



<b>Proposed Development</b>	Demolish buildings and construct 133 apartments, 17 artists' studios, a retail unit, a gymnasium and a childcare facility in three blocks of four to ten storeys and associated development
<b>Location</b>	Former Leyden's Wholesalers & Distributors, no.158a Richmond Road, Dublin 3, D03 YK12
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	LRD6006/23-S3
<b>Planning Authority Decision</b>	Grant Permission
<b>Applicant</b>	Malkey Limited
<b>Type of Application</b>	Large-Scale Residential Development
<b>Type of Appeal</b>	First & Third Parties
<b>Appellant(s)</b>	Malkey Limited; Mathieu Vincent; Tatiana Yakim; Josephine Maguire and Others.

**Prescribed Bodies**

Uisce Éireann.

**Observers**

Residents of the Eastern End of  
Richmond Road Area;  
Residents of Richmond Road &  
Waterfall Avenue

**Date of Site Inspection**

26<sup>th</sup> June 2023

**Inspector**

Colm McLoughlin

## Contents

1.0 Introduction .....	4
2.0 Site Location and Description .....	4
3.0 Proposed Development .....	5
4.0 Planning History and LRD Opinion .....	8
5.0 Planning Authority Decision .....	12
6.0 Planning Policy .....	21
7.0 The Appeals .....	26
8.0 Assessment .....	38
9.0 Environmental Impact Assessment Screening .....	99
10.0 Appropriate Assessment .....	105
11.0 Conclusion and Recommendation .....	119
12.0 Recommended Order.....	119
13.0 Conditions .....	126
Appendices .....	140

## **1.0 Introduction**

- 1.1. This report provides an assessment of appeals for a proposed large-scale residential development (LRD) under the provisions of the Planning and Development Act 2000, as amended (hereinafter referred to as 'the Act of 2000'). The subject application was subject of a decision to grant permission by the Planning Authority, Dublin City Council, and subsequently appealed to An Bord Pleanála by the LRD applicant and three third parties with addresses neighbouring the subject site.

## **2.0 Site Location and Description**

- 2.1. Situated approximately 2km to the northeast of Dublin city centre between the Fairview and Drumcondra areas on the southern side of Richmond Road, the appeal site backs onto the Distillery Lofts apartment complex and a cluster of commercial and warehouse units flanking the River Tolka. It comprises a former wholesalers and distribution premises, with the main structures covering the southeast side of the site and an open surfaced yard area to the northwest side with gated access off Richmond Road. It is stated to measure a gross area of 0.83ha, with 0.28ha of the site comprising a 213m-long stretch of Richmond Road.
- 2.2. Adjoining to the southeast is a vehicular access to the Distillery Lofts apartment complex and adjoining to the northwest are two four-storey semi-detached residential properties. The adjoining properties to the northwest and west are the subject of an ongoing strategic housing development application to the Board, which I refer to below and which the first-party appellant refers to as forming the first of two phases of development on the wider landholding, with the proposals subject of this appeal forming the second phase. The immediate area is characterised by a broad mix of developments with many of the former industrial and commercial premises being reused or replaced in recent decades with apartment complexes, including the seven-storey Riverview Apartments, the five to six-storey Richmond Halls and Richmond House developments to the southwest, and the four-storey Deakin Court development to the northwest. On the northside of Richmond Road there is a mix of properties, including terraced housing of varying eras, commercial businesses, formal recreational facilities and the grounds of St. Vincent's Hospital, which is the subject of a separate LRD appeal before the Board, as referred to further below.

- 2.3. The appeal site boundaries are primarily marked on the southern and eastern sides by the former wholesalers and distribution centre building walls, with block walls and security railings over 2m in height forming the roadside boundary to the northern side and securing the yard area to the west side. Based on the first-party appellant's topographical survey, land levels on site drop very steadily by approximately 1.5m from the northwestern boundary on Richmond Road to the southern corner with the Distillery Lofts apartment complex.

### **3.0 Proposed Development**

- 3.1. The proposed development would consist of the following elements:

#### Demolition Works

- demolition and removal of various structures measuring a stated gross floor area of 3,359sq.m, comprising a former wholesalers and distributors premises, boundary walls, gates and hoardings;

#### Construction Works

- construction of 133 apartments, 17 artists' studios (749sq.m), a childcare facility (156sq.m), a retail unit (335sq.m) and a gym (262sq.m) in three blocks (A, B and C) of between four and ten storeys in height;
- in the event that the proposed strategic housing development under An Bord Pleanála (ABP) reference (ref.) 312352-21) is refused permission, provision is made for the construction of a 204m-long, flood-defence wall ranging in height from 1.25m to 2.3m along the western, southern and south-eastern boundaries of the site, and the installation of telecommunications infrastructure at roof level to proposed block B, including 18 antennas enclosed in nine shrouds and six transmission dishes, together with all associated equipment;

#### Ancillary and Supporting Works

- vehicular access from Richmond Road to an undercroft, surface-level car park (855sq.m), pedestrian plaza with emergency-vehicle access leading to the adjoining site to the south subject of ABP ref. 312352-21, road upgrade works

along Richmond Road, including pedestrian crossing, cycle lanes, footpath and loading bay;

- all ancillary site development works and services, including signage, cycle parking stores, motorcycle spaces, bin stores, electricity substation, switch, plant, communications and cleaning rooms, communal and public open spaces, landscaping, boundary treatments, external lighting, services and connections, drainage and underground stormwater attenuation tank, and green / blue terraces and roofs.

3.2. The following tables set out the key features of the proposed development:

**Table 1.** Development Standards

Site Area (gross/net)	0.83ha / 0.55ha
No. of apartments/maisonettes	133
Part V units (%)	27 (20%)
Demolished Gross Floor Area (GFA)	3,359sq.m
Residential GFA	12,886sq.m
Non-residential GFA (% GFA)	1,703sq.m (12%)
Total Residential/Non-residential GFA	14,590sq.m
Residential Density (net excluding Esmond Avenue)	244 units per ha
Communal Open Space (% of net site area)	1,480sq.m (27%)
Public Open Space (% of net site area)	606sq.m (11%)
Plot Ratio (net)	2.65
Site Coverage (net)	73%

**Table 2.** Unit Mix

	One-bedroom	Two-bedroom (three-person)	Two-bedroom (four-person)	Total
Apartments	65	9	59	133
% of units	49%	7%	44%	100%

**Table 3.** Stated Maximum Building Heights

Block	Storeys	Height
A	4	15.9m
B	10	35.2m
C	9	32m

**Table 4.** Parking Spaces

Car parking	25
Motorcycle parking	7
Cycle parking	424
Electric Scooter	10

3.2.1. In addition to the standard contents, the LRD application was accompanied by various technical reports with appendices and drawings, including the following:

- Planning Report and Statement of Consistency;
- Response to Dublin City Council (DCC) Opinion;
- Environmental Impact Assessment (EIA) Screening Report;
- Appropriate Assessment (AA) Screening Report;
- Natura Impact Statement (NIS);
- Statement in accordance with Article 103(1A)(a) of the Planning and Development Regulations 2001;
- Architectural & Urban Design Statement;
- Traffic and Transport Assessment;
- Infrastructure Design Report;
- Daylight and Sunlight Assessment Report;
- Response to DCC Opinion Item 2ii;
- Verified Views Montages and Computer-Generated Images (CGIs);
- Part V Costings;
- Ecological Impact Assessment Report, including Bat Assessment;
- Architectural Heritage Impact Assessment;
- Archaeological, Architectural and Cultural Heritage Impact Assessment;
- Social Infrastructure Audit;
- Childcare Demand Assessment;
- Schools Demand Assessment;
- Cultural Infrastructure (Impact) Assessment;
- DMURS Design Statement;
- Mobility Management Plan;
- Site Specific Flood Risk Assessment;

- Preliminary Construction and Environmental Management Plan;
- Biodiversity Enhancement Plan;
- Outline Landscape Specification and Planting Schedule;
- Arboricultural Assessment;
- Quality Audit;
- Outline Servicing and Operations Management Plan;
- Universal Access Statement
- Building Lifecycle Report;
- Telecommunications Impact Assessment Report;
- Landscape Planning Report;
- Landscape Visual Impact Assessment
- Housing Quality Assessment;
- Schedule of Accommodation;
- Operational Waste Management Plan;
- Resource and Waste Management Plan;
- Site Lighting Layout;
- Noise Assessment;
- Climate Action and Energy Statement;
- Property Management Strategy;
- Microclimate Assessment.

## **4.0 Planning History and LRD Opinion**

### **4.1. Appeal Site**

4.1.1. The report of the Planning Officer from the Planning Authority refers to the following planning application as relating to the appeal site.

- DCC ref. 3060/00 – permission granted by the Planning Authority in 2001 for the construction of a covered loading bay to the side of the warehouse building.

### **4.2. Surrounding Area**

4.2.1. Recent planning applications within the immediate and wider area include:



- ABP ref. 317438-23 / DCC ref. LRD6009/23-S3 – application for a LRD comprising the demolition of structures, change of use of a Protected Structure, refurbishment of buildings, construction of a new hospital building and nine residential blocks of two to 13 storeys consisting of 811 apartments, a café, co-working space, a community library, a childcare facility, a community hall, a gym, residential support amenities and facilities, on the grounds of St. Vincent’s Hospital on the opposite side of Richmond Road to the appeal site. Part of the St. Vincent’s site overlaps the subject appeal site along Richmond Road. A decision is due on this appeal in October 2023;
- ABP ref. 312352-21 – a strategic housing development application was lodged in December 2021 to demolish existing buildings at nos.146a and 148/148a Richmond Road adjoining the appeal site to the west and overlapping the subject appeal site along Richmond Road, to allow for the construction of 183 build-to-rent apartments and a café / retail unit in a six to ten-storey block. I am not aware of a decision on this application;
- ABP ref. 315584-23 / DCC ref. LRD6009/23-S3 - in May 2023 permission was granted by the Board for a LRD comprising 97 apartments, a gym, a shop, a café and a renovated basement structure in three blocks along the west side of Esmond Avenue approximately 380m to the southeast of the appeal site;
- DCC ref. 3483/22 – following withdrawal of an appeal (ABP ref. 314092-22) in March 2023, permission was granted by the Planning Authority for 28 independent-living apartments in two blocks of three and six storeys at 9/9a Richmond Avenue approximately 180m to the southeast of the appeal site;
- DCC ref. 3295/21 – in January 2022 permission was granted by the Planning Authority for 35 apartments in two blocks of three and six storeys at 15 Richmond Avenue approximately 200m to the southeast of the appeal site;
- ABP ref. 310860-21 – in November 2021 permission was granted for the renovation and extension of Protected Structures and the construction of 12 blocks of two to 18 storeys consisting of 1,592 build-to-rent apartments, a café, a childcare facility, a gym, a retail unit and residential amenities and facilities, on the grounds of Holy Cross College on the opposite side of the

River Tolka, approximately 200m to the west of the appeal site. This decision was subsequently quashed in the High Court in January 2023;

- DCC ref. 2945/15 – in January 2016 permission was granted by the Planning Authority for a four-storey building comprising 39 apartments and two commercial units over a basement car park, which was completed as the Deakins Court complex 35m to the northwest of the appeal site.

#### **4.3. Pre-application Consultation**

4.3.1. The Planning Authority refer to an initial pre-application consultation meeting between representatives of the first-party appellant and the Planning Authority on the 28th day of March, 2022 (under DCC ref. LRD PAC no. 6006/22-S1) in respect of a development generally comprising 111 build-to-rent and build-to-sell apartments, an aparthotel, commercial units and artists' studios. A follow-up stage 2 meeting was held on the 15th day of November, 2022 (under DCC ref. LRD PAC no. 6006/22-S2), with respect to development comprising 132 residential units, artists' studios and retail units. A copy of the Planning Authority's record of these meetings has been forwarded by the Planning Authority and based on these records the main topics raised for discussion included the following:

- compliance with zoning mix requirements;
- build-to-rent and build-to-sell apartment mix;
- residential amenity – existing and proposed;
- traffic and transportation;
- landscape, biodiversity and AA;
- surface water management, flood risk and wastewater.

#### **4.4. Planning Authority Opinion**

4.4.1. In the Notice of LRD Opinion (under DCC ref. LRD6006/22-S2) dated the 15<sup>th</sup> day of November, 2022, the Planning Authority states that they are of the opinion that the documents submitted require further consideration and amendment to constitute a reasonable basis for a LRD application under section 32D of the Act of 2000. In the

opinion of the Planning Authority, an application for the proposed development should be accompanied by:

- a statement of response to the issues set out within the Planning Authority opinion;
- a statement of consistency with the Development Plan for the area.

4.4.2. Further justification and consideration were requested in the opinion of the Planning Authority with respect to:

- zoning – principle of the development;
- residential amenity – existing and proposed;
- traffic and transportation issues;
- landscape and biodiversity / AA;
- surface water management, flood risk and foul drainage;
- artists' studio details, block design and materials, as well as site statistics.

#### 4.5. **First-Party Response to Opinion**

4.5.1. The subject application included a response to the Planning Authority's pre-application consultation opinion in a report titled 'Response to DCC Opinion'. This report outlines how the application was revised to address the opinion of the Planning Authority, including reduced building heights, omission of one apartment, reduced retail space, the provision of a childcare facility and a gymnasium, and options with respect to a flood wall and telecommunications infrastructure. The response also sets out how the application is considered to comply with the respective requirements listed in the Planning Authority's opinion, including zoning provisions, community facilities and strategy objectives CUO25 and QHSNO15 of the Development Plan, lighting impacts, Richmond Road treatment, car and cycle parking, accessibility, open space provision, biodiversity, flood risk and surface water drainage, operation of the artists' studios and the project design strategy. A separate report titled 'Response to DCC Opinion Item 2ii - Impact on Existing Windows' also accompanied the application in response to the Planning Authority opinion.

## 5.0 Planning Authority Decision

### 5.1. Decision

5.1.1. The Planning Authority decided to grant planning permission for the proposed development subject to 41 conditions, the following of which are of note:

**Condition 4(a)** – reduced eight-storey height for block B with omitted eighth and ninth floors;

**Condition 4(b)** – reduced seven-storey height for block C with omitted seventh and eighth floors and with a five-storey shoulder;

**Condition 4(c)** – the omitted two-bedroom units (C5.03 and C6.03) shall be incorporated into the floor areas of the one-bedroom, two-person units - adjoining to the south to create 2 no. two-bedroom, four-person apartments;

**Condition 4(d)** – resultant provision of replacement communal and private space at fifth-floor roof level to the amended block C;

**Condition 4(e)** – resultant necessity for a continued window pattern to the setback northern elevation of block C;

**Condition 5** – development to contain 107 apartments in total;

**Condition 6** – phasing of the development, including completion of the artists' studios, crèche, retail unit and gym to allow for immediate operation, prior to the first occupation of the residential units;

**Condition 7** – flood wall boundary to the west/southwest to be in place should there be no permission for the adjoining development and landscaped subject to agreement, if the adjoining site developed;

**Condition 9** – the artists' studios shall be for the use of visual artists only;

**Condition 10** – submit operational management plan for the artists' studios;

**Condition 11** – artists' studio signage and elevation details;

**Condition 17** – confirmation of the telecommunications infrastructure;

**Condition 18** – restriction of telecommunications infrastructure;

**Condition 19** – transportation planning division requirements regarding access, materials, parking and construction management;

**Condition 33** – submit an invasive species management plan.

## 5.2. Planning Authority Reports

### 5.2.1. Planning Reports

The recommendation within the report of the Planning Officer (December 2022) reflects the decision of the Planning Authority and can be summarised as follows:

#### Principle and Density

- the proposed development is consistent with the Z10 land-use zoning objectives for the site, as contained in the Dublin City Development Plan 2022-2028 with all of the proposed uses permitted in principle;
- site statistics with the potential adjoining phase 1 development (ABP ref. 312352-21) are noted;
- an appropriate land-use mix consistent with the zoning objective is proposed with the provision of artists' studios meeting a local need and representing a planning gain for the area;
- removal of an existing building and its embedded carbon is of concern; however it is of low architectural merit and its removal for more intensive uses is consistent with national and local objectives;
- the development strategy is cognisant of the adjoining phase 1 strategic housing development proposals;
- the scheme succeeds in the quality requirements in terms of character, positive contribution to the streetscape, quality of materials, open space layout and provision and improvements to the public realm, however, the density is more typical of better located sites closer to high-capacity public transport, employment uses or the city centre, and in this context the density proposed is overdone, problematic and ultimately excessive;
- with the omission of 26 apartments to address concerns with respect to the scale and height of proposed blocks B and C, the density of the subject

development would drop to 194 units per hectare, which would not be unreasonable in this inner-suburban context;

- when excluding the podium-level landscaping, the site coverage would be appropriate and as a regeneration site the plot ratio proposed would also be appropriate;
- build-to-rent units are not proposed;
- the preferred option is to acquire Part V units on site;

### Layout and Design

- maintaining the new pedestrian street as a cul-de-sac is satisfactory, with the option for a gated entrance to the communal space in the adjoining phase 1 development;
- as required in section 15.4.5 of the Development Plan, a Community Safety Strategy is submitted as part of the Architectural and Urban Design Statement and the overall scheme has regard to safe design and is considered to provide good levels of passive surveillance, open and accessible public spaces and secure private spaces;
- proposals feature a modern slender building design, utilising green roofs and extensive windows and strong vertical emphasis, as well as good-quality, durable materials;
- the blocks would be well articulated and as such will not present monolithic forms on the skyline;
- the materials and form of the proposed blocks would not detract from the setting of the distillery building (Protected Structure) and with amendments to proposed blocks B and C it would not be over scaled;
- the rhythm of fenestration upward on the north elevation to block C should be maintained despite the amended elevations only serving lobby space;

### Building Height

- prescriptive building height limits do not apply in the Development Plan;

- block A and the shoulder height to block B would be in keeping with the character and height of existing buildings along the streetscape;
- the ten-storey element to block B would be consistent with the heights of the adjoining proposed strategic housing development (ABP ref. 312352-21);
- Richmond Road is a low to mid-height streetscape outside of the canal ring and not directly accessible by high-capacity public transport and in this context the ten-storey element to block B is overscale, inconsistent with the area and not comparable to phase 1 (ABP ref. 312352-21), which the Planning Authority requested to be reduced from ten to six storeys;
- it is considered that the development context and Development Plan policy on height allows for an eight-storey building respecting the scale of Richmond Road and setting a more reasonable precedent for taller buildings;
- the nine-storey height to block C onto the street would be excessive, and overscale as the phase 1 development (ABP ref. 312352-21) cannot be relied upon as setting precedent for same given the setback location for phase 1 onto the river edge and the need for a graduated edge along the streetscape;
- a building height of seven storeys would be more appropriate for block C, given the requirement for a reduced building height to block B, the site context and the abrupt change in heights illustrated in the CGIs and photomontages submitted;
- the required shoulder line step-in at fifth and sixth-floor levels to block C would result in the loss of four apartments;
- undue impacts on the wind microclimate are not anticipated to arise;
- the abruptness of the increase in height onto the street is well represented in the CGIs, the verified view montages and the aerial views (phase 1 D1 and D2);
- the scheme would have a noticeable visual impact on the already varied and fragmented streetscape of Richmond Road, however, this impact is neutral and subject to the reductions in building heights it would integrate with long-distance views;

### Non-residential Elements

- a cultural infrastructure assessment accompanied the application outlining the means of addressing the Development Plan objective CUO25 requiring a minimum of 5% community, arts and cultural space in the development, noting that this would be addressed by meeting a shortfall in the area for visual art studios;
- a management and operational model is provided for the 17 proposed artists' studios and exhibition space, which are welcomed;
- various measures are stipulated in the application to control use of the artists' studios and conditions can be attached to further restrict their use in the interest of residential amenities;
- more direct overlooking of the street from the workshop space and studio spaces onto Richmond Road and the new street should be provided for, while obscure glazing to the south-facing studios would be acceptable;
- the gym use would have a positive presence onto Richmond Road and conditions should be attached to address views into this facility and control its use;
- the extent of existing and proposed residential development may provide for a viable convenience retail unit in this location and controls for this use can be attached via conditions;
- the new telecommunication infrastructure is acceptable subject to further detail by way of a compliance condition and with the requirement that any shroud material is of the highest quality, although it is considered that the infrastructure should preferably be located on the adjoining proposed buildings setback further from the roadside;

### Residential Amenities and Development Standards

- the proposed housing mix, including the proportion of universal design units, the extent of units exceeding the minimum apartment standards by greater than 10%, the apartment floor areas and layouts, storage spaces, the proportion of dual aspect apartments, circulation corridors, lighting and



provision of private amenity space would meet or exceed the relevant standards;

- there would be sufficient privacy for terraces and units onto the communal space;
- the communal space serving the artists' studios would not directly serve these units and would appear to only have visual benefits;
- play area provision and landscaping to the open space is acceptable;
- waste and operational management details and building lifecycle proposals are noted;
- the scale of the childcare facility would be capable of serving the proposed development and other proposed units in the area;
- the area is well served with social and community infrastructure and the proposed development would not be expected to create unreasonable levels of demand for existing services;
- based on the unit mix and with a reasonable expectation of low numbers of school-going children in the development, the scheme could be accommodated by the existing schools;
- access to sunlight and daylight is noted, including calculations that 85% to 98% of the proposed development would meet the target lighting standard in the absence of the adjoining proposed development to the southwest (ABP ref. 312352-21), and that 67% to 96% of the proposed development would meet the target standard with the adjoining proposed development to the southwest in place;
- compensatory design measures for underperforming units in the scheme are noted;
- noise during the construction phase would have a short duration impact in daytime hours, which can be controlled by noise shielding, while operational noise can be managed satisfactorily;

### Neighbouring Residential Amenities

- the impact on sunlight would range from negligible to moderate for both the subject development and the cumulative development alongside the adjoining strategic housing proposals (ABP ref. 312352-21);
- of the 81 windows assessed with respect to annual probable sunlight hours (APSH) and winter probable sunlight hours (WPSH), only a window to an apartment in the Hogan View complex would have a moderate adverse impact for its APSH, with the remainder only experiencing negligible impacts;
- the applicant also considered the impact of the development on the development proposed on the adjoining site (ABP ref. 312352-21), which revealed that 13 of the 77 proposed neighbouring windows tested would experience minor adverse impacts and four would experience moderate adverse impacts for their APSH;
- as a result of the proposed development the WPSH for three windows in the adjoining proposed development (ABP ref. 312352-21) would experience minor adverse impacts, as well as moderate adverse impacts for four windows and major adverse impacts for three of the windows;
- of the 13 gardens tested for overshadowing impacts, only the front garden to no.163 Richmond Road would experience an impact greater than negligible, with impacts increasing arising from the cumulative impact of the development alongside the adjoining proposed scheme (ABP ref. 312352-21);
- the results of testing found that any impact on lighting to the adjacent residential structures would be minimal and imperceptible;
- overbearing and overlooking concerns would not arise; due to the separation distances, building orientations and contexts;

### Traffic, Access and Parking

- the development would not preclude the overall Richmond Road improvement works;
- pedestrian-priority measures should be provided along the proposed vehicular access;

- the on-street loading bay should be omitted, as it would be difficult to maintain as a loading bay, as it would present a safety concern alongside the cycle lane and as there would be scope to serve the development from the proposed undercroft area;
- the provision and quantum of car parking is noted relative to Development Plan standards and the rationale for the approach undertaken;
- the proposed quantum of cycle parking spaces exceeding the Development Plan standards by 128 spaces is welcomed;
- some amendments to the rack styles for cycle parking would be necessary and this may impact on the overall quantum of cycle parking;
- the submitted Traffic and Transport Assessment and Mobility Management Plan are noted;
- an updated taking in charge drawing would be necessary;

#### AA/ EIA

- the development would not have an undue impact on habitat, flora or fauna based on the findings of the Ecological Impact Assessment submitted;
- there is a direct hydrological pathway between the site via the River Tolka to four downstream European sites;
- surface waters from the site during the construction and operational phases containing silt/sediments, hydrocarbons and other pollutants, and/or invasive species could potentially give rise to likely significant effects on the key indicators of these European sites;
- collision risk to the bird life associated with neighbouring Special Protection Areas (SPAs) based on flightpath surveys was not considered to arise;
- on the basis of the material submitted in the NIS, in view of best scientific knowledge and in view of European sites' features and conservation objectives, the project either alone or in combination with other plans or projects will not adversely affect the integrity of any European sites;
- the development would not, in itself or in combination with other development give rise to significant detrimental impacts on the environment and on the

basis of the scale, nature and location of the development, an EIA Report is not required.

### **Inter-Department Reports**

- Archaeology, Conservation and Heritage (Archaeology Officer) – attach a condition in the event of a grant of planning permission;
- Engineering Department (Drainage Division) – no objection, subject to conditions;
- Road Planning Division – grant with conditions;
- Parks, Biodiversity and Landscape Services – conditions recommended regarding open space management, invasive species, landscaping implementation and mitigation / monitoring.

### **5.3. Prescribed Bodies**

- Uisce Éireann – wastewater and water supply are feasible without infrastructure upgrades, the developer would be responsible for the design and construction of infrastructure within the site and conditions are recommended, including those relating to connections and agreements, and compliance with Uisce Éireann standards, codes, and practices;
- Irish Rail – no response.

### **5.4. Third-Party Submissions**

- 5.4.1. According to the Planning Authority, they received over 30 third-party submissions during the consultation period for the application, the majority of which were submitted from residents, resident groups, management companies and owners of properties in the immediate areas, as well as local-elected representatives. The submissions included various images of the area and extracts from planning applications. Several of the submissions were received from individuals from the wider area in support of the artists' studios element of the proposed development. The substantive issues raised in these third-party submissions are similar to those

raised in the third-parties grounds of appeal and the observations to the appeal as summarised below in section 7, with the following other issues raised:

- an increased proportion of non-residential uses should be provided;
- social housing units should be distributed better;
- limited consideration of the Protected Structure in Distillery Loft;
- lack of consideration for lighting impacts on Brook House;
- access at a pinch point for traffic along Richmond Road with poor forward visibility;
- poor, inconsistent and limited existing pedestrian paths along Richmond Road;
- not all persons can walk into the city centre from here;
- a pedestrian connection to the southern side of the River Tolka would be welcome;
- cycle lane and pedestrian path infrastructure upgrades would be limited to the site frontage;
- the artists' studios would create a heart to the area with potential for links to the community and a positive impact on Dublin's cultural scene;
- the artists' studios would be a much-needed aspect of the development;
- the applicant liaised with a group of local artists;
- lack of infrastructure and services to cater for the increased demand arising;
- commercial elements would be welcome, but may not be viable.

## **6.0 Planning Policy**

### **6.1. National Planning Policy**

#### Project Ireland 2040 - National Planning Framework

- 6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The

NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland 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)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations.

- 6.1.2. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Other NPOs of relevance to this appeal include NPOs 3(a) (40% of homes in existing settlement footprints), 3(b) (50% of new homes in the five largest cities, including Dublin), 4 (attractive, liveable and well-designed urban places), 13 (development standards), 27 (transport alternatives) and 35 (increased densities) all relating to densification and compact urban growth.

#### Ministerial and Other Guidelines

- 6.1.3. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, including revisions to same, comprise:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022);
- Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (2021);
- Design Manual for Urban Roads and Streets (DMURS) (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);

- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001).

6.1.4. The following planning guidance and strategy documents are also considered relevant:

- Climate Action Plan (2023);
- Transport Strategy for the Greater Dublin Area 2022-2042;
- Places for People – National Policy on Architecture (2022);
- Housing for All – A New Housing Plan for Ireland (2021);
- Water Services Guidelines for Planning Authorities – Draft (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- National Biodiversity Action Plan 2017-2021;
- Road Safety Audits (Transport Infrastructure Ireland, 2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (Paul J. Littlefair, 2<sup>nd</sup> Edition 2011);
- National Cycle Manual (2011);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- British Standard (BS) 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting (2008);
- Best Practice Guidelines for Delivering Homes, Sustaining Communities – Quality Housing for Sustainable Communities (2007);
- EIA Guidance for Consent Authorities regarding Sub-threshold Development (2003);

- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0);
- Framework and Principles for the Protection of the Archaeological Heritage (1999);
- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996).

## 6.2. Regional Planning Policy

6.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ 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 objective (RPO) of the RSES is considered relevant to this appeal:

- 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.

6.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

## 6.3. Local Planning Policy

### Dublin City Development Plan 2022-2028

6.3.1. The application site development area, as well as adjoining lands on the south side of Richmond Road, feature a land-use zoning ‘Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses’ with a stated objective in the Development Plan ‘to consolidate and facilitate the development of inner-city and inner-suburban sites for mixed uses’. Richmond Road is identified in the Development Plan as being subject of a six-year ‘road, street and bridge scheme’ objective. Part of the adjoining lands



to the southwest subject of a live strategic housing development application (ABP ref. 312352-21) has been identified as being within a conservation area that generally follows the River Tolka.

- 6.3.2. There are Protected Structures recorded in the Development Plan on the adjacent properties to the south and the neighbouring properties to the north along Richmond Road. Chapter 11 of the Development Plan provides guidance relating to the built heritage, including policy BHA2, which seeks to conserve and enhance Protected Structures and their curtilage.
- 6.3.3. Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above. Policy QHSN10 of the Development Plan promotes sustainable densities with due consideration for design standards and the surrounding character. Further guidance regarding urban density is set out in Development Plan appendix 3 - Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City. Indicative plot ratios and site coverage percentages are listed in table 2 of this appendix. The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN36, QHSN37, QHSN38 and QHSN39.
- 6.3.4. Policies SC15 to SC17 inclusive in section 4.5.4 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 the aforementioned appendix 3 to the Development Plan. Policies CUO25 and CUO31 of the Development Plan set out the Planning Authority's approach with regards community, artist and cultural spaces, including provision for same in large-scale developments and communities. Other relevant sections of the Development Plan include:
- 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 (policies SC10, SC11, SC12 and SC13);
  - Section 4.5.9 – Urban Design & Architecture (policies SC19, SC20, SC21, SC22 and SC23);

- Section 8.5.1 - Addressing Climate Change through Sustainable Mobility;
- Section 9.5.1 – Water Supply and Wastewater;
- Section 9.5.3 – Flood Management;
- Section 9.5.4 – Surface Water Management and Sustainable Drainage Systems (SuDS);
- Section 15.4 – Key Design Principles;
- Section 15.5 – Site Characteristics and Design Parameters;
- Section 15.8 - Residential Development;
- Section 15.9 – Apartment Standards.

## **7.0 The Appeals**

### **7.1. Grounds of Appeal – First Party**

- 7.1.1. A first-party appeal has been lodged only against condition no.4 attached to the Planning Authority’s notification of a decision to grant planning permission for the proposed development. The following grounds of appeal are raised:

#### Site Coverage and Plot Ratio

- the height, massing and built form have been carefully considered to respect, complement and respond to the existing and proposed context;
- the Planning Authority initially considered the site coverage and plot ratio for the development to be acceptable before referring to the site as being in a ‘regeneration area’ and not in an ‘outer-employment and residential area’ as defined in the Development Plan;
- the first-party appellant agrees with the Planning Authority’s categorisation of the subject site area as being within a ‘regeneration area’;
- the Planning Authority accepts the scale of development based on the floor area, the development quantum and the site context;

## Density

- the Planning Authority disregard the fact that the absence of three-bedroom units in the scheme serves to heighten its density;
- the Planning Authority fails to consider that the reduced building heights would result in less modulation of building heights and a less attractive development;
- the density of the scheme is influenced by the unit sizes, the demand on services, the mix of uses, the visual setting, lighting, amenities, appearance and telecommunications;
- when considering all aspects shaping the development, residential density should not form a reason to alter the built form of the development;

## Amendments

- the amendments required in the condition of the permission only relate to proposed blocks B and C and would not improve the visual amenity of the streetscape or further protect residential amenities when compared with the original design;
- angled aerial images of the development should not be relied upon to assume that the development would have an abrupt increase in building heights, as only limited elements of the development would be visible from the immediate surface level, including the neighbouring approaches to the site along Richmond Road;
- CGIs of the proposed development and the permitted development when subject of the amendment condition are included for comparative purposes;
- the proposed development had provided for greater variety and interest in the massing and built form for the scheme, and the amendments would detract from the architectural form, human scale and legibility of the buildings;
- the amendments alter the intended architectural expression and present a visually more awkward-looking building with reduced definition in material palettes;

- the original scheme had intended to address a bend on the road at the southeast corner of the site by presenting an intentionally tall and strong architectural presence defining the built-edge to the street, which would address the existing and proposed setback on the opposite side of the street within the St. Vincents hospital grounds (ABP ref. 317438-23);
- the amendments would not result in a marked improvement in the amenities of neighbouring residential properties and only achieve losses to the sense of scale;
- sufficient care has been undertaken to avoid any potential impacts on the setting or character of the neighbouring Protected Structures, particularly due to the separation distances and height alterations;
- the cost and embodied carbon per unit would increase as a result of the amendments, providing for less efficient buildings, and the inclusion of windows to a firefighting lobby would be superfluous and undermining of the architectural design;
- low-rise developments should not dictate the design and scale of the proposals and there are numerous examples where building heights of similar scale have been constructed adjacent to low-rise housing, including Dolphins Barn (DCC ref. 4140/03), Naas Road (DCC ref. 2173/04), Old Naas Road (DCC ref. 2158/17) and Kilmainham Square (DCC ref. 2467/00);

### Zoning

- the 30% to 70% range of uses on Z10 zoned lands relates to the area of the site and not the gross floor area of the development, therefore, the commercial and non-residential element of the development amounting to 0.17ha or 31% of the overall site development area, would accord with this provision of the Development Plan;
- consequent to condition 4, the mix of apartment types referred to in condition 5 of the Planning Authority decision should have stated 53 one-bedroom and 54 two-bedroom apartments.

## 7.2. Grounds of Appeal – Third Parties

- 7.2.1. The third-party grounds of appeal objecting to the proposed development from residents of nos.165, 167 and 167a Richmond Road, as well as a resident and an owner of an apartment in the Distillery Lofts complex, can be collectively summarised as follows:

### Scale and Uses

- excessive density, bulk and scale of the development having regard to other proposed developments in the area, contrary to the proper planning and sustainable development of the area;
- overdevelopment of the site with reduced building height and increased open space necessary;
- creation of a gated community lacking access to the riverside and a community focal point;
- there is more scope for housing that is not gated alongside work hubs in suburban areas of the city with existing community facilities;
- a work hub should be provided;
- a gym is not an appropriate use for the site and if it was to go ahead controls on opening hours, noise and frontage treatment should be applied;

### Building Heights, Design and Visual Impacts

- excessive building heights are proposed for blocks B and C, based on the surrounding prevailing low-rise building heights;
- overbearing high-rise appearance not in keeping with the surrounding historical and cultural character of Richmond Road largely featuring Victorian terraces and low-rise apartments;
- heights in keeping with the two-storey housing along Richmond Road would be appropriate and any building heights setback from Richmond Road should be no more than four to five storeys;

- non-compliance with the two to four-storey building heights set out along the street in the Richmond Road Action Area Plan 2007 and the 24m building height restriction set out in the Development Plan;
- to avoid abrupt transitions in building heights and allow for better integration of the development with buildings along Richmond Road, building heights of seven to eight storeys were sought along the River Tolka;
- limited building setback from Richmond Road and the development would not integrate with the area;
- photomontage viewpoints from beyond the River Tolka show relatively unaffected impacts due to separation distances, building orientation and lighting;
- absence of photomontages or CGIs from the perspective of nos.161 to 167 Richmond Road;

#### Residential Development Standards

- the proposed mix of apartments and building heights would be more likely to attract transient populations with no commitment to the area;
- limited flexibility in use of the build-to-rent apartments;
- excessive concentration of proposed build-to-rent apartments alongside the build-to-rent apartments proposed in phase 1 (ABP ref. 312352-21) and other schemes, including those now bought out by investment funds for renting;
- lack of storage would limit long-term use of apartments by families with children;
- limited residents' private amenity space;
- the exclusion of childcare facilities would not be conducive to creating sustainable neighbourhoods and the manner in which this was argued includes numerous shortcomings in the data collated and its subsequent interpretation;

#### Impacts on Neighbouring Amenities

- negative long-term impacts on local amenities;

- overlooking of nos.161 to 167a Richmond Road housing, including from balconies and roof gardens, resulting in a loss of privacy;
- overlooking of living areas and terraces to Distillery Lofts apartment, resulting in a loss of privacy;
- restrictions of views from an apartment in Distillery Lofts complex;
- increased anti-social behaviour;
- construction hours should be limited and a construction traffic management plan would be necessary;

#### Sunlight, Daylight and Overshadowing

- the submitted lighting assessment dismisses the front gardens of neighbouring houses by stating that they are only used for car parking;
- front gardens and windows to houses along nos.161 to 167a Richmond Road should have been considered based on their distance to the development;
- lighting, heating and solar gains for houses along Richmond Road and to apartments in the Distillery Lofts complex would be impacted by the proposed buildings;
- loss of light for apartments in the Distillery Lofts, especially during winter months;
- it is difficult to appreciate how negligible impacts on lighting to existing homes can be dismissed;
- overshadowing of residences, including those within Waterfall Court, Deakin Court and the Distillery Lofts apartments;
- lack of lighting impact consideration for the Hogan View apartments, Richmond Hall, no.231 Richmond Road, Convent Avenue and Richmond Lodge;

#### Traffic, Access and Parking

- cumulative increase in housing within the immediate area arising alongside other proposals amounting to 1,200 units and scope for further properties to

be redeveloped, would be excessive for the area with no vehicular transport expansion capabilities;

- the capacity of Richmond Road is limited by the road junctions particularly during peak hours;
- road safety concerns due to the increased traffic and substandard infrastructure along Richmond Road, including narrow carriageway and informal parking;
- lack of car and cycle parking, cargo-cycle spaces, turning areas and service areas;
- substandard vehicular access along a sharp bend and substandard emergency-vehicle access;
- overspill parking to the immediate area would arise;

#### Artist Studios

- excessive rental costs for the artists' studios with more scope for the Planning Authority to provide same;
- conflicts with residential amenities, including the potential for late-night activity / disturbance to arise from operation of these studios;
- there should be conditions restricting opening hours, noise and frontage details for the artists' studios;

#### Flood Risk

- essential documentation required for the assessment is omitted from the application;
- failure to consider Office of Public Works (OPW) flood maps;
- the Richmond Road area was subject of flooding in 1954 and 2002;
- inadequate flood risk assessment with flooding and surface water drainage concerns;



## Other Matters

- essential documentation required for the assessment was omitted from the application;
- no public consultation despite implications for quality of life;
- devaluation of local property.

### **7.3. Planning Authority Response**

- 7.3.1. The Planning Authority's response to the grounds of appeal requests that the Board uphold the decision to grant planning permission for the proposed development and that if permission is to be granted, conditions should be attached with respect to general development contributions, a bond, social housing, a naming and numbering scheme and a management condition.

### **7.4. First-Party Response to Third-Party Appeals**

- 7.4.1. The first party has responded to the third-party appellants' grounds of appeal, while reaffirming matters raised in their first-party appeal, restating matters referenced in the Planning Officer's report and providing a report prepared by consulting engineers further addressing flood risk matters. The response submission can be summarised as follows:

#### Development Principles

- residential density is often an arbitrary development standard that needs careful consideration in mixed-use developments within urban contexts;
- regardless of the third-party appellants' incorrect assertions that the subject proposals provide for build-to-rent apartments, it is inappropriate and inaccurate for the appellants to assert that those renting would result in increased anti-social behaviour and diminution of the local community;
- a work hub was not deemed to be necessary with other non-residential uses proposed on-site that would play a role in supporting the development and linking the development into the community;

- the requirement for artists' studios was identified and a provisional agreement and layouts drawn up with rent prices incorrectly referenced by the third-party appellants, their requested stipulations regarding operating hours and frontage details being overly restrictive and unnecessary, and any asserted potential change of use to bar / restaurant would require planning permission;
- the proposed gym would be a positive inclusion in the development and restrictions on operating hours and frontage details would be unnecessary;
- there is no formal requirement to undertake public consultation prior to lodgement of the application and the statutory requirements were adhered to regarding the advertising of notices and the creation of a website to display application details;

#### Urban Design and Building Height

- blanket building height limits are not supported in the current Development Plan and the Richmond Road Action Area Plan 2007 cannot be relied upon as it is dated and does not align with national and regional planning policy;
- the design of the development, including massing was developed fully considerate of the adjoining proposals and existing developments;
- the character of Richmond Road is made up of an eclectic mix of properties, including mid-1900s houses, apartment buildings, commercial buildings, sheds and parking lots, Tolka Park, high boundary walls and Victorian terraces;
- the prevailing building heights should not dictate the proposed building heights;

#### Residential Development Standards

- the site is outside the 'study area' subject of the Development Plan 'housing needs demand assessment', therefore, the unit mix in SPPR1 of the New Apartment Guidelines applies, which the subject proposals accord with;
- the third-party appellants' comments regarding the proposed childcare facility appear to relate to the adjoining proposed development and not the subject development, whereas justification in the application for the childcare spaces

identifies that it would meet the expected demand generated arising from the proposed development and supporting the creation of a sustainable community;

#### Sunlight, Daylight and Overshadowing

- it is incorrect to state that a residence in the Distillery Lofts complex would lose all natural light, particularly as only a minor adverse to negligible impact was calculated to arise for the apartment windows in the Distillery Lofts complex based on the BRE 209 Guidelines;
- the calculated APSH with the proposed development in place for residences at nos.161 to 167a Richmond Road revealed that there would be only negligible impacts and the vertical sky component calculations highlighted either minor adverse or moderate adverse impacts for windows to these residences;
- the useability of the front areas to the houses along nos.161 to 167a Richmond Road would be limited as they are hard surfaced with three of these areas used for car parking;
- impacts on the area are considered to be acceptable based on the urban / inner-suburban context and as flexibility should be applied given that complete adherence to all development standards would not be feasible;

#### Views and Privacy

- the neighbouring appellants do not have an entitlement to a view or for this matter to preclude development;
- ample separation distance has been provided from the primary elements of block B and properties opposite the site on Richmond Road;
- balconies are limited opposite the existing housing along Richmond Road and they are generally at upper-level and inward facing;
- careful consideration with respect to building positioning, separation distances, window function and balcony locations was undertaken cognisant of the Distillery Lofts complex;

- the proposed development would improve the appearance of the area and the images prepared illustrate the development in place, as would be the view from a third-party appellants' Distillery Lofts residence and property;

#### Traffic, Access and Parking

- adequate sightlines cognisant of proposed landscaping would be achieved at the vehicular access onto Richmond Road;
- the proposals feature various improvements to the infrastructure along Richmond Road in line with the Road Planning Division requirements and making passage safer and easier;
- the reduced parking ratio relative to apartments would limit any increase in traffic volumes, which would not be material on Richmond Road, and issues in this regard were not raised by the Planning Authority;

#### Flooding and Drainage

- the application site-specific flood risk assessment adheres to the requirements of the OPW Flood Risk Guidelines and was prepared in consultation with the Planning Authority;
- the proposals feature an extension of the flood wall for the River Tolka flood relief scheme to address the potential for fluvial and coastal flood risks;
- increased flood risk was not calculated to arise for neighbouring properties and various measures have been incorporated into the development to address drainage and flood risk, including attenuation of stormwater, surface water storage, reduced hard surfacing, infiltration measures, green and blue roofs and the provision for a connection to the surface water sewer under Richmond Road;
- the surface water discharge rate from the redeveloped site would be significantly less than the total unattenuated discharge rate from the existing site;
- Uisce Éireann has confirmed that the foul waters arising from the proposals can be discharged into the existing foul sewer on Richmond Road.

## 7.5. Observations

7.5.1. Two observations were submitted within the prescribed period to the Board in response to the grounds of appeal, both of which are from local residents' groups. These observations largely reaffirm issues raised within the third-party submissions to the Planning Authority at the application stage and within the third-party grounds of appeal, as collectively summarised above. The following other matters were raised in the observations:

- failure to comply with Z10 objectives;
- failure to consider the context relative to a Z1 neighbourhood and the detrimental impacts that would arise for this area,
- the development site is in an outer-suburban area / outer-employment and residential area and not a regeneration area or a central area, therefore the plot ratio and site coverage of the development would represent an overdevelopment of this site;
- unsuitable location for build-to-rent apartments;
- need to consider impacts on views and the landscape;
- failure to meet quality housing and sustainable neighbourhood standards;
- limited recreational and open spaces;
- lack of access to public transport on Richmond Road and separation distances from public transport services that are of limited capacity;
- informal parking and traffic congestion on Richmond Road during major event days;
- insufficient capacity locally to deal with the increased population arising;
- failure to meet requirements of 'Climate Resilient Dublin' by developing a site in close proximity to a tidal section of the River Tolka;
- Uisce Éireann should be consulted in relation to the wastewater and flood risk;
- part of the site could be used as a flood plain and the property maintained for its former use;

- a construction management plan should be requested as a condition, addressing consultation, monitoring, mitigation measures, construction hours and cleaning of neighbouring properties.

## **7.6. Further Submissions**

- 7.6.1. Following consultation by An Bord Pleanála with parties to the appeals, no further submissions were received in response to the appeals.

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. This assessment considers the proposed development de novo in the context of the statutory plan for the area, as well as national policy, regional policy and relevant guidelines, including section 28 guidelines. I have reviewed the application and appeal documentation and I am aware of the planning provisions relating to the site and the proposed development. I am satisfied that the substantive planning issues arising from the appeals submitted can be addressed under the following headings as part of my assessment:

- Development Principles;
- Density;
- Building Heights, Layout and Design;
- Visual Impacts;
- Impacts on Neighbouring Amenities;
- Residential Amenities and Development Standards;
- Access, Parking and Traffic;
- Flood Risk and Services.

- 8.1.2. The third-party appellants refer to a lack of public consultation with respect to the application for the proposed development. In response to this the first-party appellant asserts that there is no formal requirement to undertake public consultation prior to lodgement of the application and that the statutory requirements were

adhered to regarding the advertisement of planning notices and the creation of a website to display application details. I note that the notices and details submitted regarding the application were considered acceptable by the Planning Authority and I am satisfied that concerned parties and the public were presented with opportunities to make submissions at application and appeal stage. Several parties to the application refer to public consultation taking place with the first-party appellant prior to lodgement of the application.

## 8.2. Development Principles

### LRD Definition

- 8.2.1. The Planning Authority has concluded that the proposed development would come within the statutory definition of a 'large-scale residential development', based on section 2 of the Act of 2000, which includes the development of 100 or more houses where the floorspace of the houses would comprise greater than 70% of the overall floorspace. The buildings to be demolished would not provide functional floorspace within the overall development and the undercroft and service areas would primarily serve as ancillary residential floorspace, including parking areas. I am satisfied that based on information provided as part of the application, including the proposed provision of 133 housing units and approximately 12% non-residential gross floor area in the development, evidence contrary to this conclusion has not been presented to me.

### Land-use Zoning Objective

- 8.2.2. As noted in section 6.3 above, the site development area features a land-use zoning 'Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses'. Within the Development Plan it is stated that residential, childcare facilities, local and neighbourhood shops, sports facilities and recreational uses, and creative and artistic enterprises and uses, are all permissible on Z10 zoned lands. Third-party appellants and observers to the appeal assert that the proposed gym facility would not be appropriate for the site. Based on the provisions of the Development Plan I am satisfied that the proposed apartments, childcare facility, retail unit measuring 335sq.m, gym facility and 17 artists' studios would comfortably fall into land uses

assigned as being permissible in principle on these lands and would not be inappropriate for the site.

- 8.2.3. Observers to the appeal also refer to the development as failing to comply with Z10 zoning objectives based on the mix of uses proposed. Section 14.7.10 of the Development Plan sets out the purpose of Z10 zoned lands, outlining that this zoning supports mixed uses and the avoidance of a single use for a site, with a requirement for a range of 30% to 70% of the area of Z10 lands to be allocated to one particular use. As the development area of the application site measures 0.55ha, it would not be capable of availing of the flexibility provided for in the Development Plan regarding use ranges for sites of less than 0.5ha. The first-party appellant notes that the largest part of the site area assigned to a single use would comprise the residential element and that the non-residential uses would amount to 1,703sq.m representing 12% of the development gross floor area. The first-party appellant states this floor area would amount to 31% or 0.17ha of the development site area and, as such, they assert that this would ensure that the proposed mix of uses would comply with the range set in the Development Plan for the Z10 land-use zoning.
- 8.2.4. The Planning Authority are satisfied that the mix of uses for the site would be acceptable, although as asserted by the first-party appellant, in arriving at this conclusion they erroneously referred to the floor area of the development, as opposed to the actual areas of the development site when considering the appropriateness of the mix of uses proposed. The Planning Authority was also satisfied that some flexibility regarding the use range split should be allowed for, as the development site area only marginally exceeds the Development Plan thresholds allowing for such an approach to be undertaken.
- 8.2.5. In my opinion, the reference in the Development Plan to a 70:30 use split for Z10 zoned lands and how this is to be applied in relation to the consideration of development proposals is quite ambiguous. To apply the range based on the area of a site allocated for a specific use would inherently fail to consider the possibility of varying uses at different floor levels in a multi-storey development. The first-party appellant asserts that upon receipt of submissions made during the public consultation period for the current Development Plan, the Chief Executive's Report on the Draft Plan Consultation Process stated that it is intended that the land-use mix requirements relate to site area and not gross floor area, and that they relate to



the Z10 landholding as a whole, rather than individual sites within the zoning. If this is the case, it would appear that no party to the appeal has calculated the split in line with what was actually intended by the wording of the Development Plan. The Planning Authority did not specifically address this matter when responding to the appeal and I am satisfied that based on the above it is the entire Z10 landbank that needs to be considered with respect to the land use split and not an individual development site or landholding.

- 8.2.6. An overview of the area indicates a broad range of uses occupying the subject Z10 land parcel comprising the appeal site and the neighbouring areas, including residential uses, commercial warehouses, retail units, unoccupied dilapidated buildings, a fuel station, mechanics garages, offices and medical/health facilities. While residential use would appear to comprise the most prevalent land use in the subject Z10 land parcel, I have no information that would suggest that it presently occupies over 70% of this parcel. In my opinion, should the subject proposals be considered solely as a residential use, the extent of non-residential properties, including those fronting onto Richmond Road and the main streets in the Z10 land parcel, would suggest that the 70:30 use range would not be exceeded with the subject proposals. Accordingly, I am satisfied that the proposed development would not result in a mix of land uses non-compliant with the Z10 land-use zoning objectives required in the Development Plan.

#### Masterplan

- 8.2.7. Changes to the Z10 (Inner Suburban and Inner City Sustainable Mixed-Uses) zoning objective in the Development Plan include the application of a new requirement that a masterplan be prepared in respect of development of these lands in certain locations and for sites of greater than 0.5ha. For any site over 0.5ha where proposals feature an enhanced scale and height, policy SC17 of the Development Plan also requires a masterplan in accordance with the criteria for assessment set out in appendix 3 to the Development Plan. The criteria in appendix 3 refers to the need for a masterplan to provide a vision for the development of the entire site area. Within their Architectural and Urban Design Statement the first-party appellant has provided a masterplan and urban design rationale for the appeal site and the adjoining strategic housing development (ABP ref. 312352-21). The Planning Authority consider the development strategy for the appeal site to be sufficiently

cognisant of the adjoining strategic housing development proposals. I am satisfied that the two concurrent planning proposals on the subject zoned Z10 landholding serve as a masterplan, in compliance with the stated Development Plan provisions.

### Demolition Works

- 8.2.8. Despite the Planning Authority noting that the removal of the existing buildings are of concern based on their embodied carbon, as the buildings are of low architectural merit, they consider their removal for more intensive uses to be consistent with national and local objectives. While objections to the demolition of the structures on site have not been submitted, observers to the appeal refer to scope for the warehouse and distribution premises to be maintained on site. This facility has not been in operation for a number of years and it is located on lands that are allocated in the Development Plan for mixed forms of development. The existing vacant singular use of the site would not present a long-term, sustainable use of the site based on planning provisions. Reuse of the existing building for an intensive mixed-use development would not be readily achievable given the positioning of the walls directly onto the property boundaries, servicing requirements and the achievement of various development standards to sustainably redevelop the site. Based on the information contained in the first-party appellant's Architectural Heritage Impact Assessment, the buildings on site are industrial-type buildings with walls of concrete and roofs of profiled steel. The buildings on site are not of conservation status and I am satisfied that there are no planning provisions strictly requiring these buildings to be maintained as part of the proposed redevelopment of the site.

### Artists' Studios

- 8.2.9. The Planning Authority consider the provision of 17 artists' studios and an exhibition space to block B as meeting a local need, representing a planning gain for the area and ensuring compliance with Development Plan objective CUO25 requiring a minimum of 5% community, arts and cultural space for developments of this scale. Third-party appellants assert that the first party has proposed excessive rental costs for the artists' studios and that there would be more scope for the Planning Authority to provide these facilities. During the consultation period for the planning application, several submissions were received by the Planning Authority in support of the artists' studios, noting the demand for these facilities, the benefit of these facilities to the

local and wider community, while also highlighting the engagement by the first-party appellant with local artists. In response to the third-party appeals, the first party noted that the requirement for artists' studios was identified and that a provisional agreement and layout had been drawn up, with the rental costs for the artists' studios incorrectly referenced by third-party appellants. I am satisfied that rental costs for the artists' studios are not material considerations for this planning assessment and the information available would suggest demand for the artists' studios and exhibition space, which would be provided in compliance with objective CUO25 of the Development Plan.

- 8.2.10. Third-party appellants have asserted that there would be potential for the activity associated with the artists' studios to conflict with the amenities of future residents of the subject development, including via late-night activity and general disturbance. The third-party appellants have suggested the attachment of planning conditions for the artists' studios to restrict use of glazing, to restrict operating hours to 09:00 to 17:00 hours and for no music or audio devices to be played in the studios. In response, the first-party appellant considered these requests to be overly restrictive.
- 8.2.11. In recommending a grant of planning permission, the Planning Authority considered it to be in the interests of the amenities of future residents of the development to restrict occupancy of the artists' studios to use by visual artists only and for performative art to be restricted to the exhibition space prior to 22:00 hours daily. The Planning Authority also decided to attach conditions with respect to the management of the artists' studios and exhibition space, to further restrict their use and ensure their availability to the public. In the interest of the appearance and visual amenities of the area the Planning Authority also saw fit to attach a condition with respect to the treatment of the elevations to the artists' studios.
- 8.2.12. As noted above, the artists' studios would be appropriate for the site and complementary to the other proposed uses, subject to certain conditions with respect to management and use of the artists' studios and the exhibition space. It is likely that the activity associated with the artists' studios would take place during daytime and evening hours and the operational hours can be agreed with the Planning Authority to address same. The final operational management plan for the studios can address matters such as operating hours and access for local community groups in order to comply with objective CUO25 of the Development Plan. To avoid any

potential conflict with neighbouring residential uses, to safeguard the visual amenities of the area and to ensure the relevant proposed facilities would be accessible to the neighbouring community, I am satisfied that the attachment of conditions similar to those recommended by the Planning Authority would be reasonable in the event of a grant of planning permission for the proposed development.

#### Other Uses

- 8.2.13. The third-party appellants assert that a work hub should be provided on site for residents of the development. The New Apartment Guidelines note that the provision of communal facilities can have management and maintenance cost implications for future residents. The first-party appellant has sought non-residential uses that they consider to be capable of meeting the needs of future residents, with these uses also open to the public and activating the street frontage. In response to the third parties, the first-party appellant states that a work hub was not deemed to be necessary for the development, with other non-residential uses proposed on-site that would play a role in supporting the development and linking the development into the community. While the zoning for the site encourages a mix of uses and the New Apartment Guidelines support the provision of communal facilities in developments of this nature and scale, I am satisfied that there is not a specific requirement for a work hub to be provided in the subject proposals and I recognise that a range of alternative uses are proposed as part of the development in compliance with zoning objectives.
- 8.2.14. The third-party appellants have also sought restriction of operating hours for the proposed gym facility to 09:00 to 17:00 hours Monday to Saturday, with no operation of audio equipment, as well as an absence of glass façades to the front of the facility in order to restrict overlooking of the houses opposite the site. The first-party appellant asserts that the conditions proposed by the third-party appellants are unnecessary. The Planning Authority considered the provision of a gym onto Richmond Road as presenting a positive interface onto the street and I note that the Planning Authority decision included conditions restricting the operation, controlling the front façade treatment and addressing equipment, classes and flooring systems for the gym facility. Restrictions on operating hours and other measures to address noise and vibration would be necessary given the context of the gym relative to

existing and proposed residences. The location of the gym or the artists' studios at ground floor to the development could not reasonably be considered to facilitate excessive direct overlooking of housing opposite the site along Richmond Road. In appealing the decision the first-party appellant did not object to these conditions and for reasons related to safeguarding the visual and residential amenities of the area I am satisfied that a similar condition to that required by the Planning Authority would be reasonable to attach in the event of a grant of planning permission for the proposed development.

### Phasing

8.2.15. In relation to the phasing of works, the first-party appellant's Preliminary Construction and Environmental Management Plan (CEMP) sets out that the subject development would be developed in a single phase, with or without the adjoining proposed strategic housing development (ABP ref. 312352-21). To ensure the delivery of a mix of land uses on the appeal site, in their decision to grant planning permission the Planning Authority requested that the artists' studios, the childcare facility, the retail unit and the gym be fully fitted out suitable for immediate occupation and operation prior to the first occupation of the residential units. The first-party appellant did not object to this condition and for reasons relating to the orderly development of the site and the need to facilitate a mix of uses on site in line with the Development Plan provisions, I am satisfied that a condition to this effect would be reasonable to attach in the event of a grant of planning permission for the proposed development.

### Housing Tenure

8.2.16. The third-party appellants and observers to the appeals refer to the potential for proposals to result in an excessive concentration of build-to-rent apartments in the area, alongside the build-to-rent apartments proposed in phase 1 (ABP ref. 312352-21) and other neighbouring schemes, including those now bought out by investment funds for renting. The third-party appellants assert that the occupiers of such accommodation would have limited buy-in to the local community and as a result there would be increased anti-social behaviour. As noted by the Planning Authority build-to-rent apartments have not been specifically proposed in the subject development.

- 8.2.17. I acknowledge that the apartments in the subject proposed development could be owner-occupied or rented in the future. Section 15.4.5 of the Development Plan requires the submission of a Community Safety Strategy for developments of this nature and scale, and the first-party appellant has addressed this within their Architectural and Urban Design Statement. The Planning Authority consider the overall scheme to feature safe design, providing good levels of passive surveillance, as well as open and accessible public spaces and secure private spaces. The layout of the development also features extensive and increased overlooking of the public realm along Richmond Road. In this context I fail to see how the proposed development could reasonably be considered to increase anti-social behaviour.
- 8.2.18. The distribution and method in which the social housing provision for the development is to be complied with can be addressed as a standard planning condition in the event of a grant of planning permission for the proposed development. Based on the section 28 Guidelines addressing the regulation of commercial institutional investment in housing, there is not a requirement to regulate investment in the proposed units, as apartments are exempt from a restrictive-ownership condition.

### Conclusion

- 8.2.19. In conclusion, I am satisfied that a reasonable use range mix has been presented relative to the zoning objectives for the site, and the proposed development could not be considered to materially contravene the Z10 land-use zoning objective for the site, as contained in the Development Plan.

## 8.3. **Density**

- 8.3.1. Comprising 133 units on a net site area of 0.55ha, the proposed development would feature a density of 242 units per hectare. The first-party appellant considers the density of the development to be justifiable based on national planning policy contained in the NPF, the provisions of the RSES, the Building Heights Guidelines and the New Apartment Guidelines, the absence of an inner-suburban density category in the Development Plan and given the site context within an established built-up area of Dublin city, a short distance from public transport and within cycling distance of the city centre.

8.3.2. Despite considering the site coverage and plot ratio of the proposed development to be appropriate, the Planning Authority consider the density of the proposed development to be more suited to a site closer to high-capacity public transport, employment uses or the city centre. To address this the Planning Authority decided to omit 26 apartments, which would result in the density of the development dropping to 194 units per hectare. In response to this, the first-party appellant asserts that the Planning Authority failed to consider the absence of three-bedroom and larger units in the scheme and the impact of this on the development density, and as there are other factors, such as design and form, that need to be considered when assessing the appropriateness of the proposed density. The third-party appellants assert that the proposed development would feature an excessive density for this area leading to overdevelopment of the site and an inappropriate precedent for further buildings of this height.

#### Neighbouring Densities

8.3.3. The immediate areas to the appeal site are defined by a broad range of residential densities, including low-density terraced housing along Richmond Road, and medium to high density apartment complexes, such as the Distillery Lofts (approximately 95 units per hectare) adjoining to the south and Corn Mill/The Distillery (approximately 158 units per hectare) located to the south of the site on Distillery Road. I note that with the exclusion of a proposed block (c) and its associated area, net densities of 270 units per hectare were recently permitted for the Esmond Avenue LRD (ABP ref. 315584-23) in 2023 (97 apartments on 0.36 hectares). The adjoining strategic housing development to the west (ABP ref. 312352-21) proposes a density of 300 units per hectare.

#### National Policy and Section 28 Guidelines

8.3.4. In terms of density and the national policy context, the NPF promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban

development within existing urban envelopes. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary.

- 8.3.5. In relation to Section 28 guidance addressing housing density, the Building Heights Guidelines and the New Apartment Guidelines all provide further guidance in relation to appropriate densities and support increased densities in appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 8.3.6. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and this should not only be facilitated but should be actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.
- 8.3.7. The New Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support ongoing population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. Suitable locations stated in the Guidelines include 'central and/or accessible urban locations', 'intermediate urban locations' and 'peripheral and/or less accessible urban locations'. The Guidelines also state that 'the range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors'.
- 8.3.8. The Sustainable Residential Development Guidelines set out where increased residential densities will generally be encouraged, including in city or town centres, on brownfield sites within city or town centres, along public transport corridors, on



inner-suburban / infill sites, on institutional lands and on outer-suburban / greenfield sites. The Guidelines refer to walking distances from public transport services as best guiding densities along public transport corridors with scope for increased densities in locations within 500m walking distance of a bus stop or within 1km of a light rail stop or a rail station.

#### Regional Policy

- 8.3.9. In addressing the settlement strategy for Dublin city and its suburbs, the RSES supports the consolidation and re-intensification of infill/brownfield sites to provide high-density and people-intensive uses within the existing built-up area and ensure that development is co-ordinated with the delivery of key water and public transport infrastructure. This approach is reaffirmed within RPO 4.3 of the RSES. The RSES also refers to key national strategic outcomes in the NPF, followed through into the RSES, as targeting compact growth in urban areas.

#### Development Plan Policy

- 8.3.10. Policy SC10 of the Development Plan addressing densities and the creation of sustainable communities supports the principles of the Sustainable Residential Development Guidelines. Appendix 3 to the Development Plan sets out net density ranges for residential developments based on their location within the city, including the city centre and canal ring (inner suburbs), Strategic Development and Regeneration Areas (SDRAs), Strategic Development Zones (SDZs) and Local Area Plan lands, key urban villages, former Z6 zoned industrial lands and the outer suburbs. In considering the appropriateness of densities for a site the Development Plan refers to the need to respect the character and amenities of an area, the need to consider access and capacity of public transport, the need for varied housing typologies and the need to create liveable places. These matters are addressed separately below when considering the various potential impacts of the development and the design quality of the proposals.
- 8.3.11. When referring to areas for increased height and density, appendix 3 refers to all of the aforementioned areas, as well as an additional area titled 'public transport corridors', stating that these are all locations for a more intensive form of development. The Development Plan supports higher densities within 500 metres

walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the city, although the capacity of public transport needs to be considered.

#### Access to Public Transport and Services

- 8.3.12. Observers to the appeals assert that the subject site is substantively separated from local public transport services that are of limited capacity. Drumcondra rail station would be within 1.3km or a 17-minute walk from the appeal site. The first-party appellant asserts that this walk to Drumcondra station could reduce to 1km subject to completion of other housing developments in the immediate area. The nearest public bus stop to the appeal site is stop no.4518 along Fairview Strand within a 500m easy walk of the appeal site, which is served by bus route 123 connecting with the city centre. BusConnects H-spine and other bus services operate from stops on Annesley Bridge Road within 800m or a ten-minute easy walk of the appeal site. Ten public bus routes also operate from stops on Drumcondra Road within 800m or a ten-minute easy walk of the appeal site.
- 8.3.13. The New Apartment Guidelines and the Development Plan refer to the capacity of public transport services requiring consideration with respect to appropriate densities, a matter that I specifically address further below. In considering the general provision of public transport available in this area, I would note that the capacity of services is intrinsically linked to frequency, as inferred in section 5.8 of the Sustainable Residential Development Guidelines. Based on the publicly-available timetable for Dublin Bus route 123, during the morning and evening peak hour five to six services would operate from the closest bus stop to the appeal site on Fairview Strand. The combined daily frequency of buses operating along the H-spine route and other routes (6, 14, 15, 27, 27A, 27B, 42, 43 and 130) on Annesley Bridge Road is approximately one bus service at least every two minutes. During peak hours the ten bus routes passing along Drumcondra Road combine to provide 28 services generally operating every two to three minutes.
- 8.3.14. Within their Traffic and Transport Assessment report, the first-party appellant has provided details of an assessment undertaken of the existing capacity of rail services from the neighbouring DART station and for local bus services. It is asserted by the first-party appellant that the existing public transport service has an overall inbound capacity for 2,492 bus passengers on the Drumcondra Road corridor during the

morning peak hour. The overall inbound capacity on the Fairview Road / Annesley Bridge Road corridor, including the 123 service, would amount to 3,916 bus passengers during the morning peak hour according to the first-party appellant. It is reasonable to consider similar overall capacities would arise during the evening peak hours on these routes.

- 8.3.15. With maximum capacity for 90 to 95 passengers, the six morning peak-hour, 123 double-decker bus services operating from the closest bus stop to the appeal site would have capacity for 540 to 570 passengers. The estimated indicative population of the development is stated by the first-party appellant as being 314 persons with 121 trips arising from the development in the morning peak hour. It is estimated that the future modal split arising from the development would be akin to 31 bus trips and six rail trips in the morning peak hour. This has not been contested by other parties and it would appear a reasonable estimation based on Central Statistics Office census data referring to 22% of the population in Dublin city and its suburbs travelling to work, school or college by public transport in 2016. Notwithstanding the fact that the first-party appellant does not appear to have identified if there is any spare capacity in the existing bus services operating along these corridors, given the present provision of bus services and the additional potential future population residing in the proposed development, including the likely modal split, local public transport services would be unlikely to be overwhelmed by the proposed development and would be sufficiently capable of serving the proposed development. Measure BUS5 of the Greater Dublin Transport Strategy 2022 to 2042 states that it is the intention of the National Transport Authority to continually monitor the demand for bus services in the Dublin area as part of the roll-out of the new service network and to enhance or amend the service network as appropriate.

#### Location Category

- 8.3.16. Based on the provisions of the Sustainable Residential Development Guidelines and the proximity and accessibility criteria analysed above, I am satisfied that the appeal site can be considered to fall into the category of a site located within a 'public transport corridor'.
- 8.3.17. The New Apartment Guidelines define an easy walk as a five-minute walk or a 400m to 500m distance and a reasonable walk as a ten-minute walk or a 800m to 1km

distance. High-frequency bus services are stated in these Guidelines to operate a minimum ten-minute peak-hour frequency. Accessible urban locations are stated to include sites within easy walking distance to and from high frequency urban bus services. I am satisfied that based on the existing bus services operating in the area, the future occupants of the proposed development would be served by high-frequency and high-capacity public transport within easy to reasonable walking distance of the site. The buses operating from the stops on Fairview Strand, Drumcondra Road and Annesley Bridge Road all connect with the city centre, which enables high frequency links from the appeal site to other public transport modes. O'Connell Street in the city centre is also a 25 to 30-minute walk or a 9-minute cycle from the appeal site and the proposals feature ample provision for cycle parking to serve the development. There is an array of local services, including shops, available in Fairview and along Drumcondra Road. The proposals themselves would also include a mix of uses, including uses that are not available in the immediate area and would serve the future residents of the scheme, as well as the neighbouring community. Accordingly, following the requirement for local assessment of location categories, I am satisfied that the site can also be categorised as being within an 'accessible urban location' based on criteria within the New Apartment Guidelines.

- 8.3.18. With regard to the location categories listed in the Development Plan, the lands are not within the defined 'inner suburbs canal belt' and I am not aware that the lands were previously zoned for Z6 (enterprise and employment) purposes. Furthermore, the site is not within an area forming part of a SDRA, a SDZ, Local Area Plan lands or key urban village lands. The Development Plan refers to the 'outer city' as being those newly developing areas on the fringe of the city administrative area, including Clongriffin-Belmayne, Ashtown-Pelletstown, Park West and Cherry Orchard. The appeal site would not be in a newly-developed area given the history of development in this area, as highlighted in the Architectural Heritage Impact Statement submitted with the application. The site location would not comfortably fall into any of the stated location categories in table 1 of appendix 3 to the Development Plan, however, as there is a bus stop within 500m of the appeal site, this would suggest that the site falls into a 'public transport corridor', which is an area listed in appendix 3 as being suitable for increased height and density.

### Density Conclusion

- 8.3.19. Lands within public transport corridors are stated in the Sustainable Residential Development Guidelines to generally be suitable for minimum net residential densities of 50 units per hectare, subject to appropriate design and amenity standards, with the highest densities being located at rail stations / bus stops and decreasing with distance away from such nodes. The proposed development meets the minimum net density targets for this category of land. Accessible urban locations such as the appeal site within the catchment of high-capacity public transport services are suitable in supporting small to large-scale, higher-density development based on the New Apartment Guidelines and the Development Plan. Minimum and maximum residential densities are not set within the New Apartment Guidelines for such locations. The Development Plan refers to a presumption against schemes in excess of 300 units per hectare across the city but does not set a minimum density for sites along public transport corridors.
- 8.3.20. Observers assert that the proposed site coverage and plot ratio would be excessive for the site based on the indicative standards applied in the Development Plan, however, I note that there is no site coverage or plot ratio assigned for sites within public transport corridors and the site would not readily fall into any of the suggested area categories. Notwithstanding this, I consider the proposed plot ratio of 1:2.65 and the site coverage of 73% to be appropriate for the site given the Development Plan provision for higher standards to facilitate comprehensive redevelopment of areas in need of urban renewal. The site and much of the immediate urban area would benefit from renewal and the proposals would comprehensively redevelop the site.
- 8.3.21. In conclusion, the proposed density for the appeal site complies with Government policy seeking to increase densities in appropriate locations and thereby deliver compact urban growth. The proposed development in this location would not contradict density standards contained in the Development Plan 2022-2028 or section 28 Guidelines, and the proposed density would not be excessive for the site based on access to public transport, the city centre and other neighbouring services. Certain criteria and safeguards must be met to ensure a high standard of design and I address these issues in my assessment below.

## 8.4. Building Heights, Layout and Design

### Context

- 8.4.1. The existing buildings on site feature maximum heights of 6.6m to 8.3m. There are four to seven-storey apartment blocks neighbouring the site along and off Richmond Road, the tallest of which would appear to be in the Distillery Lofts complex. The two-storey housing opposite the site along Richmond Road would appear to be 9.5m to roof ridge level. When measuring to roof parapet level, the highest element of the proposed development would comprise apartment block B, which would feature a ten-storey element approximately 35.2m in height and setback by 7.4m from Richmond Road. The option of installing various telecommunication infrastructure to block B is also proposed and I consider this aspect of the proposals in the proceeding section of my report. The other proposed buildings feature heights ranging from nine-storeys (32m) for block C and four-storeys (15.9m) for block A. Variations in building height profiles relative to ground levels and neighbouring buildings are illustrated on the various site section and elevation drawings submitted with the application (see drawing no. 22001-RKD-ZZ-ZZ-DR-A-1300 Revision P4). The tallest element of the proposed development (block B) would be 15.2m higher than the tallest existing building (Distillery Lofts) in the immediate area.
- 8.4.2. The Planning Authority consider the height of the lowest proposed block A and the five-storey setback shoulder height to block B to be in keeping with the character and height of existing buildings along Richmond Road. In relation to the ten-storey element to proposed block B, the Planning Authority acknowledge that its height would be consistent with the six to ten-storey building heights proposed in the adjoining strategic housing development (ABP ref. 312352-21). Notwithstanding this, the Planning Authority consider Richmond Road to feature a low to mid-height streetscape outside of the canal ring, in an area that is not directly accessible by high-capacity public transport and, as such, they consider the ten-storey element to block B to be overscale and inconsistent with the area. They also refer to their request that the height of the buildings proposed in the adjoining strategic housing development proposals (ABP ref. 312352-21) be reduced from ten to six storeys. The Planning Authority conclude that the development context and setting, as well as Development Plan policy allows for a more reasonable height of eight-storeys to

proposed block B. With regards to proposed block C, the Planning Authority consider the nine-storey height onto the street to be excessive and overscale, as the adjoining proposed strategic housing development (ABP ref. 312352-21) cannot be relied upon as precedent given the need for a graduated edge along the streetscape and as the adjoining strategic housing development proposals would be setback from Richmond Road onto the river corridor. To avoid an abrupt transition in heights and to better address the site context, the Planning Authority require a reduced building of seven storeys for proposed block C and a reduced building height of eight storeys for proposed block B. The Planning Authority also require a setback building line at fifth and sixth-floor levels to proposed block C.

- 8.4.3. The proposed building heights and scale are asserted to be excessive by the third-party appellants, which they consider to be out of character with surrounding building heights and lacking an appropriate transition in scale relative to the immediate buildings in the area. The third-party appellants assert that based on the site context and the provisions of the Richmond Road Action Area Plan 2007, building heights of two to four-storey would only be appropriate fronting onto Richmond Road, with four to five storeys only suitable for the setback building elements.
- 8.4.4. In response to the third parties, the first-party appellant asserts that the character of the immediate area, including Richmond Road, is defined by an eclectic mix of properties, and the prevailing lower building heights of the area should not dictate the proposed building heights with the design of the subject proposals undertaken fully considerate of the adjoining proposals and existing developments. The first-party appellant also asserts that the Richmond Road Action Area Plan 2007 cannot be relied upon in guiding building heights, as it is dated and as it does not align with national and regional planning policy. From the outset and for clarity, I note that the proposed building heights subject of the adjoining strategic housing development (ABP ref. 312352-21) do not provide precedent for building heights in the subject proposals.

#### National Building Height Policy

- 8.4.5. National policy, including specific planning policy requirement (SPPR) 1 of the Building Heights Guidelines, describe the need to move away from blanket height restrictions and that increased building heights at accessible and serviced locations

within the metropolitan area should be supported. As concluded in section 8.3 above, I am satisfied that the site is reasonably-well located and serviced with options to access existing high-frequency, high-capacity public transport services, with links between modes, as well as increased access and connections available through more active modes of walking/cycling, and with an array of services and amenities within walking and cycling distance of the site.

#### Local Building Height Policy

- 8.4.6. The third-party appellants refer to a 24m building height restriction as applying to this area, however, as acknowledged by the Planning Authority such prescriptive building height limits are not applied in the Development Plan. Policy SC16 of the Development Plan recognises that Dublin city is fundamentally a low-rise city, but that there is scope for increased heights in locations, subject to compliance with performance criteria, principles and development standards, including those listed in appendix 3 to the Development Plan. Key criteria that all proposals for increased urban scale and height must demonstrate include those relating to the general contribution of the development to the compact urban growth principles of the NPF, access, infrastructural capacity, open space, unit mix, emergency access, ecology and site context, each of which are considered as part of this assessment. Further to this, table 3 in appendix 3 to the Development Plan sets out 46 items to be considered under ten objectives for proposals for buildings that would be higher than those in the vicinity. The stated objectives refer to urban design principles such as promoting a sense of place and addressing the site context, as well as providing appropriate legibility, continuity, enclosure of spaces, connectivity, attractive spaces, mixed uses and activities and sustainable buildings. These objectives generally overlap with criteria for the assessment of increased building heights contained in the Building Heights Guidelines and address the need to consider the layout and design of a development. In the proceeding paragraphs of section 8.4 to this report I consider the subject proposals against the building height criteria in the Development Plan.

#### Design and Layout

- 8.4.7. With regard to the contribution of the development to the promotion of a sense of place and character, I note that the development would demolish and remove



buildings and boundary walls that are of limited aesthetic value, and their removal would be a substantive planning gain for the area. The development would deliver a pocket park plaza onto the northwest corner of the site along Richmond Road referred to as an artists' plaza, as well as a new tree-lined pedestrian street between proposed blocks A and B with potential for links to the adjoining site to the south, referred to as a central plaza. The Planning Authority was satisfied with this central plaza being maintained as a cul-de-sac, with the potential option for a gated entrance to the proposed communal space in the adjoining phase 1 development (ABP ref. 312352-21). In turn this could potentially facilitate an access to a riverside walkway.

- 8.4.8. By redeveloping the site for a mix of uses, including uses that would be open to the public and the local community, the proposals would make a positive contribution to place-making in the area. In my opinion the appearance and layout of the development relative to neighbouring buildings has been well considered, avoiding monolithic structures and incorporating slender blocks with sufficient separation of 16m to 20m between the blocks at the upper levels. A high-quality palette of durable materials for the buildings and landscaping is proposed, including light and dark buff stone panels and brick, with variation in the materials to break-up the appearance of the buildings and provide articulation and decoration for the blocks. Further discussion regarding the visual impacts of the development is undertaken in the proceeding section of my report. I am satisfied that the massing approach undertaken in setting out the site would aid in creating a sense of place with buildings aligned to the main routes running through the development and along Richmond Road. The heights of the proposed buildings provide transition and variety in the development, as required in SPPR 4 of the Building Heights Guidelines. Excessively tall buildings are not proposed in the development relative to the Development Plan definition of same (building heights greater than 50m) and when considering the height of the existing seven-storey buildings in the Distillery Lofts complex.
- 8.4.9. The proposals would improve legibility in the area with upgraded road infrastructures, including cycle lanes and footpaths, while providing buildings of a scale indicative to the primacy of the thoroughfare connecting the Fairview and Drumcondra areas. While the height of buildings would be greater than those

existing along the road frontage, the setback element to block B and the separation between the proposed blocks would avoid an overly-dominant building form onto the street. A building separation distance of 44m across Richmond Road fronting proposed block C and the Crannóg day-centre building in the St. Vincent's hospital grounds would be available. I am satisfied that this context provides greater scope for increased building heights in this part of the site and facilitates the 32m height to proposed block C. Similar setbacks distances in the St. Vincent's LRD scheme are also proposed for the buildings to replace the Crannóg day-centre building (ABP ref. 317438-23). The proposed buildings would overlook the public realm and increase passive surveillance of Richmond Road, while the ground-floor uses (gym, retail unit, artists' studios and exhibition space) framed by recessed stilted and basket-handle arches fronting onto the streets would adequately animate and activate the street in this area.

#### Open Spaces

- 8.4.10. The third-party appellant considers more open space to be necessary in the development. Section 15.8.6 of the Development Plan states that there is a requirement for 10% of Z10-zoned lands to be provided as meaningful public open space in development proposals, and this would amount to 550sq.m for the subject development. The first-party appellant states that 606sq.m of public open space would be provided within the development in the form of the two plaza areas. The proposed plazas would primarily provide passive amenity benefits given their layout, positioning and orientation and I am satisfied that their area and function would accord with the Development Plan provisions. Communal spaces are also proposed at roof terrace and podium levels forming overlooked courtyards within the development. Dedicated external spaces are also proposed for the childcare facility and the artists' studio. The application Sunlight, Daylight and Shadow Assessment report illustrates that only the dedicated childcare facility external space situated between blocks B and C would not receive the minimum standard of two hours of sunlight on the Spring equinox to at least half of its area in line with the recommendations in the BRE 209 Guide; 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'. I am satisfied that the shortfall in sunlight to the external childcare facility space would not be prejudicial to the amenities of future residents of the scheme or the public, particularly having regard to the need to

ensure that the site is developed at sustainable densities relative to the aforementioned site context and zoning.

- 8.4.11. The existing site features limited biodiversity, and the subject proposals would feature various enhancement measures to address same, as outlined in the Biodiversity Enhancement Plan submitted with the application. These measures would include bat boxes, swift bricks/boxes, the removal of two Sycamore trees outside of the bird-nesting season, planting of native and pollinator-friendly species and the management of vegetation.

#### Standards and Amenities

- 8.4.12. The quality of the proposed residential accommodation, including private amenity space and lighting is assessed in section 8.6 below, where it is concluded that the proposed development would provide a suitable mix and standard of apartments and amenities, meeting the relevant design standards and providing a suitable level of amenity for future residents. The mix of uses conforms to Development Plan provisions, would not conflict with neighbouring uses and given the existing nature of housing in the wider area, including the mix of family-size housing and apartment complexes, as well as the increased demand for apartments in Dublin, further provision of apartments would add to the mix of housing in this area. In relation to ensuring the proposals feature high-quality and environmentally-sustainable buildings, I note the various information submitted with the application with respect to energy efficiency and sustainability, as well as services and other supporting infrastructures, which indicated that the proposals would be satisfactory subject to standard conditions.

#### Access and Management

- 8.4.13. Matters pertaining to access have been addressed above, highlighting the location is suitable for increased building heights and densities. The impact of the proposals on historic structures is undertaken as part of the visual impact assessment following this section. Various management strategies have been submitted with the application, including an Operational Waste Management Plan, a Management and Operational Model for the artists' studios and an Outline Servicing and Operations Management Plan, with finalised management plans required as standard conditions in the event of a grant of planning permission. As highlighted in the first-party

appellant's Microclimate Assessment and acknowledged by the Planning Authority, the proposed development is not anticipated to have significant effects with regard to microclimate, either on amenity spaces in the vicinity of the development or within the development.

#### Richmond Road Action Area Plan

- 8.4.14. Richmond Road Action Area Plan 2007 refers to a restriction of building heights to three storeys with a setback along Richmond Road proximate to residences. This Action Area Plan does not form part of the current Development Plan. The Development Plan does include the Richmond Road area in a list of proposed Local Environmental Improvement Plans (LEIPs). Considering the current provisions in National planning policy with respect to the need to increase densities and building heights in locations such as the subject site, as well as the need to avoid blanket restrictions on building heights, from a proper planning and sustainable development perspective I would have reservations in referring to this Action Area Plan as a guide to appropriate building heights in this area. I acknowledge that the Action Area Plan refers to key factors in assessing the appropriateness of building heights, including daylighting, ventilation, open space and privacy, and these matters are all considered as part of my assessment.

#### Conclusion

- 8.4.15. In conclusion, I am satisfied that the proposed development would not fail to comply with building height provisions of the Development Plan, including performance criteria. The proposed development would make a positive contribution to the area and would respond well to the built environment in visual terms with sufficient capacity to absorb buildings at the height proposed. Notwithstanding this, the Development Plan advocates that when considering building height, regard must be had to the prevailing context within which the site is located and broader consideration must also be given to potential impacts such as overshadowing and overlooking. Further consideration with respect to the building height impacts on the visual and residential amenities of the area is undertaken below.

## 8.5. Visual Impacts

### Visual Impact Assessment

- 8.5.1. The Planning Authority assert that the proposal features abrupt changes in building heights relative to the already fragmented appearance of the streetscape and that certain reductions in building heights would be necessary, as well as alterations to the elevation details.
- 8.5.2. The Development Plan does not identify any protected views or landscapes of value directly effecting the site. The site is within the built envelope of the city and it is not included in the Development Plan as being within a landscape character area of high amenity or historical merit. A conservation area associated with the Tolka river channel adjoins the site to the southwest, and this comprises the southern half of the site subject of a strategic housing development currently with the Board (ABP ref. 312352-21). Three buildings included in the Record of Protected Structures (RPS) appended to the Development Plan are located on properties neighbouring the appeal site to the south and these comprise the roofless former distillery warehouse building that is now in ruinous condition (RPS ref.7359), and two buildings within the Distillery Lofts complex (RPS ref.2292). There is also two protected structures directly opposite the development area of the appeal site on Richmond Road and these relate to mid-terrace, two-storey, three-bay houses at nos.163 and 165 Richmond Road (RPS refs.7357 and 7358). The first-party appellant's Architectural Heritage Impact Assessment also refers to other neighbouring protected structures in the wider area.
- 8.5.3. A 'Landscape and Visual Impact Assessment' accompanied by a booklet containing aerial views, CGIs and photomontages, as well as contextual elevations and sections, accompanied the application. A total of 21 short, medium and long-range viewpoints are assessed in the 'Landscape and Visual Impact Assessment'. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontage viewpoints are taken from locations, contexts, distances and angles, which provide a comprehensive representation of the likely visual impacts of the development initially submitted to the Planning Authority from key reference points. The photomontages submitted provide visual representations, which I am satisfied would be likely to provide a reasonably accurate portrayal of the completed

development in sunny conditions and summer settings with the proposed landscaping in a mature and well-maintained condition. The following table 5 provides a summary assessment of the likely visual change from the first-party appellant's 21 selected viewpoints arising from the completed development, as initially proposed.

**Table 5.** Viewpoint Changes

No.	Location	Description of Change
1	Richmond Road / Grace Park Road junction – 200m northwest	Upper-floor levels to blocks B and A would be visible, with the remainder of the development not visible mainly due to the existing buildings. The level of visual change would be slight from this medium-range view, due to the separation distance and the screening available.
2	Clonturk Park – 320m northwest	Three upper levels of block B would be visible, as well as a section of block C. The level of visual change is only slight from this location, due to the separation distance and the setting to the rear of existing cottage buildings.
3	Waterfall Avenue – 20m north	Block A would be visible in its entirety with the upper levels and shoulder element to block B visible to the rear and side of this. The remainder of the development would not be visible due to the existing terrace of three-storey houses. The level of visual change would be moderate from this short-range view with the existing buildings removed.
4	Richmond Road – 100m southeast	Seven upper-floor levels to block C would be visible, with the remainder of the development largely screened from view by this block and an existing stone wall structure. The level of visual change would be moderate from this medium-range view.
5	Richmond Road – 150m southeast	Seven upper-floor levels to block C and the rear upper floors to block B would be visible, with the remainder of the development largely screened from view by this block and an existing stone wall structure. The level of visual change would be moderate from this medium-range view.
6	Ballybough Road – 400m southeast	Upper-floor levels to block C would be partially visible with screening of the remainder of the development by trees

		and vegetation along the river corridor and buildings along Richmond Road. The level of visual change would be slight from this long-range view, due to the separation distance and screening.
<b>7</b>	Tolka Road – 270m south	Three upper-floor levels to block B would be visible with screening of the lower levels and other blocks by existing buildings. The level of visual change would be only slight from this medium-range view, due to the separation distance and screening.
<b>8</b>	Clonliffe Road – 450m southwest	There would be no visibility of the subject development from this viewpoint due to the intervening roadside boundary wall, the difference in ground levels and the intervening parkland trees. I consider the magnitude of visual change from this long-range view to be negligible in the context of the receiving urban environment.
<b>9</b>	Holy Cross College – 400m southwest	Visibility of the subject development would be substantially restricted by existing trees in this parkland setting with only partial glimpses of the proposed buildings. I consider the magnitude of visual change from this long-range view to be slight given the screening and separation distance.
<b>10</b>	Holy Cross College – 260m west	Upper-floor levels to blocks B and C would be visible projecting over the immediate skyline with some screening of the lower levels by existing structures and trees. In the context of the receiving urban environment, the level of visual change would be moderate from this medium-range view.
<b>11.</b>	Tolka Road – 150m south	Visibility of the subject development would be almost entirely restricted by existing housing along the street, as well as planting to the rear of the housing. I consider the magnitude of visual change from this medium-range view to be negligible given the screening and separation distance.
<b>12.</b>	Susanville Road – 350m southwest	Visibility of the subject development would be completely restricted by existing housing and changes in ground levels. I consider the magnitude of visual change from this

		long-range view to be negligible given the screening and separation distance.
13.	Grace Park Gardens – 320m north	Visibility of the subject development would be substantially restricted by existing trees along the street. I consider the magnitude of visual change from this long-range view to be slight given the screening and separation distance.
14.	Richmond Road – 190m southeast	Seven upper-floor levels to block C and a narrow section of the rear upper floors to block B would be visible, with the remainder of the development screened from view by block C and existing structures and buildings. The level of visual change would be moderate from this medium-range view.
15.	Distillery Road – 120m south	Block A and B upper-floor levels would be partially visible from this viewpoint with block B viewed alongside the Distillery Lofts complex, which would screen views of proposed block C. I consider the magnitude of visual change from this medium-range view to be moderate in the context of the receiving urban environment, including the Protected Structure.
16.	Distillery Road – 175m south	Block B upper-floor levels would all be visible from this viewpoint with the Distillery Lofts complex screening views of block C and only a side section of block A visible behind Clonliffe Square apartments. I consider the magnitude of visual change from this medium-range view to be moderate in the context of the receiving urban environment, including the Protected Structure.
17.	Deakin Court, Richmond Road – 60m northwest	Block A of the proposed development would be visible fronting onto the street from this location with the three top floor levels and the front shoulder element to block B visible, as well as a small side section to block C. I consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment.
18.	Richmond Road – 110m northwest	Block A of the proposed development would be visible fronting onto the street from this location with the four top floor levels to block B and a small section of the front



		shoulder element to block B and side section to block C also visible. I consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment.
19.	Waterfall Avenue – 65m north	Four top floors and a section of the shoulder element to block B, as well as five top floors to block C would be visible to the rear of existing buildings from this viewpoint. I consider the magnitude of visual change from this short-range view to be moderate in the context of the receiving urban environment.
20.	Grace Park Woods – 330m north	The upper-floor levels to proposed blocks B and C would be visible from this viewpoint with tree planting in a parkland setting and existing structures screening views of the lower elements to the development. I consider the magnitude of visual change from this long-range view to be slight in the context of the receiving urban environment.
21.	Distillery Road – 140m south	Block B upper-floor levels would all be visible from this viewpoint with the Distillery Lofts complex screening views of block C and only a rear upper-floor section of block A visible behind block B and Clonliffe Square apartments. I consider the magnitude of visual change from this medium-range view to be moderate in the context of the receiving urban environment, including the Protected Structure.

8.5.4. In the immediate area the development would be most visible from the approaches along Richmond Road, with only intermittent views of the higher building elements or partial views of the main building elements from local vantage points in the built-up streets outside the immediate area. The upper levels to the blocks would be visible from parts of the neighbouring parklands and institutional grounds. The development would be viewed as a substantial insertion in this urban setting and a substantive new feature where visible from neighbouring properties. The proposed development represents a substantial increase in height and scale when considering the prevailing low-rise buildings characteristic of the site and many of the adjoining or adjacent properties, although I also recognise that there are apartment buildings in

the immediate area of four-storeys and above, including a seven-storey block in the Distillery Lofts complex immediately to the south of the site.

- 8.5.5. Environmental conditions would have limited influence on the appearance of the development from the closest of the selected viewpoints, as there would be very limited tree planting screening the development. I am satisfied that the visual change would be largely imperceptible or negligible from many of the wider areas to the appeal site, but moderate visual impacts on the Richmond Road and Distillery Road approaches to the site and the frontage to the site would arise.
- 8.5.6. The impact on the outlook from neighbouring properties is considered separately in section 8.6 below. Where potentially discernible from long-range views, the proposed development would read as part of the wider urban landscape, with screening offered by existing buildings, boundaries, structures and trees largely restricting the visual impact of the development from other areas beyond Richmond Road. I acknowledge that the scale and height of the main building elements of the development (blocks B and C) would be greater than that presently found in the immediate area, which has been subject of piecemeal regeneration in recent decades. I am satisfied that the proposed development would have some positive impacts on the appearance of the area immediate to the site by replacing buildings of limited quality with modern buildings of contemporary, well-articulated design and high-quality finishes.

#### Cultural Heritage

- 8.5.7. Policy BHA2 of the Development Plan requires the scale, mass, height, density, layout and materials of new development to be sensitive to the setting and character of neighbouring protected structures, while policy BHA9 aims to ensure developments contribute positively to the character and distinctiveness of all Dublin's conservation areas.
- 8.5.8. The existing buildings on site are not specifically identified as Protected Structures or features within the attendant grounds of Protected Structures, and the development would not involve works to Protected Structures. The Architectural Heritage Protection Guidelines for Planning Authorities require development proposals to take account of the impact on new developments on Protected Structures, even where these are located outside of the development site. The first-party appellant's

Architectural and Urban Design Statement and Architectural Heritage Impact Assessment, provide information, including maps, acknowledging the historical context of the site and the evolution of the urban morphology of the area. The first-party appellant asserts that the proposed development would have no appreciable impact on the character or setting of all neighbouring protected structures, as well as the adjoining conservation area, which does not have the same status as an Architectural Conservation Area. The portion of the conservation area adjoining the site is considered an anomaly by the first-party appellant, as it appears to relate to an area associated with historical weirs that have not been in place for several decades now. The redevelopment of the site would have positive visual impacts for the setting of the conservation area by replacing buildings of limited quality adjacent to the conservation area with contemporary buildings that would be respectful to the setting.

- 8.5.9. With the exception of the Protected Structures in the Distillery Lofts complex, the separation distances between the proposed buildings as well as the infrastructure and its associated activity along Richmond Road, where applicable, would ensure that the character and setting of these structures would be conserved.
- 8.5.10. The Planning Authority assert that the materials proposed in the development would not distract from the appearance of the Protected Structures in the Distillery Lofts complex, however, they consider the amendments to blocks B and C to be necessary to ensure that these buildings would not be overscale when viewed alongside the Protected Structures, although this matter is not specifically highlighted in the Planning Authority's reason for attaching a condition to reduce the scale of the proposed buildings. Blocks B and C would be most visible from the south alongside the Protected Structures in Distillery Lofts, which I note to feature various additional structures, including penthouse level. The first-party appellant has addressed the potential visual impact of the development on the setting of the protected structures in Distillery Lofts with particular attention paid with respect to the materials and the positioning of fenestration for block B to differentiate it from the Protected Structure fronting the development when viewed from the south off Distillery Road. I am satisfied that sufficient care has been undertaken as part of the design of the development to avoid any significant impacts on the setting or character of the neighbouring Protected Structures, with the separation distances between the

proposed blocks and existing Protected Structures, as well as differences in materials aiding in differentiating the structures and ensuring that the Protected Structures remain the dominant structures when viewed from the south.

- 8.5.11. I am satisfied that the proposed development would not negatively impact on the character of the area, the character or the setting of the Protected Structures neighbouring the site and would not contravene policies BHA2 and BHA9 of the Development Plan, which seek to preserve the built heritage of the city, including the special interest of Protected Structures and conservation areas.

Amendments – Condition no.4

- 8.5.12. In objecting to condition no.4 attached to the decision of the Planning Authority providing for reductions in the scale and height of the proposed building, the first-party appellant asserts that the amendments would not improve the visual amenity of the streetscape, nor would they further protect the residential amenities of the area. I have not identified any substantive concerns with regards to the visual impact of the proposed building, however, for comprehensiveness the following section considers the appropriateness of the condition appealed by the first party. I consider the impact of the development on the residential amenities of neighbouring properties in the proceeding section of my report.
- 8.5.13. The first-party appellant asserts that the photomontages and aerial views illustrating the proposed development should not form a substantive basis to justify the reductions in building heights requested in the Planning Authority decision. In this regard, I note that the Planning Authority's initial reason for requiring a reduction in the height and scale of the development arose from their concerns with respect to the proposed development density. The third-party appellants referred to the need for photomontages or CGIs of the proposed development from nos.161 to 167 Richmond Road fronting the development. In appealing the condition, the first-party appellant provided additional photomontages when viewed from the immediate frontage of the development subject of the amendments required in condition no.4, which they consider illustrate the difficulties associated with the amendments, as regards the architectural form, human scale and legibility of the resultant elements of the buildings visible from Richmond Road. The first-party appellant suggests that the original proposed development had provided for greater variety and interest in

the massing and built form for the scheme and the amendments would alter the intended architectural expression and intent of the building blocks and present a visually more awkward looking building with reduced definition in material palettes. The first-party also refers to various existing situations in Dublin where buildings of substantively taller heights can be found relative to the prevailing historical lower building heights.

8.5.14. Condition 4(a) requires the omission of two floors to block B providing for an eight-storey building, while condition 4(b) requires the omission of two floors to block C to form a seven-storey building and the provision of a five-storey shoulder element fronting onto Richmond Road in a similar manner to block B. My assessment above in relation to visual impacts and building heights does not suggest that reduced building heights would be necessary in the interests of the visual amenities of the area and the streetscape, as was set out in the Planning Authority's reason for attaching condition 4. The distinctive defined modulation in block C building elements, the slenderness of this block and its positioning onto a streetscape substantively separated from the day-centre building directly opposite would not necessitate continuing the proposed five-storey setback front shoulder element to block B. The streetscape is already characterised by an array of building heights and juxtapositions, and the proposals presented with the application provide a response reflective of this context. With the benefit of the additional photomontage images presented in the first-party appeal submission, which I am satisfied provide a reasonably accurate portrayal of the requested amendments to the proposals, I am satisfied that these amendments would undermine the form, modulation and visual interest of the development, including the manner in which it addresses and relates to the street. For the above reasons I am satisfied that conditions 4(a) and (b) would not be necessary to attach in the interests of the visual amenities of the area and the appearance of the streetscape.

8.5.15. The amendments suggested under conditions 4(c), (d) and (e) respectively addressing the floor area for specific apartments in amended block C, the provision of communal and private space at fifth-floor roof level to amended block C and the continuation of a window pattern to the setback northern elevation of amended block C, would be consequential to the attachment of conditions 4(a) and (b). Accordingly, as I am satisfied that conditions 4(a) and (b) would not be necessary to attach, as a

matter of course conditions 4(c), (d) and (e) would also not be necessary to attach. For comprehensiveness, should the Board consider otherwise and attach conditions 4(a) and (b), in terms of ensuring an orderly development and in the interest of the visual amenity of the area, in turn it would be necessary for the consequential conditions 4(c), (d) and (e) or similar to be attached. Further conclusions with respect to the necessity for the amendments in this condition are undertaken in section 8.6 with respect to residential amenities.

### Telecommunications

- 8.5.16. The first-party appellant submitted a Telecommunications Impact Assessment clarifying the rationale for providing telecommunications equipment as part of the development. This report referred to the existing telecommunications equipment in the immediate area, including a freestanding 20m-high monopole mast on the adjoining proposed strategic housing development site, as well as a lattice mast opposite the site on the roof of no.161 Richmond Road. According to the first party, the mast on their landholding does not have planning permission, as the previous temporary permission lapsed in June 2021 (DCC ref. 2213/16). I note that an application for retention permission (DCC ref. 3882/22) for this monopole mast was lodged with the Planning Authority, however, following extensions of the statutory period for a determination, no decision appears to have been made.
- 8.5.17. The first-party appellant's aforementioned report assessed the wireless telecommunication channels and networks, as well as the radio-frequency links and microwave-transmission links that may be affected by the height and scale of the proposed development. The investigations of the first party found that the proposed building heights would impact on three radio-frequency links and one microwave-transmission link. To address the impact on the microwave link the first-party appellant proposed installing three support poles with six attached dishes to the lift-overrun to proposed block B. A further nine support poles are proposed on three of the corners to block B at roof level and these would accommodate 18 antennas screened by nine shrouds. This equipment is only considered to be necessary should the development proceed in advance of development on the adjoining site subject of a strategic housing development (under ABP ref. 312352-21).

- 8.5.18. The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, which are referenced in section 15.18.5 of the Development Plan, state that the location of telecommunications equipment will be substantially influenced by radio-engineering factors. Based on the findings of the first-party appellant’s telecommunication consultant, including the cell arrangement, the scale and height of the proposed development and the proximity of the closest existing telecommunications infrastructure to the proposed development, there appears to be a need to relocate the equipment in this area. The aforementioned Guidelines and the Development Plan refer to the rooftops to taller buildings in urban areas as being possible locations for telecommunications equipment with particular attention required with respect to the visual impact of such proposals.
- 8.5.19. Drawings and photomontages submitted with the application illustrate the positioning of the telecommunications equipment at roof level to proposed block B. While asserting that the proposed telecommunication equipment should preferably be located on the adjoining proposed buildings set back further from Richmond Road (ABP ref. 312352-21), the Planning Authority concluded that the equipment would be acceptable, subject to further details by way of compliance conditions, including the requirement for any shroud material to be of the highest quality. Condition 17 of the Planning Authority decision sought to clarify the manner in which telecommunication equipment could be provided as part of the subject proposals and condition 18 outlined specific requirements for the positioning and mounting of the telecommunications equipment. Conditions 17 and 18 of the Planning Authority were in respect of the attachment of telecommunication equipment to an amended block B featuring eight storeys only.
- 8.5.20. The three support poles with six attached dishes to the lift-overrun would not be visible from the public realm and, therefore, would have negligible visual impact. In my opinion the siting of the proposed antennas would be in the most visibly-exposed locations of the development on three corners projecting above roof level to the tallest of the blocks. The first-party appellant states that in order to adequately screen the infrastructure, the support poles used for the antennae will be installed within radio-friendly glass-reinforced plastic shrouds. While I accept that there would likely be a demand for the equipment by virtue of the proposed development and that the tallest element of the building would provide the most ideal location for the

antenna equipment, the first-party appellant has not stated if the siting of the equipment raised over the corners of the proposed building has been influenced by the need to provide an adequate exclusion zone or to comply with the public exposure guidelines of the International Commission on Non-Ionizing Radiation Protection. In my opinion there would be scope for better disguising and/or siting of the antenna and associated equipment than what has been proposed in the application. For example, there may be scope to use the lift overrun, centralise or set in the equipment in order for it only to be visible from long-range views and not from short or medium-range views where the equipment would be most visible, and where I consider it to have an obtrusive appearance projecting over the roof parapet to proposed block B. Accordingly, in the interests of the visual amenities, and to ensure that the proposals comply with the relevant planning provisions, the nine support poles on three of the rooftop corners to block B, accommodating 18 antennas screened by nine shrouds, should be omitted from the proposed development in the event of a grant of planning permission.

### Conclusions

- 8.5.21. The removal of existing buildings and boundary walls, alongside the introduction of a contemporary mixed-use development would enhance the appearance of the area. While being taller than other buildings in the immediate vicinity, the proposed blocks would be well articulated through definition by massing and materials and would not appear as excessively monolithic forms within the urban landscape or negatively impact on the setting or character of neighbouring Protected Structures.
- 8.5.22. Accordingly, with the attachment of conditions, including those relating to the finalisation of materials and omission of antenna equipment, I am satisfied that the proposed development would not result in a negative impact on the visual amenity or architectural quality of the area, including the conservation area adjoining the site and neighbouring Protected Structures. The proposed development can be absorbed at a local level and in my opinion the visual change arising from the proposed development would have positive implications for the appearance of the area.



## 8.6. Impacts on Neighbouring Amenities

- 8.6.1. The third-party appellants assert that the proposals would have negative long-term impacts on the amenities of neighbouring residents, as a result of loss of light, views and privacy, overlooking and increased disturbance. The Planning Authority did not identify any particular concerns with respect to the impacts of proposed blocks A and C on neighbouring amenities, however, they concluded that with the two-storey reduction in height of the main portion to proposed block B, the impact of this block on adjacent residences would be reasonable and appropriate for the area. The first-party appellant considers the height, massing and built form of the development to have been carefully considered with respect to the site context, including existing and proposed residences and the amendments required by the Planning Authority would not result in a marked improvement in the amenities of neighbouring residential properties.

### Context

- 8.6.2. The nearest existing residential properties comprise the apartment buildings within Distillery Lofts to the south, the three-storey apartment building fronting Hogan View complex on Richmond Road to the northeast, the two to three-storey terraced houses along Richmond Road to the north and a pair of semi-detached four-storey residences adjoining the site to the northwest with an address at no.146 / 148a Richmond Road. There are also apartment blocks within the immediate area, including Richmond Hall and Deakin Court to the east and west respectively.
- 8.6.3. The application drawings include various distance dimensions and elevational contexts identifying the potential relationship of the proposed buildings with existing buildings. Proposed four-storey block A would be 23m to 26m from the two to three-storey terraced houses along nos.149 to 155 Richmond Road with a proposed building height of approximately 6m higher than the roof parapet to existing houses. Proposed block A would be over 40m from the Deakin Court apartments and 12m from the semi-detached residences at nos.146 / 148a Richmond Road, with the proposed building approximately 6m higher than the roof ridge to nos.146 / 148a. The setback five-storey element to proposed block B would be approximately 15m to 20m from the two-storey houses at nos.161 to 167a Richmond Road with a proposed building height difference of approximately 10m higher than the roof ridge

to nos.161 to 167a. The ten-storey element to block B would be a further 7.4m from nos.161 to 167a with a building height difference of approximately 26m for proposed block C when compared with the roof ridge height to nos.161 to 167a. The rear five-storey element to block C would be approximately 9m from the closest building known as the Grain Store in the Distillery Lofts apartment complex, with an additional 15m separation distance to the nine-storey element in proposed block C. The nine-storey element to proposed block C would be approximately 12m taller than the neighbouring five-storey block in the Distillery Lofts apartments. The nine-storey element to block C would be approximately 20m to the west of the three-storey front block to Hogan View apartments with a proposed building height approximately 22m higher than the roof parapet of the front Hogan View block. The distance and relationship of the proposed buildings relative to the buildings proposed in the adjoining strategic housing development application (ABP ref. 312352-21) are also detailed in the application drawings.

#### Overlooking and Loss of Privacy

- 8.6.4. The third-party appellants assert that the proposed development would result in a loss of privacy for neighbouring residents in the Distillery Lofts complex and along nos.161 to 167a Richmond Road. In discussing standards for apartments, the Development Plan refers to the traditional standard separation distance requiring 22m between opposing first-floor windows and provision for greater separation distances in taller blocks and reduced separation distances in certain situations, dependent on orientation and location. This standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive direct overlooking between the upper levels to the proposed apartments and existing housing.
- 8.6.5. Apartments in blocks A, B and C of the proposed development would face onto housing along the opposite side of Richmond Road. These blocks would also feature private balconies and roof terraces with views north onto Richmond Road. I note that each of these residences along Richmond Road are set back from the back edge of the footpath and feature hard surfaced areas to the front, the vast majority of which are used for parking of vehicles and informal bin storage. I accept that there would be some views less than 22m from the windows, balconies and roof terraces on the northern elevations of the proposed blocks, however, these views would be

across the intervening public street and the associated activity along this street and this situation would be typical for finely-developed urban grain, such as is presently the situation between Richmond Hall and Richmond Road properties. Consequently, I am satisfied that excessive direct overlooking for a context such as this would not arise between the proposed development and existing properties to the north.

- 8.6.6. There would be a first-floor roof terrace and balconies and windows to the first and second-floor apartments in block A within 22m of a semi-detached residence at no.148a Richmond Road. This house is proposed to be demolished as part of the access and open space provision for the adjoining strategic housing development (ABP ref.312352-21). Notwithstanding this, I am satisfied that given the absence of upper-floor side elevation windows to no.148a, provision for semi-mature boundary planting and the 12m building separation distance would be sufficient to ensure that excessive direct overlooking and loss of privacy would not arise.
- 8.6.7. To address the potential for direct overlooking to the rear towards apartments in the Distillery Lofts complex, proposed blocks B and C would be positioned to the sides of the directly-facing building elevations within the existing apartment complex. Overlooking would not arise at ground level, as the proposed development would feature surface-level car parking along the rear side of the proposed building and possibly a 2.3m-high flood wall structure or a boundary wall with flat-steel fencing to a height of 3.2m along the intervening boundary. The rear southwest-facing elevation to the five-storey element in proposed block C would be 21.5m from the nearest directly-facing elevation on the Granary Building in the Distillery Lofts complex. This rear elevation to proposed block C would not feature balconies but would feature windows serving living areas and circulation corridors. The living areas serving apartments to the rear of proposed block C would feature expansive glazing and access to balconies on the northwest and southeast sides of the block. Consequently, the first to fourth-floor block C windows facing southwest into the Distillery Lofts would be secondary windows to living areas. Notwithstanding this, given their position marginally within the 22m guide separation distance and their upper-level location, I am satisfied that some element of screening, possibly incorporating opaque glazing to the lower sides of the southwest-facing windows would be necessary to avoid excessive direct overlooking between the first to fourth-floor apartments to block C and the Distillery Lofts complex. The balconies on the

side elevation of proposed block C that would be positioned marginally within 22m of the north-facing Distillery Lofts building should be amended to feature vertical-privacy screens on the southwest sides closest to the rear boundary of the site. Screening or some form of landscaping measure would be necessary along the southwest side of the fifth-floor communal roof terrace space to proposed block C to address the potential for use of this space to undermine the privacy of residences in the Grain Store building. These additional elements to mitigate the potential for overlooking can be requested as a condition should planning permission be granted for the proposed development.

- 8.6.8. The windows and balconies at fifth-floor level and above serving apartments in proposed block C would be set back from the rear boundary by between 14m to 25m and between 29m to 31m from the nearest directly-facing building elevations in the Distillery Lofts complex. Consequently, these separation distances would be sufficient to ensure excessive direct overlooking would not arise at these upper levels.
- 8.6.9. There would be a podium-level, communal open space situated between proposed blocks B and C and approximately 9m from the Grain Store apartment block in the Distillery Lofts complex with northeast-facing windows overlooking this proposed space. The proposed development would feature a railing along the parapet wall situated on the southwest boundary with the Distillery Lofts complex. This railing would not serve to fully address the potential for direct overlooking of the closest apartments in the Distillery Lofts complex and given the limited separation distance this could reasonably result in a loss of privacy for several residents of the Grain Store block in the Distillery Lofts complex, particularly the apartments on a similar level to the proposed communal space. Consequently, I am satisfied that some form of additional measures would be necessary to restrict overlooking from the communal open space situated between proposed blocks B and C, to address the potential loss of privacy for adjacent residents in the Distillery Lofts complex. Should planning permission be granted for the proposed development this matter could be resolved through landscaping measures, such as planting or screening along the southwest boundary of the communal space, as part of a compliance condition.
- 8.6.10. The landscaping serving the communal open space at podium level on the southeast side of proposed block C would feature landscaping measures curtailing residents

from using the space closest to the Distillery Lofts complex, thereby serving to address the potential for excessive overlooking from this space to the existing apartments to the southwest. Furthermore, while proposed block B would be 12m from the Grain Store building in the Distillery Lofts complex, the orientation and positioning of the proposed block to the side of the Grain Store block would not reasonably provide for a situation that could lead to excessive direct overlooking of the apartments in the Distillery Lofts complex, including from the proposed balconies.

- 8.6.11. The separation distances from the upper levels of the proposed blocks to the eastern boundary and the landscaping measures along the podium level to the southeast side of proposed block C, would be sufficient to ensure that the proposed development would not substantially restrict the development potential of the adjoining property to the southeast. Sufficient separation distances from the proposed buildings and the boundaries with the adjoining lands to the northwest are set out in order not to undermine the development potential of these lands, which accommodate the stated phase 1 proposals subject of a strategic housing development application (ABP ref. 312352-21).

#### Outlook and Overbearing Impacts

- 8.6.12. The proposed development would be visible from residences and commercial premises, including associated amenity areas serving neighbouring residences. Consequently, it would change the outlook from these neighbouring properties. The third-party appellants assert that the proposed development would restrict views from neighbouring properties, including the Distillery Lofts complex. The third-party appellant's provided some visuals that they consider to illustrate the extent to which they consider the proposed development would restrict views from a neighbouring penthouse-level apartment. In response to this, the first-party appellant also provided visuals of how they consider the proposed development would be viewed from the internal areas of the subject penthouse-level apartment. The first-party appellant asserts that the neighbouring residents do not have an entitlement to a view and that the development would result in improvements to the appearance of the area, including views from neighbouring residences by virtue of the removal of the existing building and its replacement with the proposed development.

- 8.6.13. While I accept that the buildings would be taller than those presently on site and in the immediate area, a review of the information available from parties to the appeal and the application drawings, would suggest that the proposed development would not entirely restrict outlook from the adjacent apartments. Due to the arrangement and positioning of the proposed blocks with a substantive separation distance of 20m to 30m to be provided between proposed blocks B and C and setback elements to these blocks, the proposed development would not excessively restrict outlook from residences along the northside of Richmond Road and in the Distillery Lofts complex facing the site. Having visited the area and reviewed the application and appeal documentation, including the photomontages and CGIs, I consider that the extent of visual change that would arise from those areas with views of the development, would not be significant having regard to the design, layout and arrangement of the blocks, the separation distances from proposed buildings to existing buildings and the need to develop inner-suburban / inner-city sites with reasonable access to services and public transport at sustainable densities.
- 8.6.14. Another key consideration is whether the height, scale and mass of the proposed development and its proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. The most sensitive neighbouring properties, including the potential building height differences and the minimum separation distances between existing and proposed buildings, are detailed above.
- 8.6.15. The subject application included contextual elevation drawings (nos.22001-RKD-ZZ-ZZ-DR-A-1304, 1304A, 1035A and 1035B) and the first-party appellant's photomontages and CGIs provide an indication of the visual impact of the proposed development from short-range views in the immediate area, including along Richmond Road. Views of the development would generally reduce with distance from the site, particularly where screened from ground levels by existing buildings. Notwithstanding my acknowledgement that the proposed buildings heights would be taller than those presently on site and in the immediate area, I am satisfied that the intervening space between the existing residences and the proposed apartment blocks and the stepped and modulated design of the proposed apartment blocks, as well as their positioning, would ensure that where visible from neighbouring properties the proposed development would not be excessively overbearing.

### Impacts on Lighting - Sky and Sunlight

- 8.6.16. The third-party appellants assert that it is difficult to appreciate how negligible impacts on lighting to existing homes can be dismissed and they refer to various asserted shortcomings with respect to the assessment of the impacts of the proposed development on sunlight and daylight to neighbouring properties, including those located along and off Richmond Road, and in the Distillery Lofts complex. The Planning Authority noted the results of sunlight and daylight assessment for the subject development, including the potential cumulative impacts alongside the adjoining strategic housing proposals (ABP ref. 312352-21).
- 8.6.17. In assessing the impact of the development on light access to neighbouring properties where the occupants would have a reasonable expectation of daylight, two primary considerations apply, including the potential for excessive loss of daylight and light from the sky into existing buildings through the main windows to living rooms, kitchens and bedrooms, and the potential for excessive overshadowing of existing external amenity spaces, including parks and gardens.
- 8.6.18. As required in the Development Plan, the application included a Daylight and Sunlight Assessment report, which assesses the effect of the proposed development on the vertical sky component (VSC), the annual probable sunlight hours (APSH) and the winter probable sunlight hours (WPSH) to neighbouring residences, relying on the standards of the BRE 209 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'. This guide is referred to in the Development Plan and various Government guidelines for the assessment of development on lighting. In response to matters raised at pre-application stage and in third-party appeals, the first-party appellant provided additional details to address the potential impacts on neighbouring residences. The first-party appellant asserts that impacts on the area are considered to be acceptable based on the urban / inner suburban site context, as complete adherence to all development standards would not be feasible and as a consequence some degree of flexibility should be applied when assessing the proposals.
- 8.6.19. The BRE 209 guidance on daylight is intended to be used in assessing daylighting to rooms in neighbouring houses, including living rooms, kitchens and bedrooms.

When considering the impact on existing buildings, criteria is set out in figure 20 of the guidance, and this can be summarised as follows:

- if the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light would be minimal. Should a lesser separation distance be proposed, further assessment would be required;
- if the proposed development subtends an angle greater than 25° to the horizontal when measured from the centre line of the lowest window to a main living room, then further assessment would be required;
- if the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum;
- if the VSC with the development in place is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight;
- in the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

8.6.20. The tests outlined above are a general guide only and the BRE 209 guidance states that the criteria needs to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites, and the need to address impacts on existing residents, as much as is reasonable and practical.



- 8.6.21. The existing baseline VSC for 200 windows on neighbouring properties, including those located along Richmond Road, and within the Distillery Lofts and Clonliffe Square apartment complexes, was calculated by the first-party appellant, and the results were presented and compared with the proposed development in place. The third-party appellants refer to a lack of lighting impact consideration for Hogan View apartments, Richmond Hall, no.231 Richmond Road, Convent Avenue and Richmond Lodge. Based on the steps for testing outlined in the BRE 209 Guide, I am satisfied that the first-party appellant has tested all relevant windows serving the neighbouring residences to enable a precise assessment of the impacts on lighting.
- 8.6.22. Baseline values for a large number of the tested windows along Richmond Road and the Distillery Lofts complex are estimated to be below the recommended target 27% VSC. The results presented indicate that 70% of the tested windows would be within the BRE 209 recommended VSC target standards, and that 22% of the tested windows would experience a 'minor adverse' level of effect, which is stated to be an effect that is marginally outside of the criteria stated in the BRE 209 Guidelines, where the level of daylight or sunlight is reduced to between 80-99% of the applied target value. The greatest level of effects of the development on VSC levels would be moderate, which would arise for six houses along the northside of Richmond Road (nos.149, 151, 161, 163, 165 and 167) opposite the application site and two apartment windows serving the Grain Store block in the Distillery Lofts complex. The first-party appellant asserts that a moderate effect occurs if the level of daylight or sunlight is reduced to between 50-80% of the applied VSC target value and that such effects would be quite typical in instances where a proposed development is planned on an under-developed plot of land. The extent of reduced lighting relative to the VSC target for those windows expected to experience a moderate effect would vary from 68% to 78% in general, with the exception of a reduction to 59% for a window serving a first-floor apartment in the Hogan View block fronting Richmond Road.
- 8.6.23. The first-party appellant has also calculated the potential impact of the proposed development on VSC levels for the same neighbouring windows, alongside the development that is proposed on the adjoining site (ABP ref. 312352-21). This indicated that the cumulative impacts of the developments would result in negligible effects based on the BRE 209 recommended standards for a total of 56% of the

tested windows, minor adverse effects for 28% of the tested windows and moderate adverse effects for 16% of the tested windows. Further consideration was undertaken with respect to the impact of the proposed development on the adjoining proposed strategic housing development (ABP ref. 312352-21) and the first-party appellant asserts that this revealed that there would be minor adverse effects for 35 of the 210 tested windows in the adjoining proposals and moderate adverse effects for 17 of the tested windows.

- 8.6.24. The results of testing clearly indicate that there would be some minor to moderate effects for several existing residences closest to the development along Richmond Road and in the Distillery Lofts complex, as well as the potential for proposed apartments in the adjoining site to be affected. The overall extent of compliance with the BRE 209 guide when considering the proposed development in isolation of the adjoining strategic housing development would be reasonably high for an inner-urban / inner-city context. Where minor lighting effects would arise directly as a result of the proposed development for 43 windows and moderate effects would arise for 17 windows, I accept that there would be a noticeable impact on lighting to the associated residences. The majority of these residences effected to a minor or moderate extent comprise houses that are quite deep and feature alternative aspect, as well as windows where negligible effects would arise. The first-party appellant refers to the proposed development as improving amenities in the area by redeveloping the site and providing a range of new uses, as well as public spaces and infrastructures. Based on the provisions of the New Apartment Guidelines providing for discretion where the full provisions of the requirements of the daylight provisions cannot be made and the need to balance this assessment against the desirability to achieve wider planning objectives, I am satisfied that the minor to moderate shortfalls calculated for VSC values to neighbouring windows would be acceptable having regard to the proposed development securing of comprehensive urban regeneration of the subject site, as well as the need to provide an adequate level of residential density and efficient use of these 'inner suburban / inner city' zoned lands. As noted below, the apartment in Hogan View complex that is worst impacted by the proposals in terms of daylight reduction, already features limited daylight access with the positioning of the associated windows recessed into the neighbouring building having a major impact on same. Accordingly, a refusal of

permission or modifications to the proposed development for reasons relating to daylighting to neighbouring properties would not be warranted.

#### Sunlight Provision

- 8.6.25. BS 8206-2: 2008 – ‘Lighting for Buildings – Part 2: Code of Practice for Daylighting recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of APSH, including at least 5% WPSH. Only the windows that face within 90° of due south require testing based on the standards. I acknowledge that an updated BS EN 17037:2018 ‘Daylight in Buildings’ guide replaced the BS 8206-2: 2008 in May 2019 (in the UK) and an Irish Standard (IS) EN 17037:2018 has also been published, however, I am satisfied that these guidance documents do not have a material bearing on the outcome of my assessment and that the most relevant guidance documents remain those referenced in the Building Heights Guidelines.
- 8.6.26. As part of their Daylight and Sunlight Assessment report the first-party appellant has calculated the expected levels of APSH and WPSH for 81 windows in residences adjacent to or adjoining the appeal site. With the exception of one window point, the remainder of the window points tested would either meet the target recommended APSH values over the annual period and during the winter period when sunlight is most valuable, or the difference between the probable sunlight hours, as existing and with the proposed development in place, would be within the 0.8 ratio of change allowed for in the standards. The window point that would fail to achieve the target APSH value serves an apartment in the Hogan View complex, with a moderate adverse effect anticipated to arise owing to a shortfall of 22% when compared with the target APSH value (25%). The WPSH for this window would comply with the target value (5%). In relation to the failure to meet the minimum target APSH value for this window, it is apparent that this window already does not meet the minimum target APSH value, therefore, there is a substantive existing effect on sunlight to this window, which is likely to be due to the fact that this window is recessed within the stepped front elevation of the block.
- 8.6.27. I recognise that the testing indicates a shortfall in APSH for one window point, however, the vast majority of window points tested would be well within the recommended standards and the shortfall identified would be very limited and not

significant given the existing lighting situation for the effected window. I am satisfied that the levels of sunlight to the neighbouring properties following completion of the proposed development would allow for the recommended targets to be met for the vast majority of residences in the area, including those referenced in the third-party appeals. The minor shortfall calculated for APSH to one neighbouring window would be acceptable having regard to the established pattern of development in the area and the intention to secure comprehensive regeneration of this urban site, as per the stated provisions of the New Apartment Guidelines.

### Overshadowing

- 8.6.28. The BRE 209 Guide requires greater than half of neighbouring gardens to receive at least two hours of sunlight on the Spring equinox, or a change in circumstances that would be no less than a ratio of 0.8. The first-party appellant's lighting report assesses the extent of overshadowing that would arise following completion of the proposed development to 12 front gardens along Richmond Road opposite the development to the north, as well as the communal space to Deakin Court. The first-party appellant also calculated the extent of overshadowing that would arise from the subject proposals for the adjoining proposed strategic housing development (ABP ref. 312352-21) and the cumulative overshadowing impacts of the proposed development alongside this adjoining proposed development.
- 8.6.29. The results of testing are presented in graphical and table format by the first party, highlighting that with the exception of a front garden serving no.163 Richmond Road, the remainder of the tested private amenity spaces would come within the aforementioned BRE minimum parameters with the proposed development completed. The cumulative impacts of the development alongside the adjoining development indicates that the front gardens to nos.151a and 161 Richmond Road would also fail to achieve the minimum sunlight to ground parameters. Light to the front of nos.161 and 163 is already substantially impeded by the restricted area to these spaces, and the subject development would reduce this further below the recommended standards. These spaces have limited function as amenity spaces, with the front space to no.151a primarily hardsurfaced and partially used for domestic bin storage and car parking. Furthermore, the BRE 209 Guide refers to the need to usually only test the main back garden of a house and I do not consider

unusual circumstances to arise, particularly as these houses also feature rear gardens / yards serving as their respective primary, private amenity spaces.

- 8.6.30. In conclusion, based on the information provided showing substantive compliance with the minimum requisite standards, I am satisfied that undue overshadowing of neighbouring amenity spaces would not arise as a result of the proposed development. Where the identified minor shortfalls relative to the stated standards are calculated to arise, I am satisfied that this would be acceptable having regard to the provision of a rear garden / yard spaces to the subject properties and the need to provide an adequate level of residential density and efficient use of these 'inner suburban / inner city' zoned lands.
- 8.6.31. Third-party appellant refers to the potential for heating and solar gains for houses along Richmond Road and apartments in the Distillery Lofts complex to be impacted by the proposed buildings. I note the existing photovoltaic panels mounted on the flat roofs to nos.149 to 149c Richmond Road. As mentioned throughout this assessment, reasonable separation distances are proposed to be maintained between existing and proposed buildings. The proposed development would be to the northside of the Distillery Lofts complex and as such would be unlikely to substantively limit lighting or associated solar gains to this complex. The four-storey block A would be the closest block in the proposed development to the three-storey houses at nos.149 to 149c. With a separation distance of 27m from block A to the subject solar panels and the proposed block A building height approximately 6m higher than nos.149 to 149c, the proposed development would be unlikely to substantively limit lighting onto the neighbouring mounted photovoltaic panels. The series of shadow analysis drawings provided as part of the first-party appellant's Daylight and Sunlight Assessment Report appear to demonstrate that this would be the case also with the proposed development in place, including the ten-storey element to block B that would be over 60m from nos.49 to 49c.

#### Construction Impacts

- 8.6.32. Third-party appellants assert that the proposed development would result in nuisance for neighbouring residents as a result of disruption during the construction phase, and as a result the construction hours should be limited and a construction traffic management plan would be necessary. The Preliminary CEMP submitted with

the application sets out intended measures to address traffic during the construction phase, as well as control measures for noise, dust and vibration emissions. This Preliminary CEMP also includes a construction traffic management plan and sets out that the construction working hours would be 08:00 hours to 19:00 hours Monday to Friday and 08:00 hours to 14:00 hours on Saturdays. During the construction phase the Planning Authority accept that noise can be controlled by noise shielding equipment. A Noise Assessment report was submitted with the application and this outlines a suite of measures to address noise at the construction stage of the project. A Resource and Waste Management Plan has also been submitted to address the initial stage of construction works comprising the demolition and removal of existing structures on site.

- 8.6.33. I am satisfied that the scale and nature of the project is such that it would not present substantially difficult construction methods for a developer that would be uncommon for a development in an urban context. A standard condition can be attached to restrict the construction hours and I am satisfied that construction phase impacts would only be of a temporary nature, would not have undue or significant impacts for neighbouring residents and would also be subject of a final project CEMP with a traffic management plan that can be agreed with the Planning Authority in the event of a grant of planning permission.

#### Conclusions

- 8.6.34. Sufficient information has been provided with the application and appeal to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring residential amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring properties, as well as the public realm. While some minor to moderate impacts to lighting would arise for a proportion of neighbouring residential properties, including additional potential with the adjoining proposals, I am satisfied that the extent of affects would be typical for brownfield developments of this nature and in this inner-suburban / inner-city context, and such affects do not prejudice the granting of planning permission for the proposed development based on the terms of the New Apartment Guidelines, as the development would secure comprehensive regeneration of the site.

- 8.6.35. In conclusion, subject to conditions, the proposed development should not be refused permission for reasons relating to the likely resultant impacts on neighbouring amenities. The assessment above considered the development proposals de novo and, as such, did not identify that the amendments generally comprising reduced building heights required under condition 4 of the Planning Authority decision would be necessary in addressing the impacts on neighbouring amenities. Accordingly, and following on from the conclusions in section 8.5, I am satisfied that the subject condition 4 would not be necessary to attach, and should be omitted from the decision, should the Board decide to grant permission for the proposed development.
- 8.6.36. The third-party appellants assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Following on from the assessment above, including the suggested conditions, sufficient substantive and objective evidence has not been provided to support claims that the proposed development would be likely to result in a depreciation of property values in the vicinity.

## **8.7. Residential Amenities and Development Standards**

- 8.7.1. With the exception of the unit mix, apartment storage space and private amenity space serving the proposed apartments, the third-party appellants have not contested other specific standards of the proposed residential units. The third-party appellants' concerns with respect to the storage and private amenity space standards of the proposed apartments appears to be interlinked with the unit mix issue, as they consider the apartments to be of limited attraction for use by families. The first-party appellant asserts that the development would provide for quality residential accommodation compliant with the various planning provisions, including the Development Plan and the New Apartment Guidelines. I recognise that the Planning Authority has not found issue with the levels of privacy and standards for the proposed apartments, including the provision of natural lighting to the proposed apartments. In this regard I note that 94% of the 334 rooms tested by the first-party appellant, were calculated to feature average daylight factors compliant with the BRE 209 Guidance targets and that design measures relating to aspect, as well as private amenity space and apartment areas exceeding the minimum standards, would

compensate for situations where shortfalls would arise. The daylight for the apartments and the compensatory design measures would appear reasonable for an inner-suburban / inner-city context and given the comprehensive brownfield regeneration of the site. The Planning Authority also require a planning condition with respect to waste management services, which would be standard for a development of this scale and nature. As per the comments from the Planning Authority, there would not be any concerns with respect to dual aspect provision, stair and lift / core access, the proportion of universal design units and the extent of units exceeding the minimum apartment standards by greater than 10%.

#### Unit Mix

- 8.7.2. The third-party appellants assert that the proposed mix of apartments would be more likely to attract transient populations with no commitment to the area. The site is outside the north inner-city area that is subject of specific unit mix requirements set out in the Development Plan. Accordingly, the unit mix required in SPPR 1 of the New Apartment Guidelines would be applicable. Under SPPR 1 up to 50% one-bedroom or studio type units are allowed for in new developments and there shall be no minimum requirement for apartments with three or more bedrooms. In accordance with SPPR 1, the subject development includes 133 apartments comprising 65 one-bedroom apartments amounting to 49% of the overall apartment mix and 68 two-bedroom apartments amounting to 51% of the overall apartment mix. Nine of the two-bedroom apartments feature bedrooms that would accommodate three persons only according to the application details, representing 7% of the overall units proposed. The New Apartment Guidelines note that such units should not exceed 10% of units in a development. I am satisfied that the proposed development would provide a suitable mix and size of apartments, compliant with the relevant design standards provided for in the Development Plan and the New Apartment Guidelines.

#### Standards

- 8.7.3. Section 15.9.6 of the Development Plan addresses the requirement for internal storage space in apartment developments, referring to the minimum standards for same outlined in the New Apartment Guidelines. The New Apartment Guidelines require minimum internal storage space of 3sq.m for one-bedroom apartments and



6sq.m for four-person, two-bedroom apartments, while no individual internal storage space should exceed 3.5sq.m.

- 8.7.4. Section 15.9.7 of the Development Plan addresses the provision of private amenity space in new developments, referring to the New Apartment Guidelines for such standards. The New Apartment Guidelines require a minimum individual private open space provision of 5sq.m for one-bedroom apartments and 7sq.m for four-person, two-bedroom apartments, and all balconies should be at least 1.5m in depth.
- 8.7.5. The application Housing Quality Assessment, as well as the associated drawings, indicate that the above storage and amenity space provisions are achieved for each of the apartments. As per the conclusions of the Planning Authority I am satisfied that the private amenity space and internal storage space for each of the apartments, would meet or exceed the minimum requirements set out in the New Apartment Guidelines and the Development Plan.
- 8.7.6. The first-party appellant's Building Lifecycle Report indicates that ventilation, alongside the maintenance and management of other key building services, has been considered as part of the proposals, and as stated the proposals feature reasonable building separation distances, which should not inhibit natural ventilation of the residences. Further consideration of ventilation matters will be evaluated under a separate code, including Part L of the building regulations.
- 8.7.7. The application included a Noise Assessment report, which included various measures to address conflicts between the differing proposed uses within the development. The Planning Authority proposed a condition to address potential noise emanating from the gym facility that may impact on surrounding premises and residential amenities. The first-party appellant's proposals include a number of options to deal with the noise associated with this gym facility and I am satisfied that finalised details can be addressed as a condition similar to that required by the Planning Authority in the event of a permission being granted.

#### Childcare Provision

- 8.7.8. The third-party appellants refer to the exclusion of childcare facilities from the proposed development as not being conducive to creating sustainable neighbourhoods. Policy QHSN55 of the Development Plan looks to facilitate childcare facilities in certain settings and appendix 13 of the Development Plan

provides guidelines for childcare facilities, stating that for new residential development proposals, a benchmark of one childcare facility for every 75 units is recommended. Deviation from this standard is provided for subject to demographic and locational justifications. The New Apartment Guidelines allow for the 65 one-bedroom units proposed in the development to be omitted from the calculations.

- 8.7.9. The first-party appellant's Childcare Demand Assessment addresses the standards within the 'Childcare Facilities - Guidelines for Planning Authorities' (2001), including the requirement for a childcare facility with space for 20 children for every development comprising 75 dwellings. Based on a demographic profile of the area and the Quarterly National Household Statistics, the first-party appellant asserts that the development would generate a requirement for five to 11 childcare spaces. The first-party appellant's audit of childcare facilities within 1.2km of the application site, identified that there were five childcare spaces available in 2023. A childcare facility measuring 156sq.m in floor area to cater for 35 children is proposed at ground floor to block B as part of the development.
- 8.7.10. The Planning Authority recognise that the development would be of sufficient size to cater for the proposed development, as well as being capable of serving other developments proposed in the area. I am satisfied that based on the information presented and available, there would be sufficient childcare spaces provided as part of the development in compliance with policy QHSN55 of the Development Plan, as well as the provisions of the New Apartment Guidelines and the Childcare Facilities - Guidelines for Planning Authorities.

### Conclusion

- 8.7.11. In conclusion, subject to conditions, I am satisfied that the proposed development would provide a suitable mix and standard of apartments, meeting the relevant design standards and providing a suitable level of amenity for future residents.

## **8.8. Access, Parking and Traffic**

- 8.8.1. The Road Planning Division of the Planning Authority did not object to the proposed development, and while welcoming the road upgrade works fronting the site, which are not considered to preclude the overall Richmond Road enhancement works, they did raise several issues in relation to access and movement along Richmond Road

and separation distances for cycle parking racks. The neighbouring third-party appellants refer to concerns in relation to the potential for the development to result in increased traffic congestion, to pose a risk to road safety and to lead to overspill car parking in the immediate area.

### Access

- 8.8.2. As noted in section 8.3 above, based on the information available I am satisfied that the future occupants of the proposed development would be served by high-frequency and high-capacity public bus transport within easy to reasonable walking distance of the site.
- 8.8.3. The site is currently accessible by vehicles from Richmond Road. This road is identified as being subject of a six-year 'road, street and bridge scheme' objective in the Development Plan. It is well trafficked, as it provides a link between the transport arteries running through Fairview and Drumcondra. While the road does not feature cycle lanes, it does feature a footpath on the northern side opposite the subject site. Along the frontage to the subject site there are some alterations in road materials that informally indicate the divide between the carriageway and space for pedestrians, although much of this pedestrian space is taken up by informal vehicular parking. The road is not lined fronting the application site and there are no formal crossing points. Signposts indicate that on-street parking is restricted during the hours of 07:00 to 10:00 and 16:00 to 19:00, Mondays to Saturdays.
- 8.8.4. A potential pedestrian access would be provided from Richmond Road via the central pedestrian plaza open to the public to the adjoining proposed strategic housing development (ABP ref. 312352-21) with a gate installed on the southern boundary of the subject site. This element of the project could potentially facilitate access to the riverside pedestrian routes proposed as part of the adjoining strategic housing development.
- 8.8.5. The first-party appellant proposes the provision of a new vehicular access to the surface-level parking and service area under proposed block C. A Design Manual for Urban Roads and Streets (DMURS) compliance statement has been submitted with the application. Passage for pedestrians, cyclists and vehicles along Richmond Road would be improved by the provision of pedestrian paths ranging on average between 2.2m and 4m along the frontage to the subject site, as well as 1.5m-wide

cycle lanes on both sides of a 6m-wide carriageway fronting the site. Differing material finishes would be used to define the routes for each primary mode of transport.

- 8.8.6. Third-party appellants raise concerns with regards to what they consider to be substandard vehicular accesses. Visibility splays cognisant of landscaping proposals, including tree planting, at the access are stated to comply with the 45m-sightline visibility at a 2.4m setback required in the DMURS and the entrance gates have been setback into the site by 8m to 10m to reduce the necessity for waiting vehicles along the public carriageway. Notwithstanding this, to address the necessity for pedestrian priority at the vehicular entrance location, the Planning Authority require measures to be implemented, possibly comprising tactile paving. I am satisfied that such measures would be necessary based on the provisions of the DMURS and they would be reasonable to request in addressing pedestrian safety and priority of movement for pedestrians.
- 8.8.7. The proposed vehicular access to the appeal site would not conflict with the positioning of the new vehicular access proposed between the Hogan View apartments and 167a Richmond Road as part of the LRD on the St. Vincent's hospital site (ABP ref. 317438-23), and the positioning of the vehicular access off Richmond Road to a basement car park serving the adjoining proposed strategic housing development (ABP ref.312352-21).
- 8.8.8. The third-party appellants raise concerns regarding the turning areas and servicing arrangements for the proposed development. A loading bay is proposed along the frontage of the site between proposed blocks A and B fronting the central pedestrian plaza. The Planning Authority do not consider this loading bay to be necessary, particularly as it would be difficult to manage. I would concur with the omission of the loading bay as an alternative loading bay is proposed within the service area along the eastern side of the site and the omission of the loading bay would improve pedestrian and cyclist safety and passage along Richmond Road. Swept-path diagrams are included in the application to illustrate how various vehicles would access and egress the development, including emergency vehicles, standard cars and refuse and recycling vehicles. Vehicular access arrangements to the central plaza section for emergency vehicles, including sightlines, would not need to fully adhere to the standard vehicular access arrangements given the limited need for

such vehicles to exit and enter the site. Notwithstanding the omission of a loading bay fronting the development, the Planning Authority is satisfied with the servicing arrangements and I am also satisfied that this would be the case.

- 8.8.9. A signalised-pedestrian crossing is proposed to the western side of proposed block on the subject site. This would be a welcome additional element of the proposed development in supporting enhanced pedestrian-priority along Richmond Road. The Quality Audit submitted with the application highlights issues to be addressed in relation to street lighting, surface water drainage, pedestrian-priority measures close to the signal-controlled pedestrian crossing, as well as vehicular access issues onto the street along nos.49 to 51a Richmond Road and the Charthouse Business Centre access. These matters can be addressed as part of follow-up audits and the Planning Authority require an updated taking in charge drawing for the project, which I am satisfied would be standard requirements.
- 8.8.10. Parking spaces are not proposed along Richmond Road and the Outline Servicing and Operation Management Plan submitted with the application sets out that a development management company would be responsible for establishing and enforcing restrictions on the nature and scheduling of vehicular servicing operations within the site. In support of the provisions of the Development Plan, the proposals set out would improve and enhance the access arrangements, movement and safety along Richmond Road, and I am satisfied that a condition to address each of the matters raised above can be attached in the event of a grant of planning permission for the proposed development. This would also serve to address the informal parking referenced by observers to the appeals as being problematic along Richmond Road.

#### Parking

- 8.8.11. The third-party appellants raise concerns with respect to the limited quantum of car parking to serve the proposed development. The subject application proposes a total of 25 car parking spaces on site, which would be at surface level below block C and partially below the podium-level landscaped communal space. A total of 24 spaces are to be allocated for the residential uses, including two spaces that would feature access for persons with a disability and three car-share spaces. One car parking space would be allocated for the childcare facility. As mentioned above,

there would be a loading bay along the eastern side of the access road to the car parking and service area. The first-party appellant states that half of the car parking spaces would feature electric-vehicle charging points and the remainder would be fitted to facilitate future electric-charging points. Seven motorcycle parking spaces are also proposed in the southeast corner of the site.

- 8.8.12. The first-party appellant considers the provision of car parking to serve the development to be appropriate in promoting sustainable modes of transport, in limiting additional traffic volumes along Richmond Road, with reference to the maximum Development Plan standards, including policy SMT27 promoting a low quantum of parking in mixed-use developments, and with reference to the provisions of the New Apartment Guidelines seeking to minimise car parking provision in large-scale, high-density apartment developments that are in locations well served by public transport. The Planning Authority accept the approach and proposed quantum of car parking relative to Development Plan standards.
- 8.8.13. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in high-density residential developments with a net density of greater than 45 units per hectare. A Mobility Management Plan and car parking management details has provided with the application, including the various measures to influence use of more sustainable modes of transport and control car parking for residents only as part of the development. The proposed ratio of parking per apartment amounting to 0.18 spaces would be marginally below that of a neighbouring recently permitted apartment scheme on Esmond Avenue (ABP ref. 315584-23), while being greater than that of small-scale residential developments recently permitted along Richmond Avenue (DCC refs. 3295/21 and 3483/22), which would be absent of on-site parking.
- 8.8.14. I am satisfied that car parking standards below the maximum Development Plan standards for the proposed development would be reasonable, given its location relative to public transport services and to encourage use of sustainable transport modes. Based on the information submitted with the application, I am satisfied that with the implementation of the mobility management plan and a car parking management strategy as part of the development, sufficient car parking would be provided to serve the proposed development.

8.8.15. The third-party appellants assert that the proposed development would feature limited cycle parking spaces, including cargo-cycle parking spaces. A total of 424 cycle parking spaces are proposed, including 88 short-term visitor spaces. Ten electric-scooter spaces are also proposed. Based on the quantum of development, the Planning Authority accept that the proposed provision of cycle parking would amount to 128 spaces more than what would be required for the overall development under the Development Plan standards. This additional quantum of parking is welcomed by the Planning Authority, although some minor alterations would be required with respect to the detail of cycle parking facilities, including the spacing of the racking. To align with the provisions of objective SMTO12 of the Development Plan, publicly-accessible non-standard cycle spaces could be provided as part of the finalised cycle parking arrangements. I am satisfied that the revised cycle parking facilities can be addressed as a condition to a permission without materially impacting on the overall quantum of cycle parking relative to the scale of the development.

#### Traffic

8.8.16. The third-party appellants and observers to the appeal refer to concerns regarding the potential for the development, alongside other proposals in the immediate area, including the adjoining strategic housing development (ABP ref. 312352-21) and the St. Vincent's LRD (ABP ref. 317438-23), to increase traffic congestion along Richmond Road, particularly during peak hours and event days. A Traffic and Transport Assessment was included as part of the application to the Planning Authority, which provides traffic survey details dating from between February 2020 and June 2022 for four locations along Richmond Road, including the junctions with Ballybough Road and Drumcondra Road.

8.8.17. The first-party appellant's modelling predicts that based on the TRICS database and the development details, during the morning peak hour (07:15 – 08:15) the number of vehicles exiting the completed development onto Richmond Road would amount to nine trips, with eight returning trips during the evening peak hour (17:00 – 18:00). The proposals also consider the additional traffic volumes potentially arising from the adjoining proposed (ABP ref. 312352-21) and neighbouring quashed (ABP ref. 310860-21) strategic housing developments. The first-party appellant undertook modelling of the traffic in the opening (2025), interim (2030) and future (2040) years

with the development complete. The submitted Traffic and Transport Assessment asserts that at worst during the peak hours, the additional maximum associated traffic increase arising from the proposals would be at the proposed access location with a morning peak hour proportionate traffic increase of 1.56% relative to the estimated background levels and an evening increase of 1.64%. Increases in traffic at the junctions at either end of Richmond Road are estimated to amount to between 0.2% and 0.31% the forecasted future background levels. Based on the Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014), further assessment of these junctions would not be necessary, as the proportionate impacts on traffic, modelled to be less than 5%, would not be considered significant. Using Picady software analyses the first-party appellant asserts that the proposed priority-controlled, site-access junction onto Richmond Road would operate with significant reserve capacity during the opening, interim and future design-horizon years.

8.8.18. As stated, the existing traffic levels along Richmond Road would be quite high, and the likely increase in traffic onto this road arising from the proposed development would not be likely to be significant, given the extent of parking proposed. I am satisfied that based on the information provided in the Traffic and Transport Assessment, a reasonable approach to modelling future traffic scenarios on the local road network with the development in place has been set out and this does not reveal substantive impacts on traffic. The assessment follows the Transport Infrastructure Ireland guidance on this matter and an alternative technical assessment contradicting the approach or the findings of the assessment submitted with the application has not been provided. Furthermore, the Planning Authority has not objected to the proposed development based on the findings of the traffic assessment, and I am satisfied that the first-party appellant has provided adequate justification and rationale for the approach undertaken in their Traffic and Transport Assessment with sufficient information included for the purpose of my assessment.

8.8.19. The site is located on zoned lands with easy to reasonable access to an array of services. The proposed development would provide for a substantive scale of mixed-use development, replacing existing, albeit unoccupied, commercial buildings. Given the mix of uses proposed and more intensive use of the site, there would undoubtedly be some increase in traffic numbers as a result of the proposed development, which would invariably add to the existing congestion that is



referenced by third parties. However, traffic congestion at peak periods in an urban area such as this, would be anticipated to occur and various measures and design features have been set out within the application and appeal to support the use of public transport, cycling and walking, as an alternative to the use of private vehicles. All road networks feature limited capacity in terms of accommodation of private cars and increased population in locations such as the appeal site area, which are reasonably well served by public transport and have the capability for additional services as demand requires, should be developed in the interest of providing for sustainable communities.

### Conclusion

- 8.8.20. In conclusion, subject to conditions, suitable access would be provided to the proposed development, substantive improvements to Richmond Road would be provided for, significant traffic congestion or risks to road safety in the wider area would not be likely to arise from the proposed development and it would feature an appropriate provision of parking and servicing arrangements.

## **8.9. Flood Risk and Services**

### Flood Risk

- 8.9.1. The Development Plan refers to the comprehensive flood maps and flood risk management plans arising from the Catchment Flood Risk Assessment and Management (CFRAM) Programme in order to identify any flood risk associated with development particularly for major rivers and coastal areas in Dublin. As part of the application a Site Specific Flood Risk Assessment was submitted and this identifies the nearest potential sources of flooding to the subject site based on the available data, including reference to historical flood events and OPW maps referenced by third parties. Details of the River Tolka Flooding Study prepared by Dublin City Council are provided within the Site Specific Flood Risk Assessment, including the locations and alignments of flood defence walls. The first-party appellant states that the Planning Authority's Flood Resilience Team provided details of the flood wall design required to protect against a 1% annual exceedance probability (AEP) fluvial flood level, 0.5% AEP coastal flood level, with an additional +0.3m freeboard and an additional +0.5m for sea-level rise associated with climate change. This is equivalent

to a minimum flood defence wall level of 5.8m at above ordnance datum (AOD) at the upstream site boundary and 5.1m AOD at the downstream end.

- 8.9.2. The development area of the subject site is identified as being within a defended fluvial flood-risk zone, while the adjoining strategic housing development property (ABP ref. 312352-21) and the stretch of Richmond Road fronting the site would be within flood zone B according to details contained within the Development Plan. According to the OPW CFRAM maps the development area of the subject site would come within the high-end future scenario for coastal flood extents. The first-party appellant sets out the mitigation measures intended to be implemented as part of the subject proposals to address risk of flooding, including construction of a flood defence wall, surface water drainage proposals, accounting for climate change, general design elements, including finished-floor levels, and maintenance and emergency access / egress. The proposed surface water discharge rate would be significantly less than the total unattenuated discharge rate from the existing development on site.
- 8.9.3. Following the approach set out within 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities', the first-party appellant considers the site to be within flood zone B and the proposed development is 'highly vulnerable', therefore a justification test is necessary for the proposed development. The proposed development would feature uses compliant with the site zoning in the Development Plan and the Site Specific Flood Risk Assessment demonstrates that the development would not increase the risk of flooding to other lands and would reduce the overall flood risk by providing attenuation on site and creating overland flow routes. The development proposes the construction of a 204m-long flood wall along the western, southern and south-eastern boundaries of the development site, which is stated would have a typical height of 1.25m to 2.3m and a top of wall 6.4m to 7.2m AOD, if required in circumstances that the adjoining strategic housing development (ABP ref.312352-21), which also includes a flood defence wall, is not granted or it is not first implemented. Should the adjoining proposals be granted and implemented in advance of the subject proposals, no flood wall infrastructure would be constructed as part of the subject proposals and the application includes details to address both potential scenarios. The proposals also feature mitigation measures to address the residual risk of flooding, such as preparation of an evacuation plan,

the inclusion in the Planning Authority's early warning system and the provision of emergency access at each side of proposed blocks A, B and C. The development would also provide for various improvements and enhancements to the immediate area, including replacement of buildings and structures of limited aesthetic value and road upgrades to Richmond Road.

- 8.9.4. A condition can be attached to address a scenario whereby the subject proposals may be constructed in advance of the flood wall proposed under the adjoining strategic hosing development proposals (ABP ref. 312352-21). Following the application of the sequential approach taken in the Flood Risk Guidelines, I am satisfied that the proposed development has passed the necessary justification tests and it would not increase the risk of flooding elsewhere and the development's design incorporates measures to suitably address the risk of flooding.

#### Services

- 8.9.5. Concerns have not been expressed by parties to the appeal with respect to the provision of environmental services for the proposed development, including water supply, wastewater and surface water drainage. Observers to the appeals state that Uisce Éireann should be consulted with respect to wastewater and flood risk. In response to consultation at application stage by the Planning Authority, Uisce Éireann provided a favourable response with regard to water and wastewater services for the proposed development, subject to standard conditions. I am satisfied that suitable provision for environmental services has been set out in the documentation submitted by the first-party appellant and that standard conditions with respect to connections, agreements and compliance with Uisce Éireann and Dublin City Council standards, codes, and practices can be attached in the event of a grant of planning permission for the proposed development.

## **9.0 Environmental Impact Assessment Screening**

- 9.1.1. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning and Development Regulations 2001, as revised (hereinafter 'the Planning Regulations'). I have had regard to same in this screening assessment. The information provided in the application EIA Screening Report identifies and describes adequately the

direct, indirect, secondary and cumulative effects of the proposed development on the environment. Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.

9.1.2. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for various classes of development, including the following:

- Class 10(b)(i) construction of more than 500 dwelling units,
- Class 10(b)(iv) urban development, which would involve an area greater than 2 ha in the case of a business district\*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

\*a 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

9.1.3. Class 14 of Part 2 to Schedule 5 of the Planning Regulations provides that mandatory EIA is required for:

- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

9.1.4. The development is described in section 3 above and would provide for the demolition of various buildings and structures amounting to a gross floor area of 3,359sq.m, the construction of 133 apartments, 17artists' studios, a childcare facility, a local retail unit and a gym, all within three blocks of between four and ten storeys in height, on a gross site area measuring 0.83ha. The net proposed mixed-use area of the development site is stated to amount to 0.55ha. The first-party appellant considers the site to be within a business district in a built-up urban area, although I am not satisfied that the immediate district could be strictly classified as a 'business district' given the mix of uses in the area with residential use of growing prevalence, as per my findings above. Notwithstanding this, taking into consideration the scale and nature of development proposed on the concurrent adjoining strategic housing

development (ABP ref. 312353-21), including 183 build-to-rent apartments on a gross site area of 0.61ha, having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Planning Regulations, the nature and the size of the proposed development, including with the adjoining strategic housing development (ABP ref. 312353-21), is below the applicable class 10(b) mandatory thresholds requiring submission of an EIAR and the undertaking of an EIA. Further consideration with respect to 'class 14' demolition works is undertaken below.

- 9.1.5. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential and non-residential uses proposed would be similar to the surrounding land uses in the area, particularly the apartment developments to the south and west. The area had previously provided for artists' studios, and the retail, childcare and gym uses would be typical complementary uses accompanying a residential development of the nature and scale proposed. As highlighted above, the proposed development would not increase the risk of flooding with flood defence proposals incorporated into the development should they be required. Furthermore, it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. A site investigations report is included as part of the application, with significant constraints in developing the site at the scale proposed not identified in this report. A Resource and Waste Management Plan highlighted the expected materials and means of safely removing them from the site, including asbestos. An Infrastructure Design Report has also been submitted with the application setting out that the development would be served by municipal foul wastewater drainage and water supplies. The site does not support habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application. Connectivity of the site with protected areas and their associated qualifying interest species is considered further below in section 10 of this report. Within the submitted Archaeological, Architectural and Cultural Heritage Impact Assessment, 22 features of interest are recorded in the immediate area of the subject site, including a 'conservation area' designated in the Development Plan adjoining the site, neighbouring archaeological sites to the east/south-east (RMP ref. DU018-030- water mill) and to the north-east (RMP ref.

DU018-017- castle), as well as Protected Structures. The character or setting of neighbouring cultural heritage sites would not be substantively impacted upon in a negative manner by the proposed development. The development would upgrade an existing stretch of Richmond Road, providing defined pedestrian paths to the southside, cycle lanes on both sides and a signal-controlled pedestrian crossing.

9.1.6. The reports submitted with the application, as listed in section 3.3 above, address a variety of environmental issues and the environmental impacts of the proposed development. The reports demonstrate that, subject to the various recommended construction and design-related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal, including the following:

- EIA Screening Report;
- AA Screening Report;
- NIS;
- Ecological Impact Assessment;
- Biodiversity Enhancement Plan;
- Planning Report and Statement of Consistency;
- Archaeological, Architectural and Cultural Heritage Impact Assessment;
- Architectural Heritage Impact Assessment;
- Architectural and Urban Design Statement;
- Infrastructural Design Report;
- Preliminary CEMP;
- Resource and Waste Management Plan;
- Site Specific Flood Risk Assessment;
- Traffic and Transport Assessment.

9.1.7. In addition, noting the requirements of Article 103(1A)(a) of the Planning Regulations, the first party has provided a statement indicating how the available results of other relevant assessments have been taken into account on the effects of the project on the environment carried out pursuant to European Union legislation other than the EIA Directive. In this regard I note the following EU Directives and Regulations are directly addressed by the first party in their ‘Statement in Accordance with Article 103(1A)(a) of the Planning and Development Regulations 2001, (as amended)’:

- Directive 92/43/EEC – Habitats Directive;
- Directive 2001/42/EC – Strategic Environmental Assessment Directive;
- Directive 2000/60/EC - Water Framework Directive;
- Directive 2008/98/EC - Waste Framework Directive;
- Directive 96/82/EC - Seveso II Directive;
- Directive 2012/18/EU - Seveso III Directive;
- Directive 2007/60/EC - Floods Directive;
- Directive 2008/50/EC - Ambient Air Quality / Clean Air for Europe Directive;
- Directive 2010/75/EU - Industrial Emissions Directive;
- Directive 2002/49/EC - Environment Noise Directive;
- Directive 2006/21/EC - Management of Waste from Extractive Industries;
- Directive 2018/850/EU - Landfill of Waste;
- Regulation (EC) No 166/2006 - Establishment of a European Pollutant Release and Transfer Register;
- Directive 2012/27/EU - Energy Efficiency;
- Directive 2003/87/EC - Establishing a System for Greenhouse Gas Emission allowance trading within the EU;
- Regulation (EU) 2018/842 - Binding Annual Greenhouse Gas Emission Reductions;

- Regulation (EU) 2018/841 - Greenhouse Gas Emission and removals from land use, land use change and forestry;
- Directive (EU) 2018/2001 - Promotion of the use of energy from renewable sources;
- Regulation (EU) No 517/2014 - Fluorinated Greenhouse Gases.

9.1.8. Under the relevant themed headings, the EIA screening information prepared by the first-party appellant addresses the implications and interactions of the proposed development and concludes that the development would not be likely to have significant effects on the environment. I am satisfied that all other relevant assessments have been identified for the purposes of screening for EIA. I have had regard to all of the reports detailed above and I have taken them into account in this assessment, together with the Strategic Environmental Assessment of the Development Plan. I am satisfied that the information required under Article 103(1A)(a) of the Planning Regulations has been submitted.

9.1.9. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based on class 14 of Part 2 to Schedule 5 of the Planning Regulations. In these circumstances, the application of the criteria in Schedule 7 of the Planning Regulations to the proposed subthreshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required should a decision to grant planning permission for the project be arrived at. This conclusion is consistent with the EIA screening information submitted with the subject application and the opinion of the Planning Authority. A Screening Determination can be issued confirming that there is no requirement for an EIA Report to be prepared for the project based on the above considerations.



## 10.0 Appropriate Assessment

10.1.1. The proposed development on Richmond Road, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3) of the Habitats Directive. European sites comprise Special Areas of Conservation (SACs) and SPAs. The requirements of Article 6(3) of the Habitats Directive, relating to screening the need for AA of a project under section 177U of the Act of 2000, are considered in the following section.

### 10.2. Stage 1 AA Screening

10.2.1. An AA Screening Report and a NIS both dating from 2022 and prepared by Enviroguide environmental consultancy were submitted with the subject application. These reports provide a description of the proposed development and identify the European sites within the possible zone of influence of the development.

#### Site Location

10.2.2. A description of the site is provided in section 2 and throughout the assessments above. The site comprises brownfield land and contains buildings most recently used as a warehouse and distributors premises with associated yard area for parking and servicing. The River Tolka is located approximately 50m to the south of the subject site and this is the closest substantial natural waterbody to the appeal site, flowing southeast towards Dublin Bay, including the Tolka estuary area. According to the EPA, the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' based on categorisation for the purposes of the Water Framework Directive.

10.2.3. A map of fluvial flood-risk zones extracted from the Development Plan and included in the first-party appellant's Site Specific Flood Risk Assessment indicates that the subject site is in a defended area, whereas the adjoining strategic housing development site and Richmond Road fronting the site is within fluvial flood zone B. The CFRAM maps identify parts of the mixed-use area of the site as being within the medium to high-end, future-scenario coastal flood extents. Within their Site Specific Flood Risk Assessment, the first-party appellant concluded that the site is within the zone b flood risk zone. The Royal Canal is situated 680m to the south of the site.

10.2.4. The habitats recorded on site, as listed in the application Ecological Impact Assessment, are stated to comprise buildings and artificial surfaces (BL3) and recolonising bare ground (ED). No Annex I habitats were recorded within the subject site during the application habitat surveys and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded as using the site. Several bird species, including Curlew and Light-bellied Brent Geese, were noted flying over the site during focussed winter waterbird surveys between November 2021 and April 2022. Curlew were recorded flying between 75m and 100m, while Light-bellied Brent Geese were recorded flying between 70m and 200m. Mallard, Grey Heron and Little Egret were also recorded at lower heights, as it was noted that these birds were dropping down into the River Tolka, which they were using as a feeding ground. Medium impact invasive species comprising two sycamore trees and butterfly bush were recorded on the subject site during surveys for the submitted Ecological Impact Assessment.

#### Proposed Development

10.2.5. A detailed description of the proposed development is provided in section 3 above and expanded upon below where necessary. Details of the construction phase of the development are provided throughout the subject application documentation, including the Preliminary CEMP. Foul wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Ringsend Wastewater Treatment Plant (WWTP). Following various standard practice construction site environmental management measures, as well as SUDS measures, surface waters would be discharged into the network running along Richmond Road. This network drains into the River Tolka. Ultimately the resultant treated wastewaters and surface waters from the proposed development would discharge to Dublin Bay. Flood defence walls would be put in place as part of the development to fully mitigate flood risks.

10.2.6. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;

- Operation Phase – disturbance, surface water runoff and emissions to water.

### Submissions and Observations

10.2.7. The submissions and observations from the appellants, observers, the Planning Authority and prescribed bodies are summarised in sections 5 and 7 of this Report. The Planning Authority acknowledge the reports submitted with respect to ecological impacts, including the AA Screening Report and NIS. On the basis of the material submitted in the NIS, the Planning Authority is satisfied that the project either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites' features and conservation objectives, will not adversely affect the integrity of any European sites.

### European Sites

10.2.8. The nearest European sites, including their qualifying interests and direction from the appeal site comprise the following:

**Table 6.** European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA <ul style="list-style-type: none"> <li>• Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]</li> <li>• Oystercatcher <i>Haematopus ostralegus</i> [A130]</li> <li>• Ringed plover <i>Charadrius hiaticula</i> [A137]</li> <li>• Grey plover <i>Pluvialis squatarola</i> [A141]</li> <li>• Knot <i>Calidris canutus</i> [A143]</li> <li>• Sanderling <i>Calidris alba</i> [A149]</li> <li>• Dunlin <i>Calidris alpina</i> [A149]</li> <li>• Bar-tailed godwit <i>Limosa lapponica</i> [A157]</li> <li>• Redshank <i>Tringa totanus</i> [A162]</li> <li>• Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]</li> <li>• Roseate tern [A193]</li> <li>• Arctic tern [A194]</li> <li>• Wetland and waterbirds [A999]</li> </ul>	1.2km	east
000210	South Dublin Bay SAC <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> </ul>	4.0km	southeast

	<ul style="list-style-type: none"> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Embryonic shifting dunes [2110]</li> </ul>		
000206	<p>North Dublin Bay SAC</p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Annual vegetation of drift lines [1210]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> <li>• Embryonic shifting dunes [2110]</li> <li>• Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120]</li> <li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>• Humid dune slacks [2190]</li> <li>• Petalwort <i>Petalophyllum ralfsii</i> [1395]</li> </ul>	4.3km	east
004006	<p>North Bull Island SPA</p> <ul style="list-style-type: none"> <li>• Light-bellied brent goose [A046]</li> <li>• Shelduck <i>Tadorna</i> [A048]</li> <li>• Teal <i>Anas crecca</i> [A054]</li> <li>• Pintail <i>Anas acuta</i> [A054]</li> <li>• Shoveler <i>Anas clypeata</i> [A056]</li> <li>• Oystercatcher [A130]</li> <li>• Golden plover <i>Pluvialis apricaria</i> [A140]</li> <li>• Grey plover [A141]</li> <li>• Knot [A143]</li> <li>• Sanderling [A144]</li> <li>• Dunlin [A149]</li> <li>• Black-tailed godwit <i>Limosa</i> [A156]</li> <li>• Bar-tailed godwit [A157]</li> <li>• Curlew <i>Numenius arquata</i> [A160]</li> <li>• Redshank [A162]</li> <li>• Turnstone <i>Arenaria totanus</i> [A169]</li> <li>• Black-headed gull [A179]</li> </ul>	4.3km	east

	<ul style="list-style-type: none"> <li>Wetland and waterbirds [A999]</li> </ul>		
000199	<p>Baldoyle Bay SAC</p> <ul style="list-style-type: none"> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>Salicornia and other annuals colonising mud and sand [1310]</li> <li>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</li> <li>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> </ul>	8.5km	northeast
004016	<p>Baldoyle Bay SPA</p> <ul style="list-style-type: none"> <li>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>Wetland and Waterbirds [A999]</li> </ul>	8.8km	northeast
004113	<p>Howth Head Coast SAC</p> <ul style="list-style-type: none"> <li>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>European dry heaths [4030]</li> </ul>	10.0km	northeast
003000	<p>Rockabill to Dalkey Islands SAC</p> <ul style="list-style-type: none"> <li>Harbour porpoise [1351]</li> <li>Reefs [1170]</li> </ul>	10.5km	east
000205	<p>Malahide Estuary SAC</p> <ul style="list-style-type: none"> <li>1140 Mudflats and sandflats not covered by seawater at low tide</li> <li>1310 Salicornia and other annuals colonising mud and sand</li> <li>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)</li> <li>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</li> <li>2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes)</li> </ul>	11.0km	north

	<ul style="list-style-type: none"> <li>• 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)*</li> </ul>		
004025	<p>Malahide Estuary SPA</p> <ul style="list-style-type: none"> <li>• A130 Oystercatcher (<i>Haematopus ostralegus</i>)</li> <li>• A005 Great Crested Grebe (<i>Podiceps cristatus</i>)</li> <li>• A162 Redshank (<i>Tringa totanus</i>)</li> <li>• A067 Goldeneye (<i>Bucephala clangula</i>)</li> <li>• A141 Grey Plover (<i>Pluvialis squatarola</i>)</li> <li>• A149 Dunlin (<i>Calidris alpina</i>)</li> <li>• A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>)</li> <li>• A054 Pintail (<i>Anas acuta</i>)</li> <li>• A048 Shelduck (<i>Tadorna tadorna</i>)</li> <li>• A069 Red-breasted Merganser (<i>Mergus serrator</i>)</li> <li>• A143 Knot (<i>Calidris canutus</i>)</li> <li>• A156 Black-tailed Godwit (<i>Limosa limosa</i>)</li> <li>• A140 Golden Plover (<i>Pluvialis apricaria</i>)</li> <li>• A157 Bar-tailed Godwit (<i>Limosa lapponica</i>)</li> </ul> <p>Habitats</p> <ul style="list-style-type: none"> <li>• Wetlands</li> </ul>	11.0km	north
004117	<p>Ireland's Eye SPA</p> <ul style="list-style-type: none"> <li>• A017 Cormorant (<i>Phalacrocorax carbo</i>)</li> <li>• A184 Herring Gull (<i>Larus argentatus</i>)</li> <li>• A188 Kittiwake (<i>Rissa tridactyla</i>)</li> <li>• A199 Guillemot (<i>Uria aalge</i>)</li> <li>• A200 Razorbill (<i>Alca torda</i>)</li> </ul>	12.6km	east
004113	<p>Howth Head Coast SPA</p> <ul style="list-style-type: none"> <li>• A188 Kittiwake (<i>Rissa tridactyla</i>)</li> </ul>	12.7km	northeast
002193	<p>Ireland's Eye SAC</p> <ul style="list-style-type: none"> <li>• 1220 Perennial vegetation of stony banks</li> <li>• 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts</li> </ul>	12.8km	east
004172	<p>Dalkey Islands SPA</p> <ul style="list-style-type: none"> <li>• A192 Roseate Tern (<i>Sterna dougallii</i>)</li> <li>• A194 Arctic Tern (<i>Sterna paradisaea</i>)</li> </ul>	13.5km	southeast

	<ul style="list-style-type: none"> <li>• A193 Common Tern (<i>Sterna hirundo</i>)</li> </ul>		
002122	<p>Wicklow Mountains SAC</p> <ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110]</li> <li>• Natural dystrophic lakes and ponds [3160]</li> <li>• Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</li> <li>• European dry heaths [4030]</li> <li>• Alpine and Boreal heaths [4060]</li> <li>• Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130]</li> <li>• Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> <li>• Blanket bogs (* if active bog) [7130]</li> <li>• Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</li> <li>• Calcareous rocky slopes with chasmophytic vegetation [8210]</li> <li>• Siliceous rocky slopes with chasmophytic vegetation [8220]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</li> <li>• <i>Lutra lutra</i> (Otter) [1355]</li> </ul>	14.3km	south
001209	<p>Glenasmole Valley SAC</p> <ul style="list-style-type: none"> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</li> <li>• <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</li> <li>• Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</li> </ul>	14.5km	south
004040	<p>Wicklow Mountains SPA</p> <ul style="list-style-type: none"> <li>• Merlin (<i>Falco columbarius</i>) [A098]</li> <li>• Peregrine (<i>Falco peregrinus</i>) [A103]</li> </ul>	14.5km	south

10.2.9. In determining the zone of influence for the proposed development I have had regard to the nature and scale of the project, the distance from the development site to

European sites, and any potential pathways that may exist from the development site to a European Site. Table 2 of the application screening report identifies the potential links from European sites to the appeal site. Distances and direction from the site to European sites are listed in table 6 above. I do not consider that any other European Sites other than those identified in table 7 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the results of ecological surveys for the site, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

**Table 7.** Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species  <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf</a>	Hydrological connections exist through coastal and fluvial flood risk zones extending into the subject site.	Yes
North Bull Island SPA 004006	QIs – 18 bird species  To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it  To maintain the favourable conservation condition of the qualifying species	Weak hydrological connections exist through surface water ultimately discharging to Dublin Bay and wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.	
North Dublin Bay SAC 000206	QIs – ten coastal habitats and species  <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf</a>	Potential collision risk/obstruction by proposed buildings of flight paths involving certain waterfowl species, associated with SPA sites, for example, Light-	
South Dublin Bay SAC 000210	QIs - Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]		



	Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110]  <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf</a>	bellied Brent Geese and Curlew.	
Baldoyle Bay SPA  004016	QIs – 7 bird species  <a href="https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004016.pdf">https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004016.pdf</a>	Potential collision risk/obstruction by proposed buildings of flight paths involving certain waterfowl species for example, Light-bellied Brent Geese.	

### 10.3. Potential Effects

10.3.1. Habitat loss and fragmentation would not arise given the location and nature of the site. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

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

#### Construction Phase

10.3.2. There is a potential direct connection from parts of the subject site to waters in Dublin bay should fluvial or coastal flood events extend into the site via the River Tolka. The first-party appellant has set out specific measures to mitigate against this risk as part of their NIS, otherwise the proposed works would have the potential to

undermine water quality flowing to the River Tolka, which discharges to Dublin bay. In the absence of specific project construction management and pollution control measures, the potential impact of the project on downstream European sites comprising North Dublin Bay SAC, North Bull Island SPA and South Dublin Bay and River Tolka Estuary SPA, would be uncertain. Other than the immediate bay waters that the Tolka discharges into, the potential for likely significant effects on the qualifying interests of other European sites in the wider Dublin Bay catchment can be excluded given the nature and scale of the development and the distance and volume of water separating the River Tolka discharge area from European sites in the wider Dublin Bay area (dilution factor).

10.3.3. Survey details provided with the first-party appellants Ecological Impact Assessment do not highlight qualifying interest species or other species associated with the conservation objectives of European sites habituating the site or its adjoining area. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area.

10.3.4. Butterfly bush (*Buddleia*) and sycamore trees have been recorded on site or close to the boundaries of the site and standard management measures typically necessary for their removal and disposal would be put in place as part of the project Construction Environmental Management Plan. Such management measures would be necessary for development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. I am satisfied that the management of these medium-impact invasive species would not be designed or intended specifically to mitigate any potential effect on a European site.

#### Operational Phase

10.3.5. The first-party appellant considers the suite of SUDS measures to be included in the proposed development not to mitigate potential impacts to downstream European sites. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through fuel interceptors and various other SUDS. In the event that the pollution control and

surface water treatment measures were not implemented or failed, for example due to inundation by flooding, I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the indirect and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the subject site from European sites in the Dublin Bay area (dilution factor), including the Tolka estuary.

- 10.3.6. The first-party appellant states that the foul water drainage would be directed to Ringsend Wastewater Treatment Plan (WWTP). Wastewater would ultimately be treated at Ringsend WWTP and the proposed development would result in a residential loading equivalent to approximately 360 residents and 47 patrons for the non-residential facilities based on details provided in the Infrastructural Design Report submitted with the application. Having regard to the scale of the development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Uisce Éireann consent, which would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.
- 10.3.7. Given the results of ecological surveys and the tall building elements proposed as part of the development, the first-party appellant considers the potential collision risk/obstruction of flight paths involving certain special conservation interest waterfowl species associated with South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle Bay SPA (i.e. Light-bellied Brent Geese and Curlew). As the proposed buildings would not wholly comprise of reflective materials and given the flight paths recorded, including recorded flights of less agile bird species at higher levels to the proposed buildings, the development is not considered to pose a significant risk of collision for birds. Bird species would adapt to the changing nature of the site and the risk of bird collisions/obstruction is negligible.
- 10.3.8. On the basis of the foregoing, I conclude that the operation of the proposed development would not impact the overall water quality status of Dublin Bay, would not impact the population of birds in Baldoyle Bay or Dublin Bay and that there is no possibility of the operational of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation

interests of European sites in or associated with Dublin Bay or Baldoyle Bay via surface water runoff, emissions to water and collision / obstruction risks to birds.

#### In-combination Impacts

- 10.3.9. This project is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased wastewater volumes to the Ringsend WWTP. The strategic housing development proposals for 183 build-to-rent apartments are the subject of a separate application to the Board (ABP ref. 312352-21), including screening for AA.
- 10.3.10. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2022-2028. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Phased upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.
- 10.3.11. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

#### AA Screening Conclusion

- 10.3.12. The proposed development was considered in light of the requirements of Section 177U of the Act of 2000. Having carried out stage 1 AA screening for the project, it has been concluded that the construction stage of the project individually could have a significant effect on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin

Bay SAC), in view of the sites' Conservation Objectives, and an Appropriate Assessment is therefore required. The applicant has submitted a NIS addressing the potential for significant effects on these four sites.

10.3.13. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European sites, given the absence of a pathway between other European sites and the application site, the separation distances to European sites, including across open exposed marine waters. The nature and location of the development and the adaptability of birds and their associated flight paths are such that the proposal would not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay and Baldoyle Bay. In reaching this conclusion, with the exception of European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC), I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on European Sites.

#### Stage 2 - Appropriate Assessment

10.3.14. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interests of European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) using the best scientific knowledge in the field. All aspects of the project that could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are both considered and assessed.

#### Test of Effects & Mitigation Measures

10.3.15. As the site of the proposed development is at a remove from Dublin bay, no direct effects would occur. In terms of indirect effects the key element is the potential impact on water quality during operation phases.

10.3.16. Construction management measures including specific measures to prevent pollution downstream are outlined in the NIS and the CEMP, which will ensure that there are no likely effects on the River Tolka from surface water runoff during potential flood events, thereby avoiding negative effects on the European sites in Dublin Bay. I am satisfied that with the implementation of the specific measures outlined in the NIS for the management of surface water, the excavation methods and the storage of fuels and chemicals, including compliance with the Guidelines on the Protection of Fisheries during Construction Works in and Adjacent to Waters (IFI, 2016), the proposed construction activity would not have likely significant effects on water quality downstream.

10.3.17. The evidence available provides certainty that the project would not result in pollution of water or significant adverse impacts for qualifying interests, and it can be concluded that the proposed development would not be likely to have significant adverse impacts on South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North Dublin Bay SAC and South Dublin Bay SAC, in view of the sites' conservation objectives.

10.3.18. I am therefore satisfied that the development would not cause changes to the key indicators of conservation value, hence there is no potential for any adverse impacts to occur on either the habitat or the species associated with South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North Dublin Bay SAC and South Dublin Bay SAC.

#### In-combination Effects

10.3.19. Having regard to the foregoing, I consider that in-combination effects are not likely to arise for South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA, North Dublin Bay SAC and South Dublin Bay SAC.

#### Appropriate Assessment – Conclusion

10.3.20. The possibility of significant effects on all European sites has been excluded on the basis of objective information provided with the application, including the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and the assessment carried out above. I am satisfied that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European Site No. 004024 (South Dublin

Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC), or any other European site, in view of the site's Conservation Objectives.

## **11.0 Conclusion and Recommendation**

- 11.1. Having regard to the above assessments, I recommend that permission be granted for the proposed development, subject to conditions, and for the reasons and considerations set out in the draft Order below.
- 11.2. Finally, 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.

## **12.0 Recommended Order**

### **Planning and Development Acts 2000 to 2020 as amended**

**Planning Authority:** Dublin City Council

**Planning Register Reference Number:** LRD6006/23-S3

Appeals by Malkey Limited c/o Thornton O'Connor Town Planning, no.1 Kilmacud Road Upper, Dundrum, Dublin; Mathieu Vincent of 5 The Grain Store, Distillery Lofts, Dublin D03 VR94; Tatiana Yakim of 5 The Grain Store, Distillery Lofts, Dublin D03 VR94 and; Josephine Maguire and others c/o Josephine Maguire of 167a Richmond Road, Dublin 3; against the decision made on the 25<sup>th</sup> day of April, 2023, by Dublin City Council to grant permission to Malkey Limited for a proposed Large-Scale Residential Development application subject to conditions.

### **Proposed Development:**

The development will consist of:

- (i) Improvement works to Richmond Road are also proposed including carriageway widening up to c. 6 metres in width, the addition of a c. 1.5

metre wide one-way cycle track/lane in both directions, the widening of the northern footpath on Richmond Road to a minimum of c. 1.8 metres and the widening of the southern footpath along the site frontage which varies from c. 2.2 metres to c. 7.87 metres, in addition to a new signal controlled pedestrian crossing facility, all on an area of c. 0.28 hectares. The development site area and road works area will provide a total application site area of c. 0.83 hectares;

- (ii) The proposed development will principally consist of: a Large-scale Residential Development (LRD) comprising the demolition of existing industrial structures on site (c. 3,359 sq m) and the construction of a mixed-use development including artist studios (c. 749 sq m), a creche (c. 156 sq m), a retail unit (c. 335 sq m), and a gym (c. 262 sq m), and 133 No. residential units (65 No. one bed apartments and 68 No. two bed apartments). The development will be provided in 3 No. blocks ranging in height from part 1 No. to part 10 No. storeys as follows: Block A will be part 1 No. storey to part 4 No. storeys in height, Block B will be part 1 No. storeys to part 10 No. storeys in height (including podium) and Block C will be part 1 No. storeys to part 9 No. storeys in height (including podium). The proposed development has a gross floor area of c. 14,590 sq m and a gross floor space of c. 13,715 sq m. The development also proposes the construction of: a new c. 204 No. metre long flood wall along the western, southern and south-eastern boundaries of the proposed development with a top of wall level of c. 6.4 metres AOD to c. 7.15 metres AOD (typically c. 1.25 metres to c. 2.3 metres in height) if required; and new telecommunications infrastructure at roof level of Block B including shrouds, antennas and microwave link dishes (18 No. antennas enclosed in 9 No. shrouds and 6 No. transmission dishes, together with all associated equipment) if required. A flood wall and telecommunications infrastructure are also proposed in the adjoining Strategic Housing Development (SHD) application (pending decision ABP Reg. Ref. TA29N.312352) under the control of the Applicant. If that SHD application is granted and first implemented, no flood wall or telecommunications infrastructure will be required under this application for LRD permission



(with soft landscaping provided instead of the flood wall). If the SHD application is refused permission or not first implemented, the proposed flood wall and telecommunications infrastructure in the LRD application will be constructed.

- (iii) The proposed development also provides ancillary residential amenities and facilities; 25 No. car parking spaces including 13 No. electric vehicle parking spaces, 2 No. mobility impaired spaces and 3 No. car share spaces; 2 No. loading bays; bicycle parking spaces; motorcycle parking spaces; electric scooter storage; balconies and terraces facing all directions; public and communal open space; hard and soft landscaping; roof gardens; green roofs; boundary treatments; lighting; ESB substation; switchroom; meter room; comms rooms; generator; stores; plant; lift overruns; and all associated works above and below ground.

at Leydens Wholesalers & Distributors, no.158A Richmond Road, Dublin 3, D03 YK12

## **Decision**

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

## **Reasons and Considerations**

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

- a) The location of the site within the established urban area of Dublin city with a land-use zoning objective for 'Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses' under the Dublin City Development Plan 2022-2028;
- b) the policies and objectives of the Dublin City Development Plan 2022-2028;
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;

- e) the provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- f) the provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- g) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- h) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2022;
- i) the provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;
- j) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- k) the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- l) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- m) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- n) the submissions and observations received;
- o) the report of the Planning Inspector.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the subject application Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, other than for European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC).

## **Appropriate Assessment**

The Board considered the Natura Impact Statement, and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC), in view of the sites' conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using best available scientific knowledge in the field.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,

- (ii) the mitigation measures that are included as part of the current proposal, and
- (iii) the Conservation Objectives for the European Sites.

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

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

### **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the first-party appellant, which contains information set out in Schedule 7A to the Planning and Development Regulations 2001, as amended, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended;
- the location of the proposed apartments, artists' studios, gym, local retail shop and childcare facility on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses' with a stated objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses', and the results of the Strategic Environmental Assessment of the Development Plan;
- the nature of the existing site and the pattern of development in the surrounding area;

- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and;
- the features and measures proposed as part of the project, which are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the project Resource and Waste Management Plan, Natura Impact Statement, Preliminary Construction Environmental Management Plan, Archaeological, Architectural and Cultural Heritage Impact Assessment, Site Specific Flood Risk Assessment and Infrastructural Design Report.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this inner-suburban / inner-city brownfield location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would not detrimentally impact on the built heritage of the area, would be acceptable in terms of impacts on traffic, would provide an acceptable form of residential amenity for future occupants, would not be at risk of flooding, or increase

the risk of flooding to other lands and would be capable of being adequately served by wastewater and water supply networks.

The Board considered that the proposed development would be compliant with the provisions of the Dublin City Development Plan 2022-2028, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application received by Dublin City Council on the 1<sup>st</sup> day of March, 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) omission of the proposed loading bay on Richmond Road and replacement with a kerbed footpath;
  - (b) omission of the nine support poles to three of the rooftop corners to proposed block B, accommodating 18 antennas screened by nine shrouds;
  - (c) the proposed south-west facing windows at first to fourth-floor levels along the rear elevation of proposed block C serving circulation cores and apartments C1.08 and C1.09, as well as windows in a similar position serving apartments directly above these, shall be amended to feature opaque glazing or high-level windows set 1.8m above the respective internal floor levels or a similar form of

screening to address the potential for excessive direct overlooking to the rear;

- (d) provision of 1.8m-high privacy screens to the southwest side of the balconies serving apartments C1.08 and C1.09 at first-floor level to proposed block C and the balconies directly above these;
- (e) provision of landscaping to form defensible space or screening along the southwest side parapet wall to the first-floor communal open space between proposed blocks B and C;
- (f) provision of landscaping to form defensible space or screening along the southwest side parapet wall to the fifth-floor rear communal roof terrace to proposed block C.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of visual and residential amenities, and traffic safety.

3. Prior to the first occupation of the residential units hereby approved, the artists' studios, crèche, retail unit and gym facility hereby approved, shall be fully-fitted out and suitable for immediate occupation and operation.

**Reason:** To ensure the orderly development of the site and to comply with the land-use zoning objectives of the Dublin City Development Plan 2022-2028.

4. Prior to the commencement of the development finalised details for the site boundaries subject of the proposed flood defence wall shall be submitted to and agreed in writing with the Planning Authority.

For the avoidance of any doubt, in the absence of an alternative similar-functioning, flood-risk mitigation measure, the proposed flood-defence wall

along the site boundaries shall be constructed as per the details in the 'Landscape Masterplan – Scenario B with Flood Wall' drawing no. RIC0001-MA-XX-XX-DR-L-103 and the 'Flood Wall Elevation' drawing no. 210178-DBFL-RD-SP-DR-C-5211 Revision P01.

**Reason:** In the interests of orderly development and mitigating the risk of flooding.

5. The artists' studios shall be for the use of visual artists only, including paint, sculpture, design, illustration and film. The studios, including the exhibition space, shall not be used for theatre, dance or music rehearsal. Any performative art events, including jazz clubs, poetry readings, shall take place in the exhibition space only with such events ending prior to 22:00 hours daily.

**Reason:** In the interest of residential amenities of future occupants.

6. Prior to the first occupation of the artists' studios an operational management plan for the studios, including details of the booking system for the exhibition space, shall be submitted to and agreed in writing with the Planning Authority.

**Reason:** To ensure a satisfactory standard of development.

7.
  - a) Music associated with the use of the proposed gym must be inaudible at the nearest noise-sensitive premises.
  - b) Classes in the gym shall only be held between the hours of 07:00 hours and 21:00 hours daily. All music played within the premises shall be controlled through a limiter system.
  - c) A floating floor or equivalent flooring system shall be installed in all areas where weights and treadmills are to be used. The floor must provide an adequate level of isolation at frequencies below 50Hz for weights up to 200kg.



**Reason:** In order to safeguard the amenities of adjoining premises and neighbouring residents.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

9. Prior to the occupation of the proposed non-residential units (retail unit, gym facility, artists' studios, including exhibition space, and childcare facility), finalised service details, as well as details of any proposed signage to be applied to the elevations of the respective buildings, including details of the glazing, materials, colour, lettering and depth of the signage, shall first be submitted to and agreed in writing with the Planning Authority.

**Reason:** In the interest of clarity and the visual amenity of the area.

10. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

11. The road works along Richmond Road, including the vehicular access serving the proposed development, cycle paths, pedestrian crossing, drainage, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets

issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

12. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage. All audits shall be carried out at the developer's expense in accordance with the Design Manual for Urban Roads and Streets guidance and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures recommended by the Auditor(s) shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted and agreed with the planning authority prior to the commencement of development.

**Reason:** In the interest of traffic safety and proper planning and sustainable development.

13. (a) The car parking facilities hereby permitted shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any other purpose than those stated in the application, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these spaces within the development shall be assigned, segregated by use and how car,

cycle, motorcycle and car-share club parking, shall be continually managed.

- (c) Details of all cycle parking, including the racking system and the provision of cargo-cycle parking spaces, shall be submitted to and agreed in writing with the planning authority prior to the occupation of development.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed development.

- 14. Prior to the occupation of the development, a finalised Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents of the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

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

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

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

17. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

**Reason:** In the interest of public health.

18. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.
- c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- d) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

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

19. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open spaces, communal spaces and parking / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

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

20. No advertisement or advertisement structure shall be erected or displayed on the buildings (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interests of visual and residential amenity.

22. The opening hours for all non-residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations in each respective unit.

**Reason:** In the interests of residential amenity.

- 23.** A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

- 24.** (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.

(b) Details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

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

(a) notify the planning authority in writing at least four weeks in advance of the commencement of development works on the site (including hydrological and geotechnical investigations) relating to the proposed development;

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and;

(c) provide arrangements, acceptable to the Planning Authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement between the parties regarding compliance with any of the requirements of this condition, the matter shall be referred to An Bord Pleanála for determination.

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

**26.** A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

**27.** The construction of the development shall be managed in accordance with a final project Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the construction practice for the development, including:

- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- b) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;

- c) Details of on-site car parking facilities for site workers during the course of construction;
- d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- e) Measures to obviate queuing of construction traffic on the adjoining road network;
- f) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or watercourses;



- n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;
- o) Invasive species management plan.

**Reason:** In the interest of amenities, public health and safety.

- 28.** Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

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

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

- 30.** Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an

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

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

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

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

---

Colm McLoughlin  
Senior Planning Inspector

28<sup>th</sup> July 2023

## Appendices

### Appendix A: EIA Screening Determination

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		ABP-317136-23
<b>Development Summary</b>		Demolish buildings and construct 133 apartments, artists' studios, a retail unit, a gymnasium, a childcare facility in three blocks of four to ten storeys and associated development at the Former Leyden's Wholesalers & Distributors, no.158a Richmond Road, Dublin 3, D03 YK12
	<b>Yes/No/N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes	An Appropriate Assessment Screening Report and Natura Impact Statement were submitted with the application. An Ecological Impact Assessment was also submitted with the application.
<b>2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	
<b>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</b>	Yes	SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The surrounding area is characterised by an emerging residential neighbourhood of apartment complexes to the southside of Richmond Road replacing historical commercial / industrial uses, with a range of land uses along the northern side of this road. The proposed development would provide for infill development on a brownfield site in an inner-suburban / inner-city location that is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed residential development has been designed to address the existing topography and to incorporate flood defence mechanisms, resulting in positive benefits for the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality. The development would provide for revised use of	No

		these lands, as generally envisaged in the Development Plan.	
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical for an urban development of this nature and scale.	No
<b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Asbestos has been identified on the site and measures are outlined in the Resource and Waste Management Plan (RWMP) submitted with the application, which outlines that measures will be put in place to address removal of this and other potentially harmful materials. Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Preliminary CEMP would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Preliminary	No

		<p>CEMP, the project would satisfactorily mitigate the potential impacts.</p> <p>Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other operational impacts in this regard are not anticipated to be significant.</p>	
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	Yes	<p>Operation of the standard measures listed in the RWMP and Preliminary CEMP will satisfactorily mitigate emissions from spillages during demolition and construction phases.</p> <p>The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.</p>	No
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	Yes	<p>There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Preliminary CEMP.</p>	No

<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>Yes</p>	<p>The RWMP sets out measures to control potentially harmful measures identified on site. Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Preliminary CEMP would satisfactorily address potential risks on human health.</p> <p>No significant operational impacts are anticipated for the piped water supplies in the area.</p>	<p>No</p>
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be managed as per measures in the RWMP and Preliminary CEMP and would be localised and temporary in nature. The development proposals mitigate the risk of flooding, including measures in the Site Specific Flood Risk Assessment. The site is outside the consultation / public safety zones for the nearest Seveso / COMAH sites.</p>	<p>No</p>
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The development would potentially occur alongside an adjoining proposal for 183 build-to-rent apartments on a site measuring 0.61ha. An LRD appeal is also before the</p>	<p>No</p>



		Board for the adjacent St. Vincent's hospital site.	
<b>2. Location of proposed development</b>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ cSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> <li>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ol>	Yes	The nearest European sites are listed in table 6 of this report and in the application AA Screening Report and the NIS. The site is within fluvial and coastal flood extents with connectivity to European sites. Protected habitats or habitats suitable for substantive habituating of the site by protected species were not found on site during ecological surveys. The proposed development would not result in significant impacts to any protected sites, including those downstream, with measures outlined in the NIS.	No
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No	The proposed development would not result in significant impacts to protected, important or sensitive species. Risk of collision for birds would not be significant given the nature and scale of the development, as well as the bird flight survey results provided with the application.	No

<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>A total of 22 sites of archaeological, and/or cultural heritage significance are identified within the study area, including three RMPs, seven Protected Structures, nine NIAH sites, a Conservation Area, one townland boundaries (TB), six unregistered cultural heritage sites and one area of archaeological potential. There is potential for archaeology on site and measures are outlined in the application to address the potential impacts arising.</p>	<p>No</p>
<p><b>2.4</b> Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such features are in this inner-suburban / inner-city location, with the site separated from riverine, agricultural and marine areas by intervening urban lands.</p>	<p>No</p>
<p><b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates and flood mitigation measures proposed. Potential impacts arising from the discharge of surface waters to receiving waters are considered, however, no likely significant effects are anticipated.</p>	<p>No</p>
<p><b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is very limited change in ground levels across the site. Site investigations were undertaken as part of the project. Only shallow excavation works for services and SUDS are proposed and construction measures can be implemented to safeguard risks to any sensitive receptors.</p>	<p>No</p>

<b>2.7</b> Are there any key transport routes (e.g. National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local road network. There are sustainable transport options available for future residents. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	No
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	No significant construction or operational impacts would be anticipated for other facilities.	No

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Yes	The parties to the application and appeal refer to neighbouring planning applications, including residential developments in the adjoining site to the southwest and in St. Vincent's hospital grounds. No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
<b>3.3</b> Are there any other relevant considerations?	No	No	No

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<input checked="" type="checkbox"/>	<b>EIAR Not Required</b>	

<p><b>Real likelihood of significant effects on the environment.</b></p>	<input type="checkbox"/>	<p>Refuse to deal with the application pursuant to section 8(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended)</p>	
--	--------------------------	--	--

<p><b>D. MAIN REASONS AND CONSIDERATIONS</b></p>
<p>Having regard to</p> <ul style="list-style-type: none"> <li>• the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as revised;</li> <li>• the location of the proposed apartments, artists' studios, gym, local retail shop, and childcare facility on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z10 - Inner Suburban and Inner City Sustainable Mixed-Uses' with a stated objective 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses' and the results of the Strategic Environmental Assessment of the Development Plan;</li> <li>• the nature of the existing site and the pattern of development in the surrounding area;</li> <li>• the availability of mains water and wastewater services to serve the proposed development;</li> <li>• the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised;</li> <li>• the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);</li> </ul>

- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Resource and Waste Management Plan, Natura Impact Statement, Preliminary Construction and Environmental Management Plan, the Archaeological, Architectural and Cultural Heritage Impact Assessment, the Site Specific Flood Risk Assessment and the Infrastructural Design Report.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Inspector: \_\_\_\_\_ **Colm McLoughlin**

Date: **28<sup>th</sup> July 2023**