planning provisions of particular relevance is Table 37 of the Development Plan.
- 7.2.15. This table specifically relates to the matter of mix of residential units, minimum and maximum requirements that are applicable to the geographical area of the North Inner City Sub City Area. Which as said has been subject to a detailed Housing Needs & Demand Assessment with I note the conclusions informing the standards set out in Table 37. It is therefore of relevance to this appeal case given that the site falls within the North Inner City Sub City Area and the number of apartment units significantly exceeds the 15-unit maximum threshold set out in this table.
- 7.2.16. Table 37 specifies a requirement for 15% three or more-bedroom units and a maximum of 25 to 30% studio/one-bedroom apartments. The combined percentage of studio and one-bedroom units in this scheme is 49.34% and the percentage of three or more-bedroom units is 1.29%.

- 7.2.17. As such, whilst the studio and one-bedroom maximum falls below the maximum permissible under Table 37 and also that set out under SPPR 2 of the said Guidelines. Also, the percentage of three or more-bedroom units falls significantly below the minimum 15% requirement set out in this table (Note: 13.71% below the minimum requirement). It is also inconsistent with SPPR 2 in relation to its provisions for housing schemes that contain more than 50 dwelling units to comply with SPPR 1 for the entire development. With for example SPPR 1 stating that no more than 20-25% of the total proposed development shall consist of studios. Whereas this proposal contains marginally above the 25% having 25.97% studio units.
- 7.2.18. I therefore concur with the Planning Authority's Planning Officer that the proposed unit mix as revised is inconsistent with Section 15.9.1 and Table 37 of the Development Plan as well as the standards set out in the said Guidelines SPPR's.
- 7.2.19. Notwithstanding, Table 37 of the Development Plan in a manner consistent with SPPR 2 of the said Guidelines provides scope for planning authorities (and ergo the Board on appeal) to exercise their discretion on a case-by-case basis, having regard to the overall quality of the proposed development. I therefore consider it reasonable for the Board to decide on whether this discretion be applied on the basis of the overall quality of the proposed development.
- 7.2.20. Firstly, in terms of the overall quality of the proposed development as discussed previously in this assessment the general principle of the proposed mixed-use development sought on this serviced, zoned, and accessible brownfield land, is acceptable, subject to safeguards. With the proposed retail units and café in particular adding to mixture of services in this Key Urban Village and also the residential component aligning with local through to national planning policy provisions which seek to target additional new homes within the existing built-up area of Dublin city. It is also of note that the Development Plan under Section 14.7.4 set out that key urban villages like Phibsborough have capacity to deliver on a comprehensive range of integrated services along with residential development. Local through to national planning provisions inconsistent manner also support residential development to be channelled to appropriate locations within the built-up areas of settlements on serviced zoned lands, including brownfield lands, with this provided for under Section 15.5.1 of the Development Plan.

- 7.2.21. Secondly this proposed development is one that seeks to reverse the vacant state of a number of urban plots within an architecturally rich and key urban village location.
- 7.2.22. In this regard, I note that this irregularly shaped appeal site is comprised of the urban plots of No.s 364 to 374 North Circular Road and No.s 168 to 169 Phibsborough Road and has a given area of 0.262ha. It is located in the heart of Phibsborough a vibrant inner-city village located c2km to the north of Dublin city's historic centre which as said is a designated key urban village (Note: KUV8).
- 7.2.23. At the time of my site inspection cumulative these plots were covered with a mixture of buildings ranging from the Victorian era through to the twentieth century with limited area with no buildings or structures thereon. The various buildings on this site were not in any functional use. They also poorly present when viewed from the public domain of their immediate streetscape as well as public open space scenes but also from the semi-private and private domain of their adjoining properties. As such they effectively diminish the visual qualities of their key urban village setting. A setting that has a period urbanscape character and a setting that as said includes a public open space (Royal Canal Park).
- 7.2.24. In relation to the period character of its urbanscape setting, it is of note that the site contains two street frontages that form part of an ACA and also this ACA extends into the area of the site with the site also forming part of a larger Conservation Area. In this regard Section 11.5.2 of the Development Plan states that: *"ACAs are designated in recognition of their special interest or unique historic and architectural character, and important contribution to the heritage of the city"* and Section 11.5.3 of the Development Plan in relation to the red hatched Conservation Area states that they: *"include extensive groupings of buildings, streetscapes and associated open spaces"*. Section 11.5.3 also states that: *"the special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals."*
- 7.2.25. In both contexts the Development Plan encourages development which is respectful, enhances the setting and character of these sensitive to change areas. The existing buildings that comprise this site with the exception of No. 168 Phibsborough Road do not respect, enhance the setting, or add to the intrinsic period character of their ACA and Conservation Area setting.

- 7.2.26. On this point I also note that while Section 11.5.3 of the Development Plan makes provision for heritage assets from the 20th century which contribute significantly to their streetscape scene I am concur with the Planning Authority that the site does not contain any 20th century buildings and structures of any merit. With this including the 1950s former cinema building (No. 374 North Circular Road), whose integrity has been diminished over time, particularly by the various alterations made to it to accommodate other functional land uses. Through to this former cinema building and the other 20th century buildings that front onto North Circular Road in their current state do not positively contribute to visual qualities of their largely period streetscape scene, a streetscape scene whereby these buildings also form part of the visual setting of a number of designated Protected Structure, including adjoining No. 162-165 Phibsborough Road (RPS No. 6736), an adjoining Victorian period former bank building through to the 'Phibsboro Library' (RPS No. 8884 – also referred to as Phibsborough Library), another Protected Structure that is located in close proximity to the north eastern corner of the site on the opposite side of North Circular Road.
- 7.2.27. In relation to the older pre 20th Century buildings on site these consist of the Victorian terrace buildings of No.s 168 and 169 Phibsborough Road. Neither of these buildings are subject to specific individual protection but as said they form part of an ACA and a Conservation Area.
- 7.2.28. In their existing condition and as appreciated from the public domain of Phibsborough Road as well as in a southerly direction from Doyles Corner they present with varying degrees of visual as well period-built fabric integrity. With both buildings at the time of inspection not in any active use at ground and upper floor levels. Both buildings are in a poor state of upkeep. With No. 169 Phibsborough Road though maintaining period sash windows being the less visually and built fabric intact in terms of these two buildings.
- 7.2.29. No. 168 Phibsborough Road on the other hand still maintains a high degree of its built fabric integrity in terms of its presentation to Phibsborough Road which outside of the PVC upper floor windows maintains its brick envelope, brick detailing, period timber shopfront, slate roof and brick finished chimney stacks. It also forms part of a surviving group of three originally highly coherent Victorian terrace buildings and with No. 168 Phibsborough Road including an undercroft which provides access to the rear. As such this feature also adds interest to the period character of its streetscape scene.

- 7.2.30. The proposed development includes the demolition of No. 169 Phibsborough Road and all of its associated structures. This urban plot would be amalgamated with No.s 364 to 374 North Circular Road and their associated structures to the rear which this proposal also seeks to demolish as part of the redevelopment of this site. With the design resolution for the site as a whole recognising the surviving architectural merit of No. 168 Phibsborough Road and its contribution to its Architectural Conservation Area, the Conservation Area and also as part of the visual setting of Protected Structures that form part of its Phibsborough Road streetscape scene.
- 7.2.31. I note that the Planning Authority raised no objection to the demolition of No. 169 Phibsborough Road, and the built structures associated with No.s 364 to 374 North Circular Road, as part of facilitating the redevelopment sought under this application. This was based on the fact that none of these buildings were afforded any specific protection as well as their neutral to negligible impact that would arise from their demolition. It was also considered that the demolition of these buildings would give rise to a more efficient use of this amalgamated brownfield, serviced, highly accessible but also prominent location on two heavily trafficked regional routes that provide connectivity to Dublin's city centre. This would be consistent with Section 15.5.1 of the Development Plan. Whereas the rehabilitation and reuse of No. 168 Phibsborough Road would also be consistent with Policy BHA11 of the Development Plan which encourages maintaining and finding viable new uses for existing buildings that contribute to the character as well as appearance of an area and their streetscape scene.
- 7.2.32. Against this context it is also of note that the urban plots that make up the subject site have been underutilised and/or vacant for a considerable time. With Section 11.3 of the Development Plan which deals with the matter of Built Heritage setting out that there are a number of key issues facing Dublin city in relation to built heritage. It indicates that this includes the ongoing need to balance the often-competing demands of a modern city in terms of consolidation and future growth with the need to protect its intrinsic character. It also indicates that this includes parts of the city that remain underutilised and vacant alongside managing change so that where possible heritage buildings can be adapted, reused, and protected as part of the city's rich architectural heritage.

- 7.2.33. In this case I consider that the retention of the No. 168 Phibsborough Road is appropriate due to its integrity and special intrinsic attributes that contribute positively to character of its ACA and Conservation Area streetscape. As well as its contribution to the visual setting of Protected Structures within its streetscape scene that are of a similar date and are also qualitative examples of Victorian architecture. This proposal is an opportunity to reverse the poor contribution of No. 169 Phibsborough Road and No.s 364 to 374 North Circular Road to their architectural rich streetscape scenes. Whilst also securing appropriate activation of these plots ground floor public domain frontages so that they add to this area's vibrancy and attractiveness. Whilst at the same time acknowledging that No. 168 Phibsborough Road forms part of this area's surviving built heritage assets of merit and by recognising this it acknowledges that such buildings are a non-renewable resource that can subject to responsive and sensitive design can continue to positively contribute to the character, appearance, quality, sense of place and the sustainability of development within the city whilst also anchoring and providing a sense of place to what is otherwise a building of its time mixed use scheme for this key urban village setting.
- 7.2.34. This approach is not only consistent with local planning provisions but also with national planning provisions including the National Planning Framework that recognises the intrinsic value of our built heritage. Also, it is similarly consistent with the Regional Spatial and Economic Strategy (RSES) which indicates that cultural heritage is the fabric of our lives and societies, that it surrounds us in the buildings of our towns and cities, through to it brings communities together and builds shared understandings of the places we live. Both the NPF and RSES acknowledge the role of our built heritage as part of s quality place-making and exemplar urban design.
- 7.2.35. As such I consider that by maintaining No. 168 Phibsborough Road, a building that as said is of merit of retention, is one of the qualitative design outcomes of this proposed mixed use. Also, I consider that the demolition of the remainder of the buildings that make up this space provides an opportunity for the reversal of this 0.262ha site current state of vacancy and decay. Additionally, by doing so it would allow for the latent potential of this underutilised serviced zoned and accessible inner city brownfield site to be realised in manner that accords with local through to national planning provisions that seeks more compact and dense development outcomes at such locations. In this regard I note Section 4.5 of the NPF which "*targets a significant proportion of future*

urban development on infill/brownfield development sites within the built footprint of existing urban areas” and under National Policy Objective 11 it states that: “there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth”.

7.2.36. I therefore consider that the proposed development would result in a positive qualitative reversal of this vacant brownfield site, which responds to the architecturally sensitive and the need for a vibrant mixed use development to sustaining its key urban village inner city location, in a manner that accords with the proper planning and sustainable development of the area.

7.2.37. Thirdly, the site occupies a prominent location within the heart of the key urban village of Phibsborough with frontage onto the southern side of North Circular Road, with corner frontage on the south western corner of North Circular Road and the Royal Canal Park, with frontage onto Phibsborough Road, with visibility from the heavily trafficked North Circular Road and Phibsborough Road frontage through to being visible from the cul-de-sacs of Royal Canal Bank and from Lynch’s Place/Saint Peters Court. The vacant and highly derelict appearance of these buildings, including the 1950s cinema building that front onto North Circular Road and the Royal Canal Park, in my view poorly respond to what is a highly visible and prominent location that includes a key corner within the heart of the key urban village of Phibsborough. The existing buildings thereon have limited potential to provide meaningful activation and passive surveillance of their adjoining and neighbouring streetscape scenes as well as the public open space amenity of Royal Canal Park. As such this amalgamated site provides an opportunity to provide a coherent architectural response for two prominent street frontages as well as to provide additional passive surveillance addressing the public domain adjoining the Royal Canal Park and to the public domain of Royal Canal Bank.

7.2.38. The proposed mixed-use scheme would provide a contemporary qualitative focal building at the north eastern corner of the site with its setback 8-storey height. With the remainder of the new built insertions graduating to the south and west of the site where it is proposed to retain the two-storey height of No. 168 Phibsborough Road. The replacement building at No. 169 Phibsborough Road having a three-storey principal elevation addressing Phibsborough Road with a setback four storey element

and with the building height graduating downwards to five-storey at a setback from the Protected Structure of No. 162-165 to the westernmost portion of the site. Additionally, the building height responds not only to the fall in ground level to the south of the site but also the lower building height of Saint Peters Court and the buildings fronting onto Royal Canal Bank. At this point of the site the new built insertion height graduates to four storeys in its maximum height.

7.2.39. The proposed design resolution includes active street and public domain frontages.

This would include a new streetscape scene with active land uses at ground floor level as well as upper floor levels with substantial glazed elements providing additional levels of passive surveillance over the site's surrounding public domain. The new streetscape response to Phibsborough Road would also include renovation of No. 168 Phibsborough Roads building envelope so that its period character is restored and renewed. Though the undercroft would be lost as part of the new street frontage, its new street frontage would be based around retaining the key attributes of its existing timber period frontage. With the adjoining street frontage of No. 169 Phibsborough Road incorporating a principal three-storey contemporary frontage with a contemporary take of period shopfronts and with its elevation including a regular rhythm of voids punctuating a harmonious with period palette of materials upper floor level brick frontage. These voids are also in size, dimension and placement responsive to the period frontage of No. 162-165 Phibsborough Road that also includes an upper floor level brick external finish. Further the setback fourth floor level would in terms of its more contemporary palette of materials echo the colour hues and patina of slate roof and the grey tones of stone detailing present within this period streetscape scene. These design approaches that seek to harmonise with adjoining and neighbouring buildings within its setting whilst still achieving a contemporary expression is also carried through in terms of the North Circular Road, the Royal Canal Park as well as the southern elevations which would be visible from Royal Canal Bank and also Saint Peters Court.

7.2.40. I am therefore satisfied that the proposed development is one that is consistent with the principles set out under Section 14.7.4 Development Plan for key urban villages by providing a much-needed site appropriate high quality focal point at the corner of North Circular Road and the Royal Canal Park. Together with the reversal of this site's lack of contribution to the vibrancy of Phibsborough's commercial core with this

proposal including but not limited to providing activation of North Circular Road, Phibsborough Road and Royal Canal Parks public domain. Further the density of this mixed-use development, particularly its 77 apartment units as revised, would help sustain the vitality of this key urban village but also would contribute positively to sustaining the public transport in this location. Which I note in future would be expanded to include Metrolink and other public transport service expansion through to frequency improvements. As said, I consider that the design resolution is one that seeks to respond, be informed by through to is one that is respectful manner to its ACA, Conservation Area, and visual setting of a number of Protected Structures that together provide a unique sense of place and identity to the centre of this key urban village. It also acknowledges the contribution to No. 168 Phibsborough Road as part of this urbanscape setting.

- 7.2.41. Fourthly, the Development Plan under Chapter 2 which sets out the Core Strategy on the matter of active land management sets out that it supports sustainable development of brownfield and infill lands as part of compact growth and consolidation of this finite resource of land. In this regard I note that Objective CSO7 of the Development Plan seeks to promote the delivery of residential development on appropriately zoned lands aligned with key public transport infrastructure. With this promoted for vacant and underutilised sites. Together with the site being well served and within walking distance of both bus and light rail infrastructure through to is well connected to public transport hubs alongside in time will benefit from proximity to the MetroLink station as well as improvements to Luas and Dublin Bus network (BusConnects). Also, Development Plan notes under Section 4.3 that one of the key challenges is the: *“ongoing issues of dereliction, urban decay, underutilised and vacant sites particularly in the inner city and the need to implement effective active land management to promote balanced and sustainable economic and residential development.”* For the reasons already set out in this assessment above I consider that the proposed development is one that aligns with addressing in a positive manner the issues of dereliction, urban decay, and vacant sites on what is a highly prominent and heavily trafficked routes into and out of Dublin city.
- 7.2.42. Fifthly, the proposed residential standard for future occupants of the proposed units is with the exception of the housing mix concern is one that is generally consistent with the standards required under local through to relevant national planning provisions.

With this including but not limited to meeting the requirements for dual aspect, providing qualitative daylight and natural ventilation, appropriate floor to ceiling heights, meeting room dimension standards, provision of storage, provision of bicycle spaces and the like. Thus, if permitted, the proposed units would give rise to qualitative standard of future amenity for its occupants and as said would add to the density that would help to sustain this key urban village location in close proximity to the heart of Dublin city's historic centre.

- 7.2.43. Sixthly, the proposed development is one that results in no undue residential amenity impact on properties in its vicinity. With the proposed development reducing its scale in proximity to boundaries of sensitive to change residential properties through to including appropriate measures to mitigate any adverse amenity impact beyond that which would be deemed unreasonable in this urban context. I am also cognisant that the revised proposal included additional measures to reduce potential for adverse overlooking through to accompanying documentation demonstrating in a manner consistent with accepted practices and standards that no undue overshadowing through to diminishment of sunlight would arise to properties in its vicinity. As well as demonstrating that the proposed apartment units would achieve required qualitative levels of sunlight penetration and natural ventilation as part of achieving qualitative future residential amenities for occupants of the proposed units.
- 7.2.44. Seventhly, permission was granted by the Board for the demolition of the existing building at No. 378A North Circular Road and the construction of 5 floor level building that would include 5 apartments, a café and office accommodation under ABP-307115-20.
- 7.2.45. This development, if implemented, would together with this proposed scheme provide for a building on the opposite corner of the Royal Canal Park and North Circular Road that would provide a visually more defined in height, scale, and volume more of its time focal building. With this building also including activation of its adjoining public domain by the inclusion of a café at ground floor level. As such when viewed together these buildings would provide a stronger built containment of Royal Canal Park as well as would add to the vitality and vibrancy of their key urban village location. I also note that both schemes include palettes of materials, finishes and treatments that seek to respond as well as respect that of their period streetscape scenes including the Phibsboro Library.

7.2.46. My final comment is that the channelling development to existing brownfield sites, including that which includes residential, is consistent with local through to national planning provisions which seeks to channel housing supply to appropriate locations within built up areas including within the metropolitan area of Dublin City where such development can achieve more compact use of zoned serviced land, sustain greater efficiencies of scale, are well served by employment opportunities, public transport through to other synergistic land uses within easy reach as part of more climate resilient future development and safeguarding land outside of settlements from urban sprawl.

7.2.47. Conclusion

In conclusion, while I am cognisant that Housing Need and Demand Assessments are in their nature designed to give broad, long-run estimates of future housing need and market demand under various scenarios for population and economic growth with the sub-city areas of the inner city in order to provide a valuable granular analysis of housing market dynamics impacting local neighbourhood, and of relevance to this appeal case the HNDA for the North Inner City Sub-Area.

I also accept that the housing strategy set out in the Dublin City Development Plan forms an integral part of the Development Plan by way of it incorporating regional through to national housing policies. Notwithstanding, the Development Plan also provides a level of flexibility to applying the housing mix standards set out in Table 37 in a manner consistent with SPPR 2 of the New Apartment Guidelines for Planning Authority's by providing scope for planning authorities (and ergo the Board on appeal) to exercise their discretion on a case-by-case basis, having regard to the overall quality of the proposed development.

Having regard the overall quality of the proposed development and the positive benefits that would arise from the reversal of this 0.262ha vacant and decaying site which includes buildings which are in a highly derelict state that do not successfully enhance the visual or functional vibrancy of their key urban village setting or the architectural sensitivity of its ACA and Conservation Area setting which includes within its visual context a number of Protected Structures.

Additionally, the site includes a vacant and decaying Victorian terrace building that is of merit and in need of refurbishment as well as a viable new use.

For the reasons set out above, the proposed development is a qualitative scheme that would reverse this long vacant site into one that would positively enhance the visual through to functional vibrancy of its key urban village setting in a manner that is also sympathetic to its built heritage and other site sensitivities that arise from the site forming part of a tight urban inner-city context.

In this context the requirements of Condition No. 4 would risk this site remaining in its vacant long-term state with this in turn resulting in continued visual through to functional diminishment of its key urban village, a location where its vacant state through to poor through to limited qualities of its existing buildings materially and adversely diminish its ACA and Conservation Area setting. As well as its lack of streetscape activation results in a poor-quality interaction with the public domain and results in poor levels of passive surveillance of the adjoining Royal Canal Park.

This development scheme is also one that was lodged prior to the requirements of 15.9.1 and Table 37 of the current Development Plan being adopted. Alongside I am cognisant that the proposed development was subject to a significant further information request which resulted in significant qualitative changes to the proposed development which the Planning Authority deemed had satisfactorily addressed all matters raised by them and with the matter of housing mix being a new issue in the final planning officer's report arising from the changed local through to national planning context in relation to ensuring that housing schemes aligned with the future housing requirements for local authority areas.

Moreover, the site does present challenges to achieving the housing mix quantum sought under Condition No. 4 without any substantive changes arising to the building envelope of the built forms approved under this application without the need for making a new planning application. With this not only giving rise to the continued vacancy and decaying nature of the site but also a circumstance whereby it would appear that the resulting housing mix required under Condition No. 4 would not be one that the applicant can secure funding for given that the costs for three-bedroom units would be difficult to recoup.

This also against the context that to meet the housing mix requirement of Condition No. 4 the scheme would require substantive internal changes to achieve the eleven

three-bedroom apartment units. With this in turn resulting in a reduction of overall units within this revised scheme by ten.

I am satisfied that meeting the requirements of this condition in this case would result in the proposed scheme being one that would be materially different from the housing unit mix sought and one that would most likely be unviable for the applicants to implement.

Should this occur this not insignificant 0.262ha site within the heart of the key urban village and architectural rich setting of Phibsborough in north inner city Dublin would likely remain vacant for the foreseeable future with this in turn resulting in visual through to functional diminishment of this highly visual and prominent site that has frontage onto two key regional roads that provide connectivity to Dublin's city centre. As well as a location for which in the vicinity there is future upgrading and expansion of public transport which the proposed development would help sustain by way of efficiencies of scale that it would contribute to. Most notably in this regard would be the Metrolink station in its close vicinity.

For these reasons I recommend that the Board apply the flexibility provided for under Table 37 of the Dublin City Development Plan, 2022-2028, by omitting Condition No. 4 from the Planning Authority's notification to grant permission for the development sought under this application. I am also satisfied that the proposed development is one that otherwise accords with the proper planning and sustainable development of the area as provided for under local through to national planning policy provisions as well as guidance.

I am also satisfied as said that this appeal case can be determined under the provisions of Section 139 of the Planning and Development Act 2000, as amended. I recommend that the Board direct the Planning Authority to **omit** condition number 4 from their notification to grant permission for the proposed development sought under this application (P.A. Ref. No. 4145/22) for the reasons and considerations set out hereunder.

8.0 Appropriate Assessment (AA) Screening

- 8.1. I have considered the proposed mixed-use development for No.s 364 to 374 North Circular Road and No.s 168 to 169 Phibsborough Road as proposed and as revised

in light of the requirements of S177U of the Planning & Development Act, 2000, as amended.

- 8.2. The appeal site, with a site area of 0.262ha area and is centrally located within key urban village of Phibsborough, in a serviced area to the north of Dublin's city centre where mixed use developments, in particular those including permissible land uses of residential, retail and café, are deemed to be generally acceptable in principle under the Dublin City Development Plan, 2022-2028. The site is a brownfield site compromised of a variety of built structures and forms part of an urbanscape that does not form part of a European Site or Sites. Additionally, the site itself does not adjoin or is it located in close proximity to any European Site. The site itself is not located within, it does not adjoin or is it in close vicinity to a European Site or Sites. The intervening landscape can be described as a much-modified brownfield serviced urbanscape centrally located to the north of Dublin's city centre.
- 8.3. The proposed development consists of the demolition of all existing buildings on site with the exception of No. 168 Phibsborough Road in order to facilitate the construction of a mixed-use building. The existing foul and water supply connections would be decommissioned. New foul and water supply connections would be made to serve the mixed-use building that would consist of 80 apartment units, 2 no. retail shops and café together with ancillary works will be carried out on site as part of the proposed development. Additionally surface water drainage measures would also be included in this scheme. In this regard these would be over and above the existing situation with the site consisting of historic building stock and twentieth century additions with no robust surface water drainage measures present and whereby surface water collected from the site drains into the public foul sewer.
- 8.4. The nearest European sites is situated is located c2.8km to the west of Special Protection Areas: South Dublin Bay and River Tolka Estuary (Site Code: 004024) and c4.8km to the north west of South Dublin Bay (Site Code: 000210) as the bird would fly. None of these designated sites or any other European Sites with a greater lateral separation distance from the site are within the zone of influence of the proposed development sought under this application. Additionally, there is also no direct hydrological pathway or ecological connection between the subject site and any European Sites.

- 8.5. I note that all foul and surface water runoff from the development will be contained onsite and/or discharged to the public wastewater drainage system in a manner consistent with best practices for the type of development proposed. As would the decommissioning of existing services as part of the provision of new services that would meet current standards.
- 8.6. Any noise and dust arising during the construction and operation phases of the proposed development would be localised and would be dissipated before they reach the nearest European Site, i.e. South Dublin Bay and River Tolka Estuary SPA, and would therefore have no adverse effects would arise.
- 8.7. I further note that the documentation on file indicate that all necessary connections or diversions of sections of sewer lines running through the property would be able to be made following a connection and diversion agreement with Uisce Éireann, if so required. No likely significant in-combination effects are identified for the purposes of AA in relation to any plans or projects in the vicinity.
- 8.8. Based on the information provided no direct impacts are predicted during the construction and operation of the proposed development, alone or in combination with other plans or projects.
- 8.9. Conclusion:

Having carried out a full and detail assessment of the proposed project including its proposed mitigation measures, an assessment of in-combination effects with other plans and projects in the vicinity of the site, having regard to the brownfield serviced zoned nature of the lands, the nature of the intervening land uses between this site and the nearest European Site, the absence of a pathway to and the significant distance between this site and the nearest European Site, I am satisfied that no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. I am satisfied that this appeal can be determined under the provisions of Section 139 of the Planning and Development Act, 2000, as amended. I recommend that the Board

direct the Planning Authority to **omit** condition number 4 from their notification to grant permission for the proposed development sought under this application (P.A. Ref. No. 4145/22) for the reasons and considerations set out hereunder.

10.0 Reasons and Considerations

Having regard to the nature, scale and extent of the proposed development together with the current vacant decaying nature of this highly visually prominent site which consists of an amalgamation of urban plots that include street frontages addressing North Circular Road, Phibsborough Road and the Royal Canal Park, the rich architectural character of this vibrant mixed use in character location that forms part of the key urban village of Phibsborough (KUV8) in north inner city Dublin and the provisions of the Dublin City Development Plan, 2022-2028, it is considered that the omission of the requirements of Condition No. 4 from the grant of permission P.A. Ref. No. 4145/22 would allow for a high quality mixed-use redevelopment that would positively contribute to the visual amenities and functioning of this key urban village.

The proposed development would provide a mixed use development that would include residential development at a more compact and sustainable density in a manner that accords with the Dublin City Development Plan, 2022-2028, the National Planning Framework through to the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities, as amended, in 2023, which in a consistent manner seek to channel residential development at brownfield serviced zoned underutilised and accessible locations like this. Additionally, the said Development Plan also seeks at locations like this to appropriately active street animation through to enhance the vibrancy and function of key urban villages by encouraging mixed use schemes that include permissible land uses like retail and cafés.

The proposed development is also an acceptable development in terms of the quality of its urban design response, particularly in terms of its qualitative architectural design and layout resolution. In this regard it would provide an appropriate density of mixed use development that would sustain as well as add to the vibrancy and functioning of its setting, it would reverse the lack of animation that exists to the street frontages of No.s 364 to 374 North Circular Road, No.s 168 to 169 Phibsborough Road but also

the Royal Canal Park and Royal Canal Bank which at present lacks activation through to appropriate levels of passive surveillance to create a comfortable and safe public domain for its users as part of an of its time architectural new building response.

Further, the proposed development is one that would not seriously injure the residential amenities of the area or of property in the vicinity, would not materially or adversely impact on its ACA, Conservation Area, Key Urban Village through to the visual setting of Protected Structures in its setting.

Moreover, it would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience.

It is therefore considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

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

Patricia-Marie Young
Planning Inspector - 17th day of July, 2024.

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315984-23			
Proposed Development Summary	Permission is sought for the demolition of existing buildings on site, with the exception of No. 168 Phibsborough Road, and the construction of 80 apartments, 2 retail units, a coffee shop, all associated site works and services.			
Development Address	'Former Des Kelly Site', a site of 0.262ha bounded by No.s 364-374 North Circular Road, Royal Canal Bank and No.s 168-169 Phibsborough Road, Dublin 7.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	✓	Is of a class but does not exceed the relevant quantity, area, or limit of that class (Note: 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended).	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required

Yes	✓	10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended	Is significantly below the quantity, area, and limit of this class.	Proceed to Q.4
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4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2 - Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315984-23	
Proposed Development Summary	Permission is sought for the demolition of existing buildings on site, with the exception of No. 168 Phibsborough Road, and the construction of 80 apartments, 2 retail units, a coffee shop, all associated site works and services.	
Development Address	'Former Des Kelly Site', a site of 0.262ha bounded by No.s 364-374 North Circular Road, Royal Canal Bank and No.s 168-169 Phibsborough Road, Dublin 7.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions, or pollutants?	It is consistent with the nature of development deemed to be permissible on brownfield/infill sites under the applicable Development Plan which seeks to promote compact more efficient use of serviced accessible residentially zoned lands. This mixed-use development would produce standard expected waste, emissions/pollutants that correlate with the removal of existing structures on site with the exception of No. 168 Phibsborough Rd which would be retained. The nature and scale of the proposed development is not exceptional within its inner-city context. It is of a type that can be dealt with during demolition, construction, and operational stages by standard best practice measures and controls.	No. No.
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?	There is an emerging pattern of more compact, denser, and taller buildings within the key urban village setting of Phibsborough particularly on brownfield infill mixed use zoned sites. It has been demonstrated in the documentation provided with this case that the proposed development would not give rise to cumulative impacts on its setting having regard to other existing and/or permitted projects.	No. No.
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to	The nearest ecologically sensitive site is located c2.8km to the west of Special Protection Areas: South Dublin Bay and River Tolka Estuary (Site Code: 004024) and c4.8km to the north	No.

significantly impact on an ecologically sensitive site or location?	west of South Dublin Bay (Site Code: 000210) as the bird would fly. Having regard to the nature and scale of development sought, the lack of any hydrological or other link to this site, the nature of the landscape in between, the capacity of the existing infrastructure to accommodate the foul drainage and water supply of the scheme once operational together with the surface water drainage measures proposed I am satisfied that the proposed development would not give rise to any potential to significantly impact on any ecologically sensitive site or location.	
Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	<p>The proposed development relates to a brownfield/infill site within a serviced setting. There are no pathway connecting it to the nearest environmentally sensitive area and there is a significant lateral separation in between with the intervening area brownfield serviced urban lands.</p> <p>Were it to be considered that the demolition, excavation, construction through to operational phases of the development to give rise to any contaminant, which is not considered likely to be the case, having regard to the topography, the geology, and other locational factors through to relevant characteristics and attributes of the intervening landscape the contaminants would be diluted to an imperceptible level before they would reach the SAC or any pNHA in the vicinity. Further noise and dust would be dissipated before it would reach any environmentally sensitive area.</p> <p>I am satisfied that the proposed development would not have the potential to significantly affect in an adverse manner or otherwise the environmental sensitivities of any European site or as said the pNHA in proximity to the site.</p>	No.
Conclusion		
<p>There is no real likelihood of significant effects on the environment.</p> <p><u>I concurred with this statement based on scientific data and having regards to the assessment above.</u></p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>NO.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>NO.</p>

Inspector: _____

Date: _____