



An  
Bord  
Pleanála

**ABP-317317-23**

**Development**

PROTECTED STRUCTURE:

Construction of 78 apartments and all associated and ancillary site works. A Natura Impact Statement was submitted as part of this application.

**Location**

Lands at Balnagowan House, St.  
Mobhi Boithirin, Glasnevin, Dublin 9

**Planning Authority**

Dublin City Council North

**Planning Authority Reg. Ref.**

3414/23

**Applicant(s)**

Rectone Developments Limited

**Type of Application**

Permission

**Planning Authority Decision**

Refuse Permission

**Type of Appeal**

First Party

**Appellant(s)**

Rectone Developments Limited

**Observer(s)**

Mobhi Haven Community Association  
Patrick Kelly  
Stephen McHugh & Others  
L.J. Gillick

**Date of Site Inspection**

20<sup>th</sup> February 2025

**Inspector**

Joe Bonner

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	7
3.1. Decision .....	7
3.2. Planning Authority Reports .....	8
3.3. Conditions .....	14
3.4. Prescribed Bodies .....	15
3.5. Third Party Observations .....	15
4.0 Planning History .....	15
5.0 Planning Policy .....	18
6.0 EIA Screening .....	28
7.0 Grounds of Appeal .....	32
7.1. First party appeal .....	32
7.2. Planning Authority Response .....	39
7.3. Other Responses .....	42
7.4. Applicant's Response to Conservation Officer's Comments on appeal .....	42
7.5. Observations .....	45
7.6. Further Responses .....	57
8.0 Assessment .....	57
8.1. Introduction .....	57
8.2. Principle of Development .....	58
8.3. Public Notices – Validity of application .....	58
8.4. Changes since appeal was lodged .....	59

8.5.	Density .....	60
8.6.	Refusal No 1 - Impact on Neighbouring Amenity .....	64
8.7.	Refusal No 2 - Impact on Amenities of Future Residents .....	70
8.8.	Impact on Protected Structure .....	72
8.9.	Traffic, Access and Parking .....	75
8.10.	Biodiversity and Tree Loss .....	78
8.11.	Archaeology .....	80
8.12.	Infrastructure .....	81
8.13.	Construction Impacts.....	85
8.14.	Public Open Space.....	85
8.15.	NEW ISSUE – Access to Basement if Culvert has to be opened .....	86
9.0	AA Screening.....	86
10.0	NIS (Appropriate Assessment) Conclusion .....	87
11.0	Recommendation .....	87
12.0	Reasons and Considerations.....	87
	Appendix 1 Form 1 .....	90
	Form 3 - EIA Screening Determination.....	92
	Stage 1: Screening the need for Appropriate Assessment .....	110
	Appropriate Assessment Stage 2, Article 6(3) of Habitats Directive) .....	116

## 1.0 Site Location and Description

- 1.1. The site on St. Mobhi Boithirin is located 3km north of Dublin city centre, c65m to the west of St. Mobhi Road (R108), c180m south of Griffith Avenue and c450m north of Griffith Avenue, in the Glasnevin area. The site is generally triangular-shaped, with a small appendage in the northwestern corner, has a stated area of 0.4795 hectares and includes a former residence referred to as Balnagowan or Bealnagowan House, in the northeastern corner. This house is a Protected Structure, is stated to have been last used as a residence in 1971 and was most recently used as offices serving Inland Fisheries Ireland. That use ceased in 2005 and the building and site are now vacant. Three outbuildings on the western side of Balnagowan House, fronting onto St. Mobhi Boithirin, are proposed to be demolished as part of the development.
- 1.2. The site has 103m of frontage on St. Mobhi Boithirin to the north. The Boithirin is a cul-de-sac providing access to 30no. 2-storey houses in The Haven and 40no. apartments in 3-storey Mobhi Court on its northern side, while 3 townhouses are located to the immediate east of the site, on the southern side of the Boithirin. The Boithirin also includes access to an emergency and pedestrian entrance to the Bon Secours hospital. Pedestrian and cycle access are also available to Ballymun Road to the west, via a path connecting to Church Avenue via St Mobhi's Church.
- 1.3. A line of cut back coniferous trees runs along the site's southwestern boundary. A carpark at the rear of the Bon Secours Hospital is located adjacent to this boundary, with the nearest hospital operational building located c26m from the boundary.
- 1.4. The eastern boundary is shared with the rear gardens of nine houses that front eastwards onto the north-south running St. Mobhi Road. The rear gardens of the houses are c10m in width, while the two storey parts of the houses are between 39m and 45m from the shared boundary.
- 1.5. The northwestern corner of the site features mature trees and the land levels on site generally drop by approximately 4.5m from the northeast to the southern, while the land also falls by c3.5m, east to west along its road frontage on the Boithirin.
- 1.6. A 9.9m wide wayleave for a piped culvert runs in a north to south direction between where Block 1 and 2 are proposed to be located. The culvert carries water to the Tolka River, c405m to the south of the site, beside Glasnevin Bridge.

## 2.0 Proposed Development

2.1. In summary, planning permission is sought for:

### Demolition Works

- Demolition of 3 single storey outbuildings (total 171.5 sq. m) and part removal of the existing front boundary walls.

### Construction and Development Works

- Construction of 74 apartments in 3 new blocks ranging between 3 and 5 storeys, with a maximum height of 14.85m above ground level.
- Change of use of Balnagowan House (a Protected Structure) from office to residential use to provide 4 no. residential units, including internal and external alterations and refurbishment works.

### Ancillary and Supporting Works

- Pedestrian, cyclist, vehicular and emergency access off The Haven / St. Mobhi Boithirin.
- Basement car park accessed by a new vehicular access point, adjacent to The Haven, 32 car parking spaces, motorcycle and bicycle parking, electric vehicle charging points.
- Alterations to the existing access to the front of Balnagowan House.
- Ancillary resident's gym, concierge, private, communal and public open space, hard and soft landscaping including internal cycle and pedestrian routes, pathways, boundary treatments, play space and street furniture,
- ESB substations, piped infrastructural services and connections, ducting, plant waste management provision. SuDS measures (including green roofs); attenuation tanks, signage and public lighting.
- All site development and excavation works above and below ground.

2.2. In addition to the standard contents including architectural, engineering, landscape, public lighting and Arboricultural drawings and photomontages, the application was accompanied by the following technical reports (some with appendices):

**Table 2.1 – Reports accompanying the planning application**

Planning Report	
EIA Screening Report	Ecological Impact Assessment Report
Architectural Design Statement	Townscape and Visual Impact Assessment
Housing Quality Assessment	Daylight, Sunlight and Shadow Assessment
Building Life Cycle Report	Basement Impact Assessment Report
Proposed Part V Allocation	Climate Action and Energy Statement
Engineering Services Report	Outline Construction and Environmental Management Plan
Surface Water Management Plan	Site Specific Flood Risk Assessment
Traffic and Transport Assessment	Car Parking Management Plan
Residential Travel Plan	DMURS Statement of Consistency
Landscape Design Report	Arboricultural Report
Archaeological Assessment	Architectural Heritage Impact Assessment
AA Screening Report	Service and Operational Management Plan
Natura Impact Statement (NIS)	Operational Waste Management Plan
Operational Management Plan	Resource and Waste Management Plan
Social and Community Infrastructure Audit (including Childcare and Schools Demand Assessment)	

2.3. The key development figures are summarised in the following tables:

**Table 2.2 – Housing Mix**

<b>Apartment Type</b>	<b>No. of Units (%)</b>
1-bed	37 (47.44%)
2-bed (3-person)	1 (1.28%)
2-bed (4-person)	39 (50%)
3-bed	1 (1.28%)
<b>Total Units</b>	<b>78 (100%)</b>

**Table 2.3 - Key Figures for the Proposed Development**

	<b>Details</b>
<b>Site Area</b>	0.4795 ha (gross)
<b>No. of units</b>	78 apartments
<b>Gross Floor Area</b>	171.5sqm (to be demolished) 355sqm (existing building being retained) 6,471sqm (proposed) 6,826sqm total proposed
<b>Residential Density</b>	78 / 0.4795ha = 162.5 units per hectare
<b>Plot Ratio</b>	6,826sqm / 4,795sqm = 1.42
<b>Site Coverage</b>	42%
<b>Height</b>	3 to 5 storeys (over basement and lower ground floor ) (17.25 max height)
<b>Dual Aspect</b>	53.8% (42 of 78 apartments)
<b>Car Parking</b>	31 no. basement level car parking spaces. 1 no. surface level disable access space.
<b>Bicycle parking</b>	169 no. cycle parking spaces (120 secured in basement, 3 cargo and 6 mobility impaired spaces and 40 visitor spaces at surface level) 3 no motorcycle parking spaces
<b>Communal Open Space</b>	1,810sqm (35% of site area)
<b>Public Open Space</b>	133sqm
<b>Landscaped Forecourt</b>	428sqm in front of Protected Structure
<b>Part V</b>	7 units (10%)

### 3.0 Planning Authority Decision

#### 3.1. Decision

On the 16<sup>th</sup> of May 2023, Dublin City Council (DCC) issued notification of a decision to refuse permission for two reasons, which stated:

- 1 Due to the height, proximity, massing and orientation of the proposed development, there would be undue impacts on the residential amenity of properties

on Mobhi Road, due to the overbearing nature of the four to five storey Block 3, proximate and parallel to the rear boundary of properties 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Accordingly, the proposed development would seriously injure the residential amenities of the stated neighbouring and adjoining properties, and would be contrary to the provisions set out under sections 15.13.4 of the Dublin City Development Plan 2022-2028, which requires backland development not to cause significant loss of amenity to existing properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2 The proposed mitigation measures to address amenity issues of the adjoining and neighbouring properties would have deleterious impacts on the residential amenity of future occupants of the proposed scheme. A number of residential (sic) within the proposed development would provide poor residential amenity, due to limited outlook as a result of fritted glass or heavily screened balconies to address unresolved overlooking, due to insufficient sunlight, and due to overbearing impacts and unacceptable overlooking due to insufficient separation distances within the site (between Blocks 1 and 2). Additionally, Block 1 would have no independent access to communal open space. The proposed development would, therefore, be contrary to 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 and the Dublin City Development Plan 2022 – 2028.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- The planning authority refused permission in accordance with the planning officer's recommendation. The planning officer's assessment is summarised below.

##### Design, Plot Ratio, Site Coverage

- Proposed density is 162 units per hectare (uph). The applicant states that the site is in the 'City Centre and Canal Belt', where a density of 100-250 dwellings per hectare applies. The planning officer considers it to be 'Outer Suburban', where the density that applies is 60-120 dwellings per hectare.



- Density must be considered together with plot ratio which is 1.4 and site coverage at 42%. Both are within the ranges of 1.0-2.5 and 45-60%, for 'Outer Employment and Residential Area' The plot ratio is also below the 1.8 that was previously refused (SHD application).

#### Height, Design and Visual Impact

- It is based on the previously refused SHD with a two floors reduction for each of blocks 1, 2 and 3.
- The development plan supports increased height and density along Bus Connects and Metrolink corridors and promotes a minimum height of three to four storeys in this area. The test is to determine whether the impacts on neighboring properties are within an acceptable range.
- Does not agree that viewpoints 5 or 17 would be positive as the backdrop to the protected structure, the character and composition of the site would be changed.
- The impact of restoration on the protected structure is positive but the owner has obligations to protect the house.
- There is no objection from the Bon Secours site, but there is no evidence to support the claim that the area between the boundary and the culvert cannot be developed. If it was sterilised, so too should be north western corner of the site.
- Block 3 would have a 55m long wall along its eastern elevation.
- While a reduction in height is welcomed, it is disappointing that a redesign of the scheme was not undertaken, regarding the unusual proximity to site boundaries.
- It does not respond appropriately to the built environment and does not make a positive contribution to the urban neighbourhood.

#### Residential amenity of proposed development

- Unit mix is acceptable and compliant with SPPR1 of the Apartment Guidelines.
- The proximity of blocks one and two was part of the grounds of refusal in the previous SHD application and there has been no change in this distance of 12m, which would lead to an uncomfortable level of overlooking and overbearing impacts. The daylight and sunlight assessment does not include sunlight levels for the windows on the western elevation of block 2. It is unclear if the revised

proposal meets the required standard and raises considerable concerns about the overall residential amenity of these units.

- All balconies in block one are north facing as do a number of the block 2 apartments meaning they would receive no meaningful sunlight.
- A number of the west facing windows in the protected structure have not been shown and therefore have not been assessed for sunlight. These windows failed to meet the recommended minimums for a APSH in the previous application by being shadowed by both blocks two and three at various times of the day. It is not clear if the reduced height has sufficiently ameliorated the situation.
- To address potential overlooking of the rear of properties on Mobhi Road, the applicant proposes additional planting, frosted glass balustrades at lower ground, ground and 1st floor levels with solid planters clad in black back painted glass to a height of 1.55m at the top two floors. These 300mm thick planters run along the length of the outer edge of the balconies and it would appear the solidity of the screens would prevent sunlight to those balconies, that limits the residential amenity thereof. It is not clear that these screens and the impact from the tree planting have been incorporated into the daylight assessment.
- The additional tree planting has been incorporated into the overshadowing assessment but there is no mention of these special measures in the daylight model inputs, which are otherwise reasonable.
- All single aspect east facing living rooms on the lower ground common ground and 1st floor of block 3 failed to meet the required standard of 200 Lux for living room/ kitchen/ dining rooms, due to the length of the rooms, the depth of the balconies directly above, as well as proximity to the boundary walls.
- It is not clear if the solid balcony screens and fritted glass have been factored into daylight calculations for the upper floor apartment living rooms.
- Communal open space is adequately but requires additional landscaping detail.
- Residents of Block 1 would have to leave the site to access the gym. A condition should be attached limiting the use of the communal facilities to residents.

#### Impact on adjoining residential amenity

- Block 3 is set back 5.15m to 7.5m from the boundary with the eastern boundary, the same distance as the refused SHD, albeit 2 storeys lower.
- The rear building line of neighbouring houses are 35-45m away so there would be a significant distance from both ground and first floor levels in terms of overlooking and the properties on Mobhi Road are doing the heavy lifting.
- Notwithstanding the reduced height and distance from the houses, the proposal for a four and five storey building of this length located some 6 to 8 metres from the rear gardens would have an overbearing impact on the Mobhi Road gardens.
- Impacts on privacy and overbearing on 57, 59, 61, 63, 65 and 67 St Mobhi Road formed part of the previous SHD refusal from An Bord Pleanála that referred to 'proximate and parallel' building running the length of the rear gardens.
- The applicant has attempted to address overlooking by reducing the height, fritting some of the windows and screening the balconies, while trees are also proposed as in the previous application and is shown in the Architectural Design Statement. This all raises concerns regarding daylight and sunlight to the proposed apartments, while the potential density of vegetation is questionable as there is limited space between the wall and cycle/footpath.
- There would be some impacts on sunlight to the ground floors of 53 and 57 St Mobhi Road while the gardens would continue to receive more than 2 hours sunlight on March 21<sup>st</sup>. Daylight impacts are acceptable.
- Neither daylight nor sunlight would be unduly affected at The Haven and the loss of both would be within acceptable limits. While overlooking would occur, it is not as oppressive as Block 3 as the separation distance of 20m is acceptable.
- The impacts on Mobhi Court apartments and Mobhi Mews would be acceptable.
- The reduction in height has significantly ameliorated the impacts on neighboring residential amenity, however, there are concerns regarding proximity of block 3 to the boundary and the proposed screening measures.

#### Public Open Space

- 480sqm required but 133sqm proposed. Contribution required for the shortfall. Additional railings to be provided to define the public and private open spaces.

### Protected Structures

- No report received from the Conservation Officer.

### Childcare Facility

- The Childcare Demand Assessment (CDA) maps 21 childcare facilities within 1.5km of the site, with a vacancy rate of 19% or 220 places. The facilities with large vacancies are 1.9km and 1.7km from the site with very few vacancies in proximity to the site. A revised CDA could be requested as further information.
- The CDA estimates 7-8 spaces would be required for children aged 0-4, but takes no account of children over 5, or unmet pre-school and school aged demand.

### Social Audit and School Capacity Assessment

- Only 1 no 3-bed unit - unlikely to generate a large cohort of school age children.
- A lack of youth and community facilities in the area is partly addressed by the abundance of sports and recreational facilities. The gym is an appropriate form of communal amenity.

### Natural Heritage

- Ecological Impact Assessment notes there was limited potential for bat roosting and one Liesler's bat was spotted flying towards the site during the night survey. No rare or protected flora species or invasive species were recorded.

### Part V

- The proposal is to provide 9 units on the lower ground floor. There are concerns regarding the level of sunlight and daylight that some units may receive.

### Appropriate Assessment

- The Screening Report notes that in the absence of mitigation measures, potential impacts downstream are uncertain.
- The NIS states that with appropriate mitigation measures with regard to construction management, significant impacts can be ruled out and the possibility of adverse effects on the integrity of European Sites can be excluded beyond reasonable scientific doubt.

### Environmental Impact Assessment

- References the applicants EIA Screening Report and states that having regard to the nature and scale of the proposed development, and the distance to environmentally sensitive sites including European Sites, there is no real likelihood of significant effects on the environment and the need for EIA can be excluded at preliminary examination.

### **Other Technical Reports**

#### **3.2.2. Roads, Streets and Traffic Department – 5<sup>th</sup> of May 2023 – Recommended further information regarding:**

- Clarify– Drainage layout indicates a new wastewater pumping station outside the site and under the public road. No part of the development or its infrastructure should occupy the public realm, either above or below ground level and no consent has been received. It is unclear if this proposal is acceptable to Irish Water, given their statement to provide the pumping station on site.
- Provide revised basement drawing showing a reduced car parking provision to ensure modal trips are consistent with objective SMT01, by increasing the number of accessible spaces and providing for car share facilities and a small quantum of visitor spaces, with details of how the latter should be managed and controlled.
- How will future occupiers be notified that reduced car parking provision is part of the sale and marketing of the apartments.
- Submit a Bicycle Management Plan and revised drawings to address how a) the pedestrian and bicycle entrance beside the car ramp is segregated, as it appears the proposed entrance is prevented by ground floor unit 09; b) bike storage adjacent to each core; c) bike security measures; d) additional cargo bike spaces; e) demonstrate ability to provide additional bicycle parking if needed; f) height, dimensions and circulation space of bike parking facilities.
- The Operational Waste Management Plan states that the on-street bin collection location is shown on the plans. Clarify the location showing no impediment to pedestrian and cyclist access.

#### **3.2.3. Drainage Division – 9<sup>th</sup> of May 2023 – Recommended further information regarding:**

- Policy SI10 - new development be set back a minimum 10-15m from the river to create an appropriate riparian zone and future opportunities for river restoration.

- Basement Impact Assessment does not adequately identify potential impacts and/or mitigation measures, nor demonstrate how conclusions have been reached.
- Policy SI23 requires all new developments with roof areas in excess of 100sqm shall provide for green blue roof with attenuation storage at roof level.

3.2.4. **Archaeologist Report** – 4<sup>th</sup> of May 2023 – The development is within the zone of archaeological constraint for the recorded monument DU018-005 (Settlement). The Archaeological Assessment indicates that while nothing was found in the trenches excavated during geological testing, there is potential for subsurface remains at the site and archaeological testing is recommended. The City Archaeologists agreed and had no objection subject to a detailed condition (see 3.3 below).

3.2.5. **EHO** – 12<sup>th</sup> of April 2023 – Recommended a refusal of permission in the absence of an asbestos study and a noise impact report on future occupants from mechanical plant and equipment and the gym.

- Also recommended conditions (see 3.3 below).

**Parks Section** – 2<sup>nd</sup> of May 2023 – No objection subject to conditions. (See 3.3).

### 3.3. Conditions

Several departments recommended conditions, which are summarised below.

- 3.3.1. **Archaeology** – A detailed 11 part condition addresses all aspects of archaeology from submission of a method statement in advance of commencement, a pre-commencement desk based archaeological assessment before any site clearance/ construction work commences, details of how to address archaeological finds should they be discovered during the excavation phase and the production of a final report.
- 3.3.2. **EHO** – 1) All measures committed to in the outline construction management plan and in the Air Quality Monitoring and Noise Control Units Good Practice Guide for Construction and Demolition, should be adhered to; 2) Working hours 7am-6pm Monday to Friday and 8am to 2pm on Saturdays; 3) The gym floor covering and prevention of disturbance to residents.
- 3.3.3. **Parks Section** - 1) Open Space Management; 2) Contribution in Lieu of Public Open Space; 3) Tree Bond; 4) Landscape Scheme to be Implemented; 5) Tree Protection; 6) Biodiversity Mitigation, Monitoring and Enhancement.

### 3.4. Prescribed Bodies

Uisce Eireann – 11<sup>th</sup> of May 2023 – Recommended further information regarding the applicant's indication of a new wastewater public sewer (WWPS) located under the carriageway on Mobhi Boithirin, to replace the existing WWPS. In the Confirmation of Feasibility, Irish Water sought for this new WWPS to be moved on site. The applicant shall demonstrate that the proposals are in line with the requirements of Irish Water.

- Submissions were invited but not received from 1) An Taisce, 2) Department of Housing, Local Government and Heritage, 3) The Heritage Council, 4) Failte Ireland and 5) An Chomhairle Ealaíon; 6) Irish Rail.

### 3.5. Third Party Observations

11 third party observations were received by the planning authority. The issues raised in the observations are addressed in section 7.5 - observations on the appeal.

## 4.0 Planning History

### 4.1. Application site

**SHD-TA29N.312492** – Permission refused by the board on the 25<sup>th</sup> of July 2022 for the 'Demolition of outbuildings and construction of 112 no. apartments'.

4.1.1. The relevant elements of the three refusal reasons include:

- 1 ...the design, height and scale of blocks 2 and 3 proximate to the rear of the Protected Structure, would not constitute an adequate design response for this urban infill site featuring a Protected Structure, would seriously detract from the setting and character of the Protected Structure and would, therefore, be contrary to policy CHC2(d) of the Development Plan, which seeks to ensure that development protects, relates to and complements the special character of Protected Structures. ...
- 2 Having regard to the ...Development Plan, ...section 3.2 of the Building Heights Guidelines ..., the established character and pattern of development in the vicinity, and the nature and scale of the proposed development, with proposed five-storey block 1 positioned directly onto the back edge of the

footpath along St. Mobhi Boithirin and with proposed six to seven-storey block 3 to be positioned proximate and parallel with the rear boundary of properties along St. Mobhi Road, it is considered that the proposed development would be out of character with the immediate streetscape, would seriously detract from the visual amenities and character of the area when viewed from the east and west along St. Mobhi Boithirin, would have an overbearing impact when viewed from neighbouring properties at numbers 3 to 7 The Haven and adjoining properties at numbers 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Furthermore, the provision of windows and balconies on the east elevation of proposed block 3 directly facing onto the rear gardens of housing along St. Mobhi Road would result in excessive direct overlooking of the private amenity spaces to numbers 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Accordingly, the proposed development would seriously injure the residential amenities of the stated neighbouring and adjoining properties, and would be contrary to the provisions set out under sections 16.10.8 and 16.10.10 of the Dublin City Development Plan 2016-2022, which require backland development not to cause significant loss of amenity to existing properties and infill housing to have regard to the existing character of the street...

- 3 Having regard to the...position and proximity of directly-facing primary windows in blocks 1 and 2, providing for excessive direct overlooking between apartments in these blocks, and having regard to the fragmented position of block 1 separated from residents' amenities and communal facilities in the apartment complex by a vehicular access ramp, the proposed development would fail to provide an adequate level of connectivity and residential amenity for future occupants of the scheme and would be contrary to the provisions of the ...Apartment Guidelines.

#### 4.1.2. **PAC 0285/22** – First pre-application meeting on 15<sup>th</sup> November 2022.

- Concerns over north facing single aspect units in Block 1, Proximity to boundaries in Blocks 2 and 3 as well as impact of opaque screens have on amenity of the units. Impact of boundary trees on sunlight/daylight at east facing units. Protected Structure – Concern over heights. Could block 2 be reduced to 3+1 setback floor.



4.1.3. **PAC 0007/23** – Second pre-application meeting on 24<sup>th</sup> January 2023.

- Proposed density 162 units per ha. 78 units in 4 blocks, max height 4 storey plus penthouse level in Blocks 2 and 3. Reduction in height welcomed. Public open space provided and 35% communal open space on site.
- 4<sup>th</sup> floor level clunky and overbearing. Further refinement required. A detailed note and email were sent by the conservation officer to demonstrate how to get around these issues. Subject to addressing these comments, proposal for the protected structure are acceptable.
- There is a new development plan (since the previous pre application meeting).
- The level of overlooking from east facing apartments is reduced but the main issue is in Block 3, where the outlook is of opaque screens that would be in situ to prevent overlooking of the adjacent gardens.

4.2. **Other relevant planning history**

**ABP-308905-20 (SHD)** – Permission Granted by the board on the 13<sup>th</sup> of April 2021 for demolition of existing vacant motor vehicle showroom and no. 38 Glasnevin Hill, construction of 101 no. apartments on a site c250m southwest of the application site. The superstructure is almost complete as of February 2025.

**ABP-313193-22 (P.A. Reg. Ref 2683/21)** – Permission Granted by the board on the 21<sup>st</sup> of July 2023 for 4 and 6 storey apartment building, containing 44 apartment residential units on a site c85m north of the site. The number of units was reduced from 52 to 44 at further information stage. The site area is 0.39ha and the permitted density is 112 units per hectare (originally proposed to be 133uph) , site coverage 33% and plot ratio 1.14:1. The development is under construction in February 2025.

Bus Connects and Metrolink

**ABP-314610-22** – The BusConnects Ballymun/Finglas to City Centre Core Bus Corridor Scheme was approved by the Board with conditions on the 12th of March 2024. The route will have bus stops on St Mobhi's Road with a city bound stop c150m from the site and a northbound stop c260m from the site.

Live applications

- 4.2.1. **ABP-314724-22** – The Metrolink project is currently the subject of an application to the board for a Railway Order. Griffith Station would be 500m south of the site. The alignment of the route is north-south along and under St Mobhi Road, c70m to the east of the site.
- 4.2.2. **P.A Reg. Ref. WEB1239/25** – Application submitted to DCC on 10<sup>th</sup> of February 2025 for a 5 and set-back 6<sup>th</sup> storey, medical clinic building c200m southeast of the site. The site would be sites on Glasnevin Hill opposite ABP-308905-20.

## 5.0 Planning Policy

### 5.1. National & Regional Policy / Guidance

#### National Planning Framework (NPF) 2018

- 5.1.1. A key element of the NPF is a commitment towards ‘compact growth’, with a focus on a more efficient use of land by using previously developed or under-utilised land and buildings. National Policy Objectives (NPOs) include NPO2(a) that targets 50% of future population and employment growth in existing cities and their suburbs, including Dublin, while NPO3(b) seeks to deliver at least half (50%) of all new homes targeted for Dublin within its existing built-up footprint. NPO’s for people, home and communities are set out under chapter 6 of the NPF.

The NPF also contains other relevant NPO’s, being:

- NPO 4 – Create of attractive, liveable, well designed and liveable communities.
- NPO 6 – Regenerate cities by increasing population and employment.
- NPO 13 – Building height and car parking standards to be based on performance criteria with a range of tolerances to enable alternative solutions.
- NPO 17 – Enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive use now and for future generations.
- NPO 27 – Integration of safe and convenient alternatives to the car into the design of communities, by prioritising walking and cycling.
- NPO 33 – Prioritises the provision of new homes at locations that support sustainable development at an appropriate scale relative to location.

- NPO 35 – Encourages increased residential density through a range of measures, including site-based regeneration and increased height.
- NPO 54 – Reduce carbon footprint by integrating climate action into planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.

5.1.2. It recommends that there should generally be no car parking requirement for new development in or near the centres of the five cities including Dublin, and a significantly reduced requirement in the inner suburbs of all five.

#### Updated Draft NPF (November 2024)

5.1.3. The updated draft of the Revised NPF was published in November 2024. The NPO's cited in 5.1.1. above have been retained or slightly amended in the updated draft. At the time of writing this report, the revised NPF had not been adopted.

#### Regional Spatial and Economic Strategy (RSES)

5.1.4. Provides the framework through which the policies and objectives of the NPF will be delivered the region, including in Dublin, through employment creation and increases in urban populations supported by compact development and sustainable transport.

5.1.5. The site is located within the Dublin Metropolitan Area (MASP) and is part of the area identified for 'consolidation of Dublin City and suburbs'.

5.1.6. The following RPO's are of relevance:

- RPO 3.2 – Promoting compact growth, a target of at least 50% of all new homes should be built within or contiguous to the built up area of Dublin city and suburbs.
- RPO 3.3 – Core strategies to provide for increased densities.
- RPO 4.3 – Supports high density on infill/brownfield sites in Dublin city and suburbs, and ensure key water and public transport projects are co-ordinated.

#### Section 28 Guidelines

5.1.7. Having considered of the nature and scale of the proposed development, the receiving environment and site context, as well as the documentation on file, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, are:

- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). (Compact Settlement Guidelines).
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (Apartment Guidelines).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December (2018) (Building Height Guidelines).
- Architectural Heritage Protection Guidelines (2011).
- Design Manual for Urban Roads and Streets' (2013).
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government (17th of January 2018).
- Climate Action Plan (2024).
- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).

5.1.8. Where relevant, sections from the above Guidelines are included in the Assessment Section of this report.

## **5.2. Dublin City Development Plan 2022-2028**

5.2.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on the 14<sup>th</sup> of December 2022. The site is zoned Z1 'Sustainable Residential Neighbourhoods', where 'Residential' is a permissible use and the objective for which is 'to protect, provide and improve residential amenities'.

### Core Strategy

5.2.2. The overarching approach of the plan is to develop a low carbon, sustainable, climate resilient city. The development plan is required to provide for approximately 40,000 new housing units between 2022 and 2028.

5.2.1. Compact growth will be promoted on appropriate infill and brownfield sites with targeted growth along key transport corridors including the Metrolink corridor, as

identified in the Dublin Metropolitan Area Strategic Plan, along which the appeal site is located. The site is not included within any identified SDRAs/Strategic Lands.

### Climate

5.2.2. Chapter 3 'Climate Action' sets out a strategic approach to integrate climate mitigation and adaptation principles in order to ensure Dublin becomes a low carbon and climate resilient city. Relevant policies and objectives relating to sustainable settlement patterns, the built environment, and sustainable transport include:

- CA3 - Support the transition to a low carbon, climate resilient city by seeking sustainable settlement patterns, urban forms and mobility.
- CA5 - Ensure that all new development integrates appropriate climate mitigation and adaptation measures.
- CA6 - Promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction where possible.

### City Shape & Structure

5.2.3. Chapter 4 sets out the framework and strategy to guide the future sustainable development of the city with the objective of achieving a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. Large suburban areas are to be integrated into the structure of the city, both in relation to the city centre and the metropolitan area. In summary, relevant policies and objectives include the following:

- SC8 - Supports the development of...corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land.
- SC10 – Ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof (i.e. The Compact Settlement Guidelines).
- SC11 – Promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area...

- SC12 – Promote a variety of housing and apartment types and sizes to create a distinctive sense of place.

5.2.3 SC14 and SC15 of Section 4.5.4 contain policies relating to ‘Building Height Strategy’, and ‘Building Height Use’, which should be consistent with SPPR’s 1 to 4 of the ‘Urban Development and Building Height Guidelines for Planning Authorities (2018), while SC16 ‘Building Height Locations’ recognising the potential and need for increased height in appropriate locations, which are identified in Appendix 3 to the development plan.

### Housing

5.2.4. Chapter 5 addresses ‘Quality Housing and Sustainable Neighbourhoods’ and the strategic approach to the delivery of quality homes and sustainable communities based on the compact 15-minute city concept that envisages people should have the ability to access most of their daily needs within 15 minutes on foot or bike from where they live.

- Policy QHSN6 ‘Urban Consolidation’ seeks ‘to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, ..., re-use/adaption of existing housing stock ..., subject to the provision of good quality accommodation.
- Policy QHSN10 ‘Urban Density’ seeks ‘To promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area’.
- Policies QHSN36-39 address residential amenity, housing mix, and social/community infrastructure.

### Transport

5.2.5. Chapter 8 ‘Sustainable Movement and Transport’ supports and prioritises the use of sustainable modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Objective SMT01 aims to achieve mode shares of 26% walking/cycling/micro mobility; 57% public transport (bus/rail/LUAS); and 17% private (car/ van/HGV/motorcycle). The Plan aims towards

the effective integration of land use and transportation and encourages higher-density development along public transport routes.

- 5.2.6. It references the now approved Ballymun/Finglas Bus Connects Corridor that passes close to the site and Policy SMT22 supports the delivery of key sustainable transport projects, including BusConnects Core Bus Corridor projects.
- 5.2.7. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development, while policies to discourage commuter car parking are further strengthened in the plan. Section 8.5.9 highlights the need to keep all road users interacting safely and efficiently, as is supported in policies SMT 33, SMT 34, and SMT 35.

#### Sustainable Environmental Infrastructure and Flood Risk

- 5.2.8. Chapter 9 includes the following relevant policy objectives, as the Claremont Stream runs through the site:

SI10 – ‘Managing Development Within and Adjacent to River Corridors’ - To require development proposals that are within or adjacent to river corridors in the City (excluding the Camac River) to provide for a minimum setback distance of 10-15m from the top of the river bank in order to create an appropriate riparian zone...

SI23 – ‘Green Blue Roofs’ - Require all new developments with roof areas in excess of 100 sq. metres to provide for a green blue roof designed in accordance with the requirements of Dublin City Council’s Green & Blue Roof Guide (2021).

#### Green Infrastructure and Recreation

- 5.2.9. Chapter 10 includes Policy GI41 ‘Protect Existing Trees as Part of New Development’ which seeks ‘to protect existing trees as part of new development, particularly those that are of visual, biodiversity or amenity quality and significance. There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment’.

#### Built Heritage, Archaeology, and Culture

- 5.2.10. Chapter 11 recognises the importance of protecting built heritage and archaeology in quality place-making and urban design. The strategic approach aims to protect these heritage assets primarily through sensitive development and high-quality

architecture; the inclusion of structures on the Record of Protected Structures (RPS); safeguarding zones of archaeological interest; implementing the City Heritage Plan; promoting the re-use of heritage buildings.

5.2.11. There is a protected structure on the site and Policy BHA2 refers to 'Development of Protected Structures' and sets out the criteria to be considered for developments affecting Protected Structures. It is the policy:

- That development will conserve and enhance protected structures and their curtilage and will:
  - (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities.
  - (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
  - (c) (d) Ensure that any development,...affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
  - (d) (c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.
  - (e) (g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.
  - (f) (h) Have regard to ecological considerations for example, protection of species such as bats.
- BHA11 – Supports the rehabilitation and reuse of existing older buildings.
- BHA15 – To encourage the appropriate development of exemplar twentieth century buildings and structures to ensure their character is not compromised.
- BHA26 – Aims to protect and preserve archaeological heritage from any works that would negatively impact their special character and appearance.



## Development Management

5.2.12. Chapter 15 sets out the standards and criteria to be considered in the development management process, as well as guidance on the information to be submitted for various applications. Relevant aspects include the following:

- Section 15.2.3 Planning Application Documentation – set ‘Planning Thresholds’ above which different types of reports are required to be submitted with applications.
- 15.4 – Key Design Principles aim for high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.
- 15.5.2 - Infill development should respect and enhance its context and be well integrated with its surroundings, ensuring a more coherent cityscape.
- 15.5.5 – Higher density will be supported subject to suitable context and design. New development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future amenity. All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods.
- 15.7.1 - Encourages the reuse of existing buildings where possible.

5.2.13. Section 15.9.18 states Overbearance in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space.

5.2.14. Section 15.6.10 ‘Tree Removal’ states that where a proposal impacts on trees within the public realm, a revised design will need to be considered to avoid conflicts with street trees. Where a conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new development or widened vehicular entrance and cannot be conveniently relocated within the public domain, then when agreed by Parks Services and the Planning Department by way of condition to a grant of permission, a financial contribution will be required in lieu.

5.2.15. Section 15.13.4 Backland Housing states that:

- Backland development is generally defined as development of land that lies to the rear of an existing property or building line. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.
- Backland development, however, requires more innovation and reinterpretation to enable comprehensive development of these spaces.
- Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development, this should be discussed at pre-planning stage. Piecemeal backland development with multiple vehicular access points will not be encouraged.

Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on the either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- All applications for infill developments will be assessed on a case by case basis. In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must

demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

### Appendices

5.2.16. The Development Plan includes a number of relevant appendices, including:

- Appendix 3 'Achieving Sustainable Compact Growth' outlines policy and criteria in relation to building height, density, plot ratio, and site coverage.
- Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments, including bicycle and car parking standards.
- Appendix 9 – Contains Basement Development Guidance.
- Appendix 16 - guidance and standards in relation to 'Sunlight and Daylight'.

### **5.3. NIAH**

5.3.1. The existing house on the site 'Bealnagowan House' is assigned a National rating, of Architectural, Artistic and technical interest in the National Inventory of Architectural Heritage (NIAH). The building is described as detached V-plan thirteen-bay two-storey former house, built 1931, extended c. 1960, having recessed first floor balcony to southwest canted corner over piloti. Vacant at time of survey. Flat roof, concealed by painted cast-concrete parapet over plain frieze, stepped over central entrance located in internal angle to northeast; three rendered chimneystacks; and metal rainwater goods. Painted cement-rendered walling with platband to first floor sill level; cast concrete canopies to balcony and to north end of east elevation. Square-headed window openings, now boarded up. Located in own grounds.

5.3.2. The house is appraised as, an International-style former luxury house, characterized by clean lines and rigorous symmetry. It was built in 1931 to designs by Harold Greenwood, a pupil of Edwin Lutyens who was considered one of the finest English architects of the nineteenth and twentieth centuries, as the private home of George Linzell, a property developer responsible for a number of speculative housing projects in the surrounding area. The house was altered about 1960 by the addition of bedrooms over what had originally been flanking single-storey wings, compromising the subtle balance of the original proportions. The ground floor had a drawing room and morning room to the left of the central entrance hall, and a dining

room, kitchens, sculleries and maid's apartment to the right. Six bedrooms were located upstairs and storage was concealed in the angles created by the V-plan form. When built, the house was fitted with extensive innovations of the time, including an intercom telephone system and internal laundry chutes. The house is highly significant in terms of design and ambition and is reputed to be Ireland's first International-style house. It remained in use as a family home until 1971, subsequently becoming the headquarters of the Inland Fisheries Trust for a period of time before it was left vacant and badly damaged by fire in recent years.

#### **5.4. Natural Heritage Designations**

The nearest Natura 2000 sites to the proposed development are located in Dublin bay area are South Dublin Bay and River Tolka Estuary SPA (site code 004024) c3.06km to the southeast, while North Bull Island SPA (site code 004006) and North Dublin Bay SAC (site code 000206) are c5.82km to the east.

### **6.0 EIA Screening**

- 6.1. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report, and I have had regard to same. The report includes information specified in Schedule 7A of the Planning and Development Regulations 2001 (as amended). It concludes that the proposed development is below the relevant thresholds and that a mandatory EIAR is not required.
- 6.2. Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and section 172(1)(a) of the Planning and Development Act 2000, as amended, provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:
- (i) Construction of more than 500 dwelling units.
  - (iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district\*, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. 'business district' means a district within a city or town in which the predominant land use is retail or commercial use.

- 6.3. Class 14 of Part 2 to Schedule 5 requires EIA 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'. This refers to the structures that are to be demolished.
- 6.4. Class 15 of Part 2 to Schedule 5 requires EIA for 'any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 6.5. The criteria set out in Schedule 7 are (i) Characteristics of the Proposed Development, (ii) Location of the Proposed Development and (iii) Characteristic of Potential Impacts.
- 6.6. A detailed description of the development is set out in section 2.0 of this report. In summary, it is proposed to demolish 2 outbuildings (171.5sqm) and construct 78 apartments, including 4 in the converted protected structure, on a site of 0.4795ha. Therefore, the proposed development is subthreshold the requirement for mandatory EIA having regard Classes 10(b) (i) and (iv) of Schedule 5 to Part 2 of the Planning and Development Regulations 2001, as amended, in that it contains fewer than 500 units, while it has an area less than 2 hectares, which would apply to a Business District and is less than 10ha that would apply in all other parts of a built-up area.

#### Sub-threshold EIA

- 6.7. Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 2 of Schedule 5 that are sub-threshold, where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Part 2 of Schedule 5, where a planning application is not accompanied by an EIAR but is accompanied by the information specified in Schedule 7A, the competent authority shall carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination.
- 6.8. In carrying out this assessment, I have examined the characteristics and location of the proposed development, and types and characteristics of potential impacts including the sub-criteria in Schedule 7, having regard to the Schedule 7A

information submitted with the application and I have considered all information which accompanied the application including the information listed in Table 2.1 of this report.

- 6.9. With respect to cumulative assessment, the EIA Screening Report referred to other approved projects in the area being generally minor in scale, including residential and commercial extensions. It considered the 44 apartments currently under construction at Glenavon House c85m to the north of the site (ABP-313193-22). This project is already under construction with the site being cleared, and ground floor slabs in situ, following which the superstructure will be erected. That site is accessed from a different road to the current site.
- 6.10. In addition to considering the screening report, due to the time that has elapsed since the EIA Screening Report was prepared (March 2023), a search of was undertaken using Dublin City Council's online Planning Register, myplan.ie and the Bord Pleanála planning search tool to determine if any projects had been approved in proximity to the site in the interim.
- 6.11. On the 12<sup>th</sup> of March 2024, the board approved the 'Bus Connects Ballymun/Finglas to City Centre Core Bus Corridor Scheme' ABP-314610-22. The corridor runs along the R108, c70m to the east of the site and will also include works to the Ballymun road c180m to the west of the site, which is accessible by pedestrians and cyclists. It is one of 12 Bus connects projects in the Dublin city area, that are planned to be built in a staggered manner in order to avoid significant traffic and noise impacts.
- 6.12. The Metrolink corridor (decision awaited) would also run c70m east of the site, but the majority of the associated works would be carried out underground and at a distance from the proposed development site.
- 6.13. The superstructure of a 101 unit SHD application permitted under ABP-308905-20 is nearing completion on a site c240m southwest of the site and will not have cumulative effects together with the proposed development.
- 6.14. An application has been submitted to Dublin City Council for a new 5 and 6 storey building on the southwestern corner of the Bon Secours hospital grounds opposite to the site of ABP-308905-20 c170m south west of the site. A decision is awaited. This project could be carried out at the same time as the proposed development, but the

sites would be accessed via different travel routes and I do not consider that traffic impacts would have significant cumulative effects on the environment.

- 6.15. Notwithstanding the time that has lapsed since the applicant's EIA Screening Report was prepared, taking into consideration developments that have been constructed or are under construction in the vicinity, and or are permitted or planned, since the screening report was prepared, I am satisfied that these matters did not affect the conclusions set out in the screening report.
- 6.16. In addition to the EIA Screening report, the various reports submitted as part of the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, that the proposed development would not have a significant impact on the environment.
- 6.17. While the proposed new residential block would be built close to the existing protected structure on the site, I do not consider that the that the proposed development would not have a significant impact on that aspect of the environment.
- 6.18. 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 observations and I have taken into account the documentation listed in Table 2.1 of this report when screening for EIA. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Forms 1 and 3 that are appended 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 of which 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 Regulations. In these circumstances, the application of the criteria in Schedule 7 of the Regulations to the proposed sub-threshold development demonstrates that it would

not be likely to have significant effects on the environment and that an EIA is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

## **7.0 Grounds of Appeal**

### **7.1. First party appeal**

7.1.1. The grounds of the appeal should be read in conjunction with the Planning report (March 2023), demonstrating compliance with national, regional and local policy and are appended by 1) email chain of engagement with Irish Water; and 2) A revised Basement Impact Assessment.

7.1.2. The close relationship with neighbouring low density housing was a key focus when developing this scheme, while site constraints include its awkward triangular shape.

#### **7.1.3. SHD Application**

- In the SHD application, DCC and the board inspector supported higher density and increased height above the prevailing. The inspector also supported the conversion of the Protected Structure, demolition of buildings, and had no notable issues about archaeology, traffic, transport and ecology. There would be limited sunlight and daylight impacts on neighbouring houses.
- Increased height and density must not come at the cost of undue to harm to the surrounding context.

#### **Previous SHD v Proposed Development**

- The current proposal is a significantly reduced version of the SHD proposal and the reduced height, as illustrated in sections drawing, provides an all-round acceptable scheme.
- Units have been reduced from 112 to 78, density from 223 to 162 units per ha, plot ratio is down from 1.8 to 1.4, and the maximum height reduced from 23.1m to 14.85m, while communal open space increased from 32 to 35%.

#### **7.1.4. Pre-planning consultation with DCC**



- DCC raised no objection to the proposed 3-5 storey buildings or the own door proposals for Block 1.
- Conservation Officer accepted the relationship between the protected structure and proposed blocks, but sought reduced massing of the top floors.
- Concerns expressed about the relationship between Block 3 and the rear of houses on Mobhi Road, due to proximity to boundary. Acceptability would depend on a balance of mitigating overlooking impacts and retaining an acceptable standard of residential accommodation in terms of outlook, daylight and sunlight. The impact refers to the rear gardens only and not to the separation distance between the buildings.
- The architectural design statement and section 6.2 of the planning report provide more details in respect of the relationship between the proposed development and existing neighboring properties.
- A Part V agreement in principle was reached and a confirmation of feasibility letter was received from Irish Water.

#### 7.1.5. Dublin City Council Assessment

- Despite the decision, the planning officer considered the reduced height significantly improved the scheme's performance and raised no objection to the works of the protected structure or the relationship between the new development and the protected structure.
- The refusal reasons can be summarised as:
  - Unacceptable impact on residential amenity of houses on St Mobhi's Road arising from the scale of block 3 and its proximity to the rear boundary.
  - Unacceptable standard of residential amenity for future residents arising from proposed mitigation measures to address overlooking and insufficient separation distance.
  - Block one has no independent access to communal open space.

#### 7.1.6. Commentary on third party observations

- Their desire for 75up in 2-3 storey buildings is not sustainable in policy terms.

- The applicant has demonstrated the acceptability of the development in terms of height, density, design approach, works to and within the setting of the protected structure, while reducing the height of all new buildings by 2 floors.
- Block 3 while similar to the SHD proposal, has been amended to address claims it is monolithic.
- The impacts are localised and significantly reduced from the SHD application.
- The appeal focusses on the reasons for refusal and concerns in the planning officers report, which takes account of third party observations. DCC found little validity in the observations other than the matters set out in the refusal reasons.

#### 7.1.7. Impact of Block 3 on St Mobhi Road Houses

- The houses have 40-45m deep gardens, generally contain outbuildings, dense vegetation and tall mature trees at their ends, which is evident in aerial photography.
- The additional boundary planting that would mature over a number of years.
- Block 3 is generally 7.5m from the boundary, reducing to 5.9 near the northern end, and 11.5m at penthouse level.
- It is not clear what unacceptable amenity impacts that the planning officer is referring too. It is assumed to be overbearing impacts on the gardens, while loose reference is made to impact on privacy and sunlight.
- DCC considers Block 3 to be overbearing on 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Overbearance on its own is a subjective matter and should be supported by tangible evidence, which is completely absent from the planning officer's report.
- Reducing the height and massing of Block 3 from the SHD application means it has an acceptable relationship with the houses on Mobhi Road in terms of Daylight and Sunlight, Privacy/Overlooking and Overbearance.

#### Daylight and Sunlight

- Would not give rise to unacceptable daylight or sunlight impacts on windows of properties at St Mobhi Road. 100% of windows meeting the target daylight values in BRE 209 (3<sup>rd</sup> Edition). 57 of 58 tested windows meet the requirement for sunlight, with the one exception at No 57 Mobhi Road being only marginally above the 20% reduction level at 20.99%. The deviation does not appear to be a result of block 3.

- All rear gardens of St Mobhi Road properties would retain at least 2 hours of sun on the ground on March 21<sup>st</sup> compliant with BRE 209, with the development in place.

#### Privacy/Overlooking

- DCC accepted the window to window relationship is not a problem as the significant separation distance between the existing and proposed buildings offsets any potential for unacceptable internal overlooking.
- Overlooking need to only be assessed from a minor number of Block 3 windows and balconies into the rear gardens, as the lower ground, ground and first floor levels all benefit from screening arising from the sites topography, boundary wall, existing and proposed planting.
- Following pre-application consultation, a level of balcony screening was introduced to the offending units to mitigate unacceptable overlooking impact, while maintaining daylight and sunlight to these proposed apartments. This will draw views away from the gardens and additional planting will improve matters.
- DCC's concern is not about the screening itself as it would mitigate overlooking, but the impact it would have on the units within Block 3.
- Without screening overlooking would occur but that is to be expected in urban areas and occurs in normal low density and adjacent housing formats.
- The relationship between buildings would be acceptable with no screening in place, given the reduced building height. However, planting and screening alleviate all of DCC's concerns.

#### Overbearance

- Overbearance appears to be the core issue for DCC. It is defined in 15.9.18 of the development plan which ties it to outlook, which is a subjective matter. The planning assessment does not appear to tie the two together and does not give explanation as to why Block 3 would give rise to an overbearing impact as the existing and proposed buildings are not close together.
- A 4-5 storey building at a remove of 45-50m is significant in an urban context and the rear gardens would not experience overbearance or loss of outlook. The houses would retain a good degree of outlook.

## Conclusion

- The overbearing refusal reason of is not justified.
- Adequate separation distances are required to achieve acceptable relationships and safeguard amenity, and to ensure that a development does not preclude the future redevelopment of a neighbouring site.
- The applicant confirms that the gardens of the St Mobhi road properties do not present further redevelopment opportunity and in this situation, the long low-density rear gardens provide an opportunity for the optimal redevelopment of the subject site that is itself constrained by a number of factors.
- Planning policy at all levels requires the efficient use of land and provides for the redevelopment of urban infill/backland sites. It must be accepted that relationships will change and while change will occur here, the change is not negative.
- Precedents that support this application are ABP-313193-22 (Glenavon House 5 storey building to the north and ABP-308905-20, 6/7 storey at Glasnevin Hill, which have comparable receiving environments and support increased heights.

### 7.1.8. Standard of Proposed Residential Accommodation

- The second refusal reason refers to unacceptable residential amenity for future occupants.

#### Relationship between Block 1 and 2

- While the two blocks are separated by c12m the windows in Block 1 have been provided with louvered screens to direct views from the dining areas towards St. Mobhi Boithirin away from the western elevation of Block 2. The unit will maintain a good quality aspect. this aspect is northwards and a poor solution.
- The applicant is satisfied that louvres do not result in an unacceptable level of accommodation for units 1 and 3, in terms of outlook and daylight as their terraces have eastern and western aspects.
- Units 1 and 3 do not meet the BRE Guidelines value of 200 lux for more than 50% of the room area, but meet a lower standard of 150 lux. This is still considered good and the shortfall is minor. The guidelines recommend that discretion is used where rooms have multiple uses.

### Block 3 - East Elevation Windows

- Screening is not required to address overlooking but was introduced to address DCC's concerns relating to quality of amenity for future residents through limited outlook and insufficient light.
- The daylight and sunlight assessment has taken account of the opaque glazing, balcony screens, existing and additional planting, and while outlook will be affected, the scheme performs very well in terms of daylight and sunlight, given its density.
- The Daylight and Sunlight Assessment confirms that all tested windows on the eastern side of Block 3 are BRE compliant, with mitigation in place.
- Opaque glazing has the potential to contribute to poor daylight in east facing apartments.
- If the board considers them an issue, the screening could be removed.
- At Glasnevin Hill SHD, the board required 1.8m high screens.

### Block 1 – Access to Communal Amenity Space

- Block 1 plays an important role in repairing the street frontage, and provides active frontage and surveillance, but access is constrained by the wayleave.
- It has own door access and its own bin and bike stores.
- Communal space for Block 1 is accounted for in the site.
- Neither the Apartment Guidelines nor the development plan require independent access to communal open space. Rather it must be available and adjacent to the development, which it is in the case of Block 1, which would require a 40m walk.
- The benefits that Block 1 bring, outweigh concerns regarding access to Communal space and makes optimum use of the site.

#### 7.1.9. Irish Water / Drainage / Engineering Matters

- See Section 7.2.7 below where the issue raised, the applicant's response and DCC's response are set out together.

#### 7.1.10. Appendix - Email chain with Irish Water and Engineer's Letter

- Charts email correspondence in April and May 2021 between the applicant's planning consultants and engineers and Dublin City Council regarding a sewage wayleave and daylighting the Claremont culvert.
- The applicants engineers in an email of the 26<sup>th</sup> of April 2021 states that they do not propose to daylight the culvert. It only runs through the site for 12m and they see no benefit in opening it as they see no way it could ever be opened up to the north and south of the site.
- In an email dated 24<sup>th</sup> of May 2021, DCC drainage division accepted the proposal to leave the culvert in situ, provided the culvert is strengthened, access and wayleave agreements are put in place with 5m and 3m required either side of the culvert as proposed by the applicant.

#### Applicant's Engineers response

- The applicant's engineers letter dated the 8<sup>th</sup> of June 2023 stated that they had re-engaged with Irish Water and provided two alternative options for the location of a new pumping station, both of which are on the site, between the protected structure and proposed Block 2.
- Option 1 serving the development only, would discharge into the existing foul drainage manhole at the eastern end of St Mobhi Road via a new rising main.
- Option 2 would serve both the development and the houses currently served by the existing pumping station on St Mobhi Boithirin and would discharge into the existing rising main in front of the site.
- Option 1 is the applicants preferred option to mitigate the impact on the protected structure on site. While no agreement is finalised they are confident an agreement can be reached with Irish Water.

#### 7.1.11. Basement Impact Assessment (BIA)

- While not a reason for refusal, DCC did indicate that additional information should be sought to address a number of queries regarding the original BIA.
- The key additions to the revised report include:
- It is not practical to carry out a full site investigation at this stage, but this will be done once the existing buildings are demolished.

- No groundwater was encountered where the basement is proposed, but was at a depth of 2.7m below ground at the lowest point of the site that was tested.
- If dewatering is required, it would be controlled by a discharge licence.
- The development will not increase surface water runoff from the site.
- In terms of cumulative effects, the basement area will contribute to potentially reducing the area around which ground water can flow. The potential for upstream hydrological issues or to contribute to flooding in basements is minor, as groundwater will find a new route around the basement.
- The secant piles are not expected to affect the local groundwater regime.
- A monitoring system will be put in place pre-construction to monitor groundwater flow and levels.
- Scenario B from the Basement Development Guidance in Appendix 9 to the development plan, would apply to the proposed basement.

## 7.2. Planning Authority Response

- 7.2.1. Three responses were received from 1) the Planning Authority; 2) Conservation Officer; 3) Drainage Planning Policy and Development Control.
- 7.2.2. **Planning** - Requested that the board uphold its decision to refuse permission, but if permission is granted, that the following conditions be applied 1) section 48 development contribution; 2) a bond; 3) contribution in lieu of the open space; 4) social housing; 5) naming and numbering; 6) management of the development.
- 7.2.3. The **Conservation Officer** (CO) notes their original report was not issued in sufficient time for consideration by the planning officer, or the decision.
- 7.2.4. At the end of their assessment, a refusal was recommended for the following reason:
- The proposed new blocks will impact the setting of the Protected Structure in a dominant, adverse, detrimental and injurious manner. The design and form of the top floor enclosure on Blocks 2 and 3 is challenging in the context of the Protected Structure, as it appears top-heavy and dominant, rather than receding and discrete. In summary, notwithstanding the adjustments made to the quantum of development on the site, particularly in relation to Blocks 2 and 3, the proposed new buildings jar

with the finesse and understated articulation and special architectural character of this Nationally significant exemplar of domestic 20th century international style, and dominates its setting to an unacceptable, adverse, detrimental and injurious extent, contravening Policies BHA2 and BHA15 of the Dublin City Council Development Plan 2022-2028.

7.2.5. The above recommendation to refuse permission followed a detailed report outlining all of the concerns they have with the application while they also provided wording for a detailed planning condition, that should be attached, should permission be granted or a new application submitted. The condition would require amendments to the proposed internal layouts of the apartments in the protected structure.

7.2.6. The key issues in the Conservation Officer's assessment can be summaries as:

- Attended 2 pre-app meetings and visited the site. Refers to a June 2011 report regarding its significance, that informed the decision to place Balnagowan House on the record of protected structures. Due to its NIAH and protected structure status its special interest should take precedence over all other development on this site.
- While the height was reduced, the buffer to the west (block 2) of the protected structure is the same as in the SHD application, and while it has increased by 1.45m to the south (Block 3), the boxy nature of the top floors still dominate the setting of the Protected structure, and it still appear top-heavy and dominant rather than receding and discreet.
- The new buildings would jar with the finesse and understated articulation and special character of the nationally significant house and dominate its setting to an unacceptable and detrimental extent as illustrated in photomontage views 17 & 18.
- The development will have a detrimental impact on the amenity of the two-storey houses along St Mobhi Road.
- The elevational drawing indicating the extent of demolition of the proposed historic boundary wall is insufficient and should be accompanied by a planned drawing. As much as possible of the wall should be retained.
- The refurbishment of the protected structure is welcomed, though the quality of baseline photographs are poor, as the windows are currently boarded up, while the site hoarding blocks proper views of the historic boundary wall. None there now



- It's regrettable the historic garden features at the rear are not included in the landscaping proposal (fire-pit, tennis court, pool).
- The landscaping in front of the protected structure should be simplified.
- Subdivision of the buffer zone / entrance / garden to the west of the protected structure will interfere with its presentation and legibility in a negative manner and have an adverse impact on the setting of the protected structure. The proposed narrow terraces to the east and south of the protected structure enclosed with formal planting edge should extend the same length on both elevations.
- A new sliding gate supporting the western elevation is inappropriate and not supported. For example the gate should be placed closer to the entrance or omitted to avoid visual clutter and dilution of the setting of the protected structure.
- The covered bike parking near the protected structure would have an adverse impact on its architectural setting and should be relocated.
- The proposed use of concrete paving blocks near the protected structure is considered inappropriate to. Should be replaced by original brick paving.
- Detailed drawings to be provided of the proposed reinstated circular fountain feature, based on historic evidence.
- The Conservation Officer gave very specific advice during the consultations regarding internal finishes. The drawing submitted of the protective structure and proposed works do not provide the level of detail required for this nationally significant protected structure.

#### 7.2.7. **Drainage Planning, Policy & Development Control**

Item 1 – Issue – Development should be set back 10-15m from the river corridor.

Appeal stated – DCC had agreed to leave the culvert in place, that it be strengthened and access made available if needed.

DCC response – Agreement (May 2021) predates adoption of the new 2022-2028 Development Plan. Policy SI10 requires all new developments within or adjacent to river corridors to be set back a minimum of 10-15m from the river corridor to create an appropriate riparian zone and preserve future opportunities for river restoration.

Item 2 – Issue – Basement Impact Assessment (BIA) is not adequate

Appeal stated – The BIA was updated in June 2023.

DCC response – Revised BIV is acceptable.

Item 3 – Issue – Policy SI23 all roofs in excess of 100sqm will be blue/green roofs.

Appeal stated – The development is compliant with SUDS requirements. The non-provision of a blue green roof is considered acceptable.

DCC response – The applicant has not demonstrated that they met the exemption criteria in the Green & Blue Roof Guide 2021, and is therefore required.

### **7.3. Other Responses**

- 7.3.1. The grounds of appeal were circulated to the Dublin City Childcare Committee, for comment, but no response was received.

### **7.4. Applicant's Response to Conservation Officer's Comments on appeal**

- 7.4.1. The applicant's planning consultant responded to the comments of Dublin City Council's Conservation Architect's on the 15<sup>th</sup> of August 2023. The response was appended by a separate report prepared by a Grade 1 Conservation Architect.

#### **7.4.2. Planning Consultant**

- This responses should be read in conjunction with the wider application documents, particularly the Architectural Heritage Impact Assessment.
- The applicant is disappointed with the late nature of the response of DCC's conservation department, as no comments were made on the application itself, despite extensive consultations, including facilitating a site visit.
- Except for comments regarding height and scale, and the relationship of the proposed development with the protected structure, all other comments are relatively minor and could be addressed by way of further information or condition. MAJOR
- Significant height reductions have been made in Blocks 1, 2 and 3 from 5 to 3 storey, 6 to 4 storey and 6/7 to 4 /5 storey, to address concerns SHD application.

- The appeal addressed the relationship between Block 3 and residences on St Mobhi Road. They do not consider that it gives rise to conservation related concerns, as the properties are not Protected Structures or located within a Conservation Area.
- The board upheld DCC's decision to grant permission for a 5 storey apartment block with 44 units at Glenavon House (ABP-313193 / P.A. Reg. Ref. 2683/21). That site is also bordered by the rear boundaries of properties fronting St. Mobhi Road and paragraphs 7.5.6 and 7.5.7 of the Inspector's report refers to the rear facades of the houses being 30 to 40m from the shared boundary and c40m+ from the east facade of the proposed development, resulting in no significant impact on the internal spaces of the existing houses. It also notes that the proposed building would be within 7 to 8 metres of the shared boundary, but that mitigation in the form of planting and screening as well as the sheer size and length of the rear gardens would mitigate severity of impact.
- In ABP-313193, the inspector carefully considered the height and the scale of the development with the two-storey houses on St Mobhi Road at paragraph 7.5.14 of their report, and consider it acceptable, considering the separation distance to the houses on St. Mobhi Road, which is very similar to the separation distance between proposed Block 3 in this application, and houses on St. Mobhi Road. At paragraph 7.5.15, the inspector noted the length of the building is significant when viewed from the rear of the properties on St Mobhi Road, but visual impact would be mitigated by existing and proposed trees, and while the outlook would be significantly affected, given the significant separation distance, as well as design and screening and the urban context, the impacts would be acceptable and would not warrant a refusal.
- The proposed development would be consistent with the decision in 313193, would ensure the survival of Balnagowan House and would be consistent with the policies of the Development Plan.

#### 7.4.3. Conservation Architect (Grade 1)

- Balnagowan House (BH) is in dilapidated, distressed and neglected condition.
- 3 townhouses that were built on the curtilage, to the immediate east, were built before the building was designated as a protected structure, have obscured and compromised its previously dominant position on the street.

- A three storey apartment block is located opposite Balnagowan House.
- The three-storey Block 1 is located at a distance from Balnagowan House, and would have no impact on the character of Balnagowan House (protected structure)
- The part 4, part 5 storey Block 3, to the rear, faces a car park to the west and long mature rear gardens to the east.
- Block 2 has an impact on the setting of the protected structure. Its shoulder height is informed by the projecting chimneys and parapet of BH. A landscaped minipark will separate it from BH. Block 2 does not read as a tall building, is set back from the road edge by 1.5m with the top floor set further back and does not dominate the protected structure.
- Block 3 is set back 17.25m from BH, and is backland, thus reducing its perceived impact. The building cannot be seen over the roof of BH from Mobhi Boithirin.
- The CO states that the special interest of BH should take precedence over all development. The reduced height means that BH remains the most important and dominant element, especially when viewed from the street. The top floors are not too heavy and dominant as claimed by the CO.
- While the houses on Mobhi Road are of some interest, they are not protected or in an ACA and have been substantially altered at the rear. The gardens are 45-50m deep, are tree lined and have garden sheds. The development would have absolutely no impact on the character of those houses, and they are not impacted in conservation terms.
- The applicant is happy to have conditions attached to address the following concerns of the Conservation Officer (CO):
  - Detailed drawings of the historic boundary wall.
  - A full historic photographic record when boarded windows are reopened and the building is made safe.
  - Natural gravel will be used instead of resin bond. Brick, grass and grass paving will also be used.
  - The swimming pool and tennis court no longer survive and must be viewed in a practical context.

- Landscaping will be amended to address previous fire pit.
- Bike parking will be relocated away from the protected structure.
- The applicants AHIA incorporated much of what the CO desired.
- The Architectural Design Statement (ADS) illustrates the building integrates well into the streetscape. Curved balconies on the front of Block 2 reflect the Art Deco style.
- The ADS outlines how the vacant and underutilised site will be put to an appropriate and sustainable high-quality residential use.
- It is the optimum architectural solution to this difficult site.
- It responds to and celebrates the protected structure.
- The special interest of the protected structure is mainly its historic interest being an early Irish house in the international style.
- BH is deteriorating and it is important that essential repairs are carried out while making BH the dominant feature on the site.

## **7.5. Observations**

7.5.1. The board received 4 observations in respect to the appeal from persons who had also made submissions to the planning authority in respect of the application, including one observation on behalf of 34 residents at 22 separate addresses in the immediate vicinity of the site. The key issues are summarised below.

### **7.5.2. Principle of Development**

- Not against a sympathetic and appropriate refurbishment of protected structure and further development, but scheme fails to respect the architecture, landscape and character of the protected structure, the culvert and riparian corridor, the neighborhood and future amenities of residents, and offers no benefits to the area.
- Inappropriate density, height, scale and bulk, will result in significant, permanent and unacceptable loss of privacy and disruption to adjoining properties.

### **7.5.3. Public Notices**

- Proposed pumping station and surface water upgrades outside of the site and not part of the public notices.

#### 7.5.4. Accuracy of CGI's and drawings

- The CGI's are not an accurate representation of the proposed scheme and don't show the impacts from the rear gardens of the houses on St Mobhi Road.
- Dimensions missing in some drawings and some buildings missing.
- Adjacent ground levels not shown, so how are contiguous elevations informed.
- Block 3 is 5-storeys at the southern end due to falling ground levels. It is not built into the ground as the elevations would suggest and is at a similar level as the immediately adjoining gardens in St Mobhi Road, at this point.
- Block 3 is 17.025m, not 14.85m. It will read as 5 storey from St Mobhi Road rear gardens..
- The units describes as basement level units are actually ground level units.
- Trees detract from the elevations and make them difficult to interpret.

#### 7.5.5. Support DCC assessment and decision

- DCC's assessment was thorough, well thought out and raised a number of significant concerns regarding excessive density, negative impact on protected structure and private properties, overshadowing, overlooking and negative impact on residential amenity. DCCs decision to refuse permission should be upheld and the grounds of appeal offer no basis to alter the decision.
- The site is constrained by its shape and the protected structure, while the proposed density of 162 units per hectare (uph) represents overdevelopment, which the planning officer states contravenes the of 60-120dp density range for outer suburbs.
- Agree with the planning officer that the buildings should have been redesigned to address all three SHD refusal reasons, including proximity to boundaries.

#### 7.5.6. Ignored Pre application advice / Resubmission of previously refused SHD

- There is little difference between this and the refused (SHD) application.

- Fails to address the two refusal reasons from the SHD application (312492) and the pre application feedback, that stated that development was a modification to the SHD proposal that was unacceptable in terms of design, siting, density and scale, while impacts on visual and residential amenities are not addressed.
- The second pre app consultation advised that buildings should be no more than 4 storeys, that overlooking from block 3 remained unresolved and that Blocks 1, 2 and 3 were all located too close to site boundaries.
- DCC suggested Block 1 be 3 storeys which the haven residents object to, while blocks 2 and 3 were to be 3 storeys with a setback floor.
- Failed to reduce the footprint of the development and the negative impacts on the protective structure as advised. Still constitutes overdevelopment, with the blocks 2 and 3 insensitively sited.
- Screens on the east of Block 3 are the same as the board previously rejected.
- Block 1, while set back 1m is still grossly overbearing on 1-7 The Haven, with directly overlooking windows.
- Applicant unwilling to listen to pre application consultation advice and amend the scheme to a more appropriate form of development.
- DCC suggested Block 1 be 3 storeys which the haven residents object to, while blocks 2 and 3 were to be 3 storeys with a setback floor.
- Concerns raised by the board in the SHD application regarding the vehicular access ramp are not addressed.

#### 7.5.7. Impact on Architectural Heritage and Archaeology

- The site contains a nationally significant protected structure and all the site is within its curtilage.
- The board has previously found that the general footprint and setting of blocks 2 and 3 to be unacceptable and the reduction in height does not address their scale, design or appearance and would compete with its setting.
- Overdevelopment will cause the protected structure to be dominated and its setting and special character will be diminished.

- Original gardens could be restored, not destroyed by block 3 and the basement.
- There is a lack of open space adjacent to the protected structure.
- Applicant should maintain the protected structure regardless of this application.
- The development plan states new development should not have an adverse impact on a protected structure of its curtilage in terms of scale, height, massing alignment and materials.
- The assertion that the viewpoint No 5 is positive is disputed as the protected structure is seen against the backdrop of a taller building and the new elements change its character.
- In the SHD application the board stated that the impact on the protected structure could be addressed by reducing the footprint of the buildings.
- The applicant's AHIA is silent on the impacts of blocks two and three on the setting of the protected structure. Therefore it does not fully address the requirements of the Architectural Heritage Protection Guidelines.
- The original building that is now the protected structure was extended at first floor level at each end by a second owner altering the original design, while the interior of the building has been amended several times. The front of the house was visible from the public road, but the rest of the building was hidden behind the boundary walls. The interior retains many original elements and insufficient restoration is proposed. The gardens were added after the house was constructed.
- Will have a dominant and oppressive impact on Saint Mobhi's church.
- Queries the excavations carried out for the presence of archaeological remains.

#### 7.5.8. Mass / Height / Density / amenity of existing neighbours

- Previous density, height and mass concerns in SHD application not addressed.
- The site is located in the outer suburbs, where a density range of 60-120 uph is permitted. The unjustified and excessive density at 162 units per ha (uph), materially contravenes density provisions in Appendix 3 to the development plans.
- Fails to strike a reasonable balance between increased density and respecting residential and visual amenity of adjoining two-storey properties.



- 3 storey Block 1 will affect access to the Haven, on street parking, will block sunlight, affect visual and residential amenity will overlook and will require an unacceptable loss of trees.
- Development Plan policy limits height to 3-4 storeys. Block 3 would be 5 storeys.
- Would change the character of the area to one of high density, overdeveloped, excessively tall, urban blocks.
- Significant impacts on light, privacy and direct overlooking where children play.
- Neighbours would be significantly, permanently and negatively overlooked and are experienced perception of overlooking from block 3, removing all privacy that currently exists.
- The density must reflect the sites sensitive surroundings.
- The residents of Mobhi road are being asked to do the heavy lifting to facilitate this development and accept overbearing, overlooking and some overshadowing that would impact their residential and visual amenities. It failed to address previous refusal, to respect the protected structure, the culvert and riparian corridor, furniture residential amenity or provide a creche.
- Contrary to backland policy as it should not cause significant loss of amenity to existing properties. While the neighbours have large rear gardens, they purchased with an expectation that they would remain private.
- East facade of Block 3 is much closer to the boundary than dimensions show.
- Would be contrary to the Z1 zoning objective as it would fail to protect and/ or improve residential amenity.
- There are no 4, 5 and 6 storey buildings in the vicinity.
- The neighbours would support a density of 75 units per hectare.
- As per the Sustainable Residential Density Guidelines 2009, the site is too small to define its own density, while its long and narrow north-south axis is restrictive.
- Appendix 3 states that enhanced density and scale should not have an adverse impact on the character in the setting of existing historic environments including... protected structures and their curtilage.

- Policy Objective SC10 seeks to ensure appropriate densities in accordance with sustainable residential development in urban areas guidelines and any amendment thereof [the compact settlement guidelines]
- Development plan required that all proposals were significant increased height and density over the existing prevailing context must demonstrate full compliance with performance criteria.

#### 7.5.9. Policy

- The development fails to comply with the following:

##### The Architectural Heritage Protection Guidelines (2004)

- Blocks 2 and 3 should be moved further from the protected structure. The board previously found their siting and footprints unacceptable. Reducing height does not alter their positioning, scale, design or appearance, which would not be sympathetic to the aesthetics, character and setting of the nationally important building.
- The scale of the development would diminish the character and setting of Balnagowan House and would detract from a setting and views towards it from within the surrounding area. The construction of tall and overly dense buildings on the site would be contrary to the provisions of the Guidelines.

##### The Development Management Guidelines (2007)

- No matter how acceptable in principle developments must be sensitive to their local environment. All material considerations for and against the proposal should be evaluated in an open and transparent manner, while consistency in interpretation of a development plan policies is essential to public confidence.

##### Design Standards for New Apartment Guidelines (2018)

- Developments must respect their context. This development does not.

##### Sustainable Residential Development Guidelines

- (superceded by compact Settlement guidelines)

##### Urban Design Manual (2007)

- An accompanying document that is not reference in the CSG's

##### Urban Development and Building Height Guidelines (2018)

- DCC has consistently decided that apartment schemes could be a maximum of three stories in height in this area and there is no indication that densities above 120 units per hectare are acceptable in outer suburban sites.
- Does not comply with SPPR 3 of the guidelines as it does not integrate into or enhance character and the public realm does not respond to the scale of adjoining development as it is monolithic, does not make a positive contribution to the area.
- At the scale of the site, the form, massing and height should be carefully modulated to maximize access to natural daylight ventilation and views minimize overshadowing and loss of light. The development is abruptly to scale alongside 2 story dwellings on the rear gardens.
- At the scale of the district/neighborhood the proposal is massively over scaled.
- Achieving higher densities must factor in the protection of existing amenities and the natural and historical assets of the city
- The previous inspector assessing the SHD application referred to the site as partly infill and partly back planned policies 15.13.3 and 15.13.4 apply.
- Block 1 is not consistent or compliant with section 15.9.17.

#### 7.5.10. Design and Visual Amenity

- Too many windows and balconies too close to the boundaries.
- Block 3 at 56.6m, is too long and monolithic from neighbouring gardens.
- The proposal, effectively a reduction in floors from the refused SHD, is not an appropriate design response. A revised scheme is required as the board could have simply removed a few floors, by condition but did not.
- The board stated Block 1 was not suitable in this cramped site. Reducing height by one floor and setting it back are insufficient to overcome refusal reason no 3.
- The site does not have the ability to absorb this scale of development, so Block 1 should be 2-storey, Block 2, 3-storey and Block 3, 3-4 storeys in height.
- The need for mitigation on windows and balconies suggests a poor design.

#### 7.5.11. Overlooking / Overbearing

- The applicant continues to try resolve eastwards overlooking from Block 3 by trees and various screens. This was not acceptable in the SHD application and the amenities of existing properties and future residents would be diminished.
- Blocks 1, 2 and 3 are located too close to the northern and eastern boundaries and there will be overbearing impacts from blocks 2 and 3.
- Opaque glazing does not address overlooking including from balconies and stairs/lift lobbies.
- Block C would read as a long continuous large building resulting in significant overbearing, overlooking, which is unacceptable.
- Block C is 5.9 to 7.5m from the rear garden boundaries of houses on St Mobhi Road. This is closer than in the refused SHD application.
- Observers reject the suggestion that their gardens are already overlooked from the mews houses on St Mobhi Boithirin.
- The adverse impacts on residential amenity cannot be mitigated by reason of proximity of the building to the boundary.
- The extent of mitigation proposed reflects poorly on the design of the scheme.
- Both DCC and the board in the SHD refused permission for reason of overbearance. While the applicant argues to the contrary, Block 3 is too big and too close to the boundary of the rear gardens of St Mobhi Road.

#### 7.5.12. Residential Amenity of Future Residents

- Block 1 is north facing and dark. The board previous made it clear this block was not suitable and the area should be open space.
- Apartments in Block 3 would have limited light due to fritted glass and planters at the two upper floors.
- Dense planting will affect light to apartments at lower levels in Block 3.
- The only aspect from many single aspect units is eastwards towards back gardens. This was previously found unacceptable by the board. How could it be acceptable in this application.
- Poor outlook from a new scheme is an undesirable feature.

- Open space provision is inadequate.
- Blocks 1 and 2 are too close to each other, notwithstanding a height reduction.
- Block 2 is too close to the protected structure
- No design changes introduced to address overlooking, overshadowing or overbearance issues.

#### 7.5.13. Sunlight and Daylight

- Lack of natural light at single aspect basement/lower ground level apartments.
- To provide good light, the number of units need to be reduced.
- Sunlight levels are not shown for the western elevation of Block 2. This was a refusal reason in the SHD and the same separation distance is now proposed between Blocks 1 and 2.
- Shortcomings identified in the planning officer's report are a function of proximity of the buildings to each other, the protected structure and neighbours properties.
- The effects of overshadowing have not been fully represented in the decision.
- Continued reliance on the BRE guidelines where it is clear that adverse overshadowing does arise is not acceptable.
- Solar panels on the front of 3 The Haven have will be significantly affected.

#### 7.5.14. Traffic, Parking and Access

- The access route is a 5.5m wide Boithirin. Cars park on one side leaving c9 feet in width for traffic to move along the street. Can only accommodate single file traffic.
- Only 41% of apartments would have parking spaces, putting pressure on the Boithirin. A meaningful parking demand analysis has not been carried out and c50 extra spots would be sought in the local streets, as the Metro, is delayed by 10 years and the area must rely on an inadequate bus service.
- The car park entrance will result in the loss of on road parking spaces for residents of The Haven and two public trees. Why can the existing vehicular entrance not be used as no houses would be affected by it.

- The car park entrance ramp is steep and unsafe resulting in an unsafe exist onto So Mobhi Boithirin.
- The car parking show cars can go both left and right however Saint Mobhi Boithirin as it cul-de-sac, so it is not possible.
- Significant, permanent, and negative noise, disturbance, loss of privacy, loss of road safety, loss of views and light disturbance in respect of these properties from the comings and goings of the 32 vehicles to be parked in the scheme.
- The scheme does not reflect traffic changes on Griffith Avenue.

#### 7.5.15. Construction Impacts

- Noise, air and traffic impacts during construction need to be rethought.
- Significant HGV movements to remove soil from site and deliveries.
- Inadequate parking provision for workers.
- The basement impact assessment confirms properties to the east may experience very slight to slight damage from subsidence and vibration may cause impacts to the Haven. No proposals provided to indemnify impacted residents.
- A detailed structural survey of surrounding residences should be carried out prior to any development commencing.
- The basement impact assessment did not adequately assess groundwater and dewatering may occur, impacting the structural integrity of neighbouring properties.
- No baseline noise study was carried out and the measures proposed in the construction management plan are wholly inadequate.
- Applicant has not engaged with the neighbours. Instead they dismissed their concerns as being not valid.
- No consent has been given to remove and replace the eastern boundary wall between Block 3 and the rear gardens of house on Mobhi Road.

#### 7.5.16. Biodiversity and Trees

- The report regarding trees and wildlife is incorrect. The area is known to have bats, foxes, squirrels in abundance and regular bat sitings on the site by residents.

- The loss of all trees on site and two to facilitate the entrance outside the site would have a significant and detrimental impact on neighbouring properties. No alternative is provided to removal of trees with emphasis on tree felling, while excavations are proposed in tree roots area.
- The loss of trees would be contrary to the City Biodiversity Plan 2021- 2025.
- The trees that the applicant relies on for mitigation are outside of the site and cannot be relied upon.
- The landscape plan is insufficient to provide mitigation as the trees once mature will not block overlooking from the upper floor. The trees are also slow growing and deciduous.
- Only 7 are trees proposed as screening along the east of 56.6m long Block 3.

#### 7.5.17. Infrastructure

- The sewer is under pressure and DCC have to regularly replace the pump. Extra loading is out of the question.
- There is insufficient bus capacity to cater for the developments travel needs.
- The development offers no new social infrastructure and no creche is proposed despite high local demand. A smaller scheme with a creche should be provided.

#### 7.5.18. Culverted Stream

- The applicant has not considered restoring the culverted stream.
- The vehicular ramp will clash with the culverted stream. Engineering drawings are not specific.
- The proposal is contrary to S110 of the development plan by reason of proximity, offering only 3-5m setbacks, either side of the culvert. The new plan requires 10-15m setbacks requirement from the stream.
- North west corner should remain undeveloped, as should the Bon Secours lands.

#### 7.5.19. Health and safety

- Health and safety due to proximity 1 to Bon Secours Gas supply.

#### 7.5.20. Precedents

### Local

- Glenavon House, which the applicant refers to as to what is acceptable, is on appeal and DCC required by condition 21 that a floor be removed. The density proposal is 133 units per hectare.
- The proposal is far taller than any precedent schemes in the wider area.
- None of the precedents cited are for 3, 4 or 5 storey buildings and the those that were permitted, are not backland sites, and have a different context.
- A significant number of precedents support the observers claim that the proposed building is out of character with all other developments in the area.
- There is no emerging trend for higher buildings and the established trend is 2 storey houses
- The development is unsympathetic to the Bon Secours hospital

### Other

- ABP-308157 – the board reduced a development density by 30% (from 628 to 446 apartments) and removed 2 blocks due to negative impact on neighbours.
- ABP-311287 – Development close to a similar boundary was limited to 3 storeys with no overlooking of east.

#### 7.5.21. Further information that would have been sought had permission not been refused

- 1) 10-15m setback from river; 2) direct route from Block 1 to open space; 3) increased setback between blocks 1 and 2; 4) a reduced Block 3; 5) lack of parking and cyclist access to basement; 6) pumping station proposed outside of site, but not advertised; 7) Updated Sunlight and Daylight report addressing internal overshadowing; 8) Revised Childcare Demand Assessment; and 9) Asbestos Survey and Acoustic report regarding Gym.
- In the absence of the above information, the board cannot grant permission.

#### 7.5.22. Development Potential of adjacent lands

- At no point did the applicant seek to consult with the immediately adjacent neighbours who collectively have lodged observations on the appeal.



- The scheme seeks to use the neighboring gardens as setbacks for block 3, ignoring the development potential of the gardens themselves, for backland dwellings or full redevelopment, thereby depreciating the value of these properties.
- While the separation between the rear of the houses on Mobhi Road and Block 3 is considerable, only 10-15% is on the application site. Why would this be allowed?
- The future development potential of the Bon Secours lands was carefully considered, but the gardens of St Mobhi Road were treated as if they have none.

## **7.6. Further Responses**

None

## **8.0 Assessment**

### **8.1. Introduction**

8.1.1. Having examined the application details and all other documentation on file, including the information received in relation to the appeal, having inspected the site, and having regard to relevant planning policies, I am satisfied that the main issues in this appeal can be dealt with under the following headings:

- Principle of Development and Demolition
- Public Notices – Validity of Application
- Changes since appeal was lodged
- Density
- Refusal No 1 – Impact on Neighbouring Amenity
- Refusal No 2 – Impact on Amenities of Future Residents
- Impact on Protected Structure
- Traffic, Access and Parking
- Biodiversity and Tree Loss
- Archaeology

- Infrastructure
- Construction Impacts
- Public Open Space
- NEW ISSUE – Access to Basement if Culvert has to be opened

## **8.2. Principle of Development**

The application site is zoned 'Sustainable Residential Neighbourhoods', in the Dublin City County Development Plan 2022 – 2028, the objective of which is 'to protect, provide and improve residential amenities'. 'Residential' is a permissible use and I am satisfied that the proposed residential use of the land is acceptable in principle.

It is proposed to demolish three outbuildings with a combined area of 171.5sqm. Policy CA6 of the Development Plan 'Retrofitting and Reuse of Existing Buildings' seeks to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible, while Section 15.7.1 encourages the reuse and repurposing of buildings for integration within a scheme.

- 8.2.1. I am satisfied that the outbuildings have no features that are worthy of retaining and I am further satisfied that it would not be possible or feasible to incorporate the existing building into the proposed development. I have no objection to their demolition

## **8.3. Public Notices – Validity of application**

- 8.3.1. Observers on the appeal raised concerns about the validity of the application, as they considered that the public notices do not describe some of the works that are proposed to be carried out, on lands outside of the red lined site boundary, including the removal of two trees to provide a new vehicular access, the installation of a wastewater pumping station and upgrades to the potable water supply. I will assess each of the above matters later in this assessment, but I am satisfied that the public notices were not specifically required to include reference to any of these matters.
- 8.3.2. The observers also note that the public notices refer to the maximum height of the development to be 14.85m (to top of lift overruns). That is incorrect as the

southernmost part of proposed Block 3 would be 17.25m above ground level as the ground level falls towards the southern part of the site.

- 8.3.3. While the stated maximum height of the building in the public notices is incorrect, I do not consider that the third parties have been disadvantaged in making observations on the application or the appeal, and I am satisfied that a valid appeal has been lodged for the purpose of this report and assessment. The impact of the height of Block 3 on neighbouring amenity is addressed later in the assessment.

#### **8.4. Changes since appeal was lodged**

- 8.4.1. Since this appeal was received by the board in June 2023 a number of key changes have occurred that I consider are relevant to the grounds of the appeal and should be brought to the attention of the board. They are:

- The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (CSG's) were published in January 2024, replacing the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities. The CSG's refer to the Climate Action Plan 2023 (now superseded itself) which required a review planning guidelines to ensure a graduated approach in relation to the provision of car parking. The CSG's contain specific planning policy requirements (SPPR's) which the board 'shall apply', including SPPR1, which refers to a requirement to maintain separate distances of 16m between opposing windows serving habitable rooms, with exceptions allowed where suitable privacy measures have been designed into the scheme to prevent undue overlooking. SPPR No.3 states that car-parking provision should be minimised, substantially reduced or wholly eliminated in areas such as where this site is located.
- The Climate Action Plan 2024 emphasises a need for reallocation of road space away from the private car to more sustainable modes of transport, including public transport and cycling. It also states that planning authorities should not require specific minimum levels of car parking with the exception of disabled parking for any type of development. At locations with good public transport, maximum levels for car parking provision should be applied. These principles are also being factored into the development of the National Demand Management Strategy. In making decisions, the board is required to be consistent with the Climate Action Plan.

- ABP-313193-22 - In July 2023, the board granted permission for 44 apartments in a 4 and 6 storey building on a site of 0.39ha, c85m to the north of the site. This is addressed in more detail later in the assessment.
- ABP-314610-22 - On the 12<sup>th</sup> of March 2024, the board approved the 'BusConnects Ballymun/Finglas to City Centre Core Bus Corridor Scheme'. The corridor will pass c70m to the east of the site, with a city bound stop c150m from the site and a northbound stop c260m from the site.

8.4.2. Each of the above is relevant to the matters raised in the appeal and observations.

## **8.5. Density**

8.5.1. The proposed development would have a density of 162 units per hectare (uph), which would be substantially higher than the historic density in the area, while the plot ratio would be 1.42 and the site coverage would be 42%.

### Development Plan

8.5.2. Section 6.1.2 of the applicant's planning report refers to development plan policies, which they consider supports the principle of increased density and acknowledges that the proposed density is higher than the prevailing. It also includes Table 1 'Density Ranges' from Appendix 3 to the development plan, which sets out different density ranges that are to apply in 6 different location types throughout the city. Two of the locations are relevant to this appeal 1) 'Outer Suburbs' with a density range of 60 to 120uph; 2) 'City Centre and Canal Belt' with a density range of 100 to 250uph.

8.5.3. The applicant states that their site is an 'inner suburb' by reference to section 4.5.2 of the development plan, which refers to the inner suburbs comprising the established suburban communities, largely, located outside of the canal belt. The applicant considers that as there is no definition of inner suburb, the 'City Centre and Canal Belt' density of 100-250uph is the most applicable to the site.

8.5.4. The observers consider that the site is located in the 'Outer Suburbs', where the density range is 60-120uph. The planning officer agreed with the observers view, and when considered with other matters including height, proximity to boundaries and overlooking of adjoining properties, concluded that the development would

constitute an overdevelopment of the site. The observers also consider that the proposed density of 162uph materially contravenes the 60-120uph density range.

- 8.5.5. I would agree with the interpretation of the planning authority and the observers. The density range in Table 1 refers to 'City Centre and Canal Belt' and the only reference to canal belt in the main body of the development plan states that inner suburbs are areas located outside of the canal belt and as an example cites Phibsborough. As Phibsborough is deemed to be outside of the canal belt, so too then must Glasnevin, where the site is located, which is much further removed from the canal, while the suburb of Drumcondra lies between the two suburbs.
- 8.5.6. I am satisfied that the proposed density of 162 units per hectare exceeds the density range of 60-120 units per ha set out for such sites in Table 1 of Appendix 3 to the Development plan.
- 8.5.7. Compact Settlement Guidelines
- 8.5.8. In January 2024 the Compact Settlement Guidelines (CSG's) replaced the 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), which were revoked.
- 8.5.9. Section 3.3 describes settlement and area types as well as recommended density ranges that should be applied to locations. Table 3.1 states that 'City - Urban Neighbourhoods' in Dublin include lands around existing or planned high-capacity public transport nodes or interchanges all within the city and suburbs area, and that it is a policy and objective that residential densities in the range 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork. Table 3.8 defines 'High Capacity Public Transport Node or Interchange' to included locations within 1000 metres walking distance of an existing or planned high capacity urban public transport node or interchange that includes Metrolink, or 500m of a planned BusConnects 'Core Bus Corridor' stop.
- 8.5.10. Approval was issued by the board for the Ballymun/Finglas to City Centre Core Bus Corridor Scheme (BusConnects) in March 2024, and it will have bus stops on St Mobhi Road c150m citybound and c260m northbound, from the site. In addition, if permitted, the Metrolink Griffith stop would be c500m from the site.

- 8.5.11. I am satisfied that the site is located within a 'City - Urban Neighbourhood' as defined in the Compact Settlement Guidelines, meaning that the site can in theory accommodate a density in the range of 50 dph to 250 dph.
- 8.5.12. Policy SC10 of the development plan seeks to ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out in the Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof (i.e. The Compact Settlement Guidelines).
- 8.5.13. Therefore, I am satisfied that the proposed density would not materially contravene the provisions of the Dublin City Development Plan, as was suggested by observers on the appeal.

#### Density Assessment

- 8.5.14. Section 3.3.6 of the Compact Settlement Guidelines states that in the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development and to protect the amenities of surrounding properties and biodiversity may take precedence over the densities set out in this Chapter, in the range of 50-250 dwellings per hectare. While I do not consider that the application site is a very small site 3.3.6 indicates that there may be circumstances that a density of even 50 units per hectare, may be inappropriate.
- 8.5.15. There is a reason that very wide density ranges of 60 to 120uph in the development plan and 50 to 250uph in the Compact Settlement Guidelines are provided for, and that is because every single site will have its own unique set of constraints that must be addressed when planning a development, and while in some cases densities of up to 250uph may be possible, in others 50uph may be the maximum possible.
- 8.5.16. Policy SC11 of the development plan refers to promoting compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area, while Policy QHSN10 'Urban Density' promotes sustainable densities, particularly on vacant and/or underutilised sites, having regard to successful integration with the character of the surrounding area'.

In addition, Policy BHA2 referring to 'Development of Protected Structures' states that it is policy that any development,...affecting a protected structure must be sensitively sited and designed, and appropriate in terms of the proposed scale, mass, height, density, layout and materials.

- 8.5.17. Chapter 15.5.5 development management states that higher density will be supported subject to suitable context and design while new development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood.
- 8.5.18. While the development plan and CSGs promote higher densities, that does not mean that high density is possible in every circumstance, hence the very wide ranges of 60-120 and 50-250 units per hectare. Policy informs us that the prevailing pattern of development in the area is one of the matters that need to be considered when assessing this application, as well as the nature and extent of the site itself, and in this case the applicant noted at the start of the appeal that the appeals site is an awkward triangular shaped site and later refers to it being a constrained site, all the while deeming the site to be capable of accommodating the proposed development. The collective consideration of many factors, one of which is density will help determine whether or not the proposed development is an appropriate form of development for this site.

#### Precedent

- 8.5.19. Both the applicant and observers cited many applications that they considered to be relevant precedents for their arguments for and against the proposed density. Both referred to an application that was at the time on appeal (ABP-313193-22) and I consider it to be the only precedent of relevance to this appeal. The site 'Glenavon House' lies c85m to the north of the application site, is narrow and like the application site runs north-to-south and shares a boundary with the rear gardens of two storey houses on St Mobhi Road.
- 8.5.20. The site has a stated area of 0.39ha and the original application was for 52 apartments in a part 5 and part 6 storey building, at a density of 133 units per hectare. Following a request for further information, the top floor of part of the building was removed leaving 44 apartments and a density of 112 units per hectare. In deciding to grant permission, the planning authority conditioned out the top floor of

the six storey element at the southern end of the site, but the board did not uphold this condition on appeal.

- 8.5.21. With a density of 112 units per hectare the permitted density falls within the 60-120 units per hectare and is a good indicator of what has recently been considered to be an appropriate density of development in the immediate area. In comparison, current application is seeking a density of 162uph. Density is only one element to be considered and I will assess the appropriateness of the development further in Sections 8.6 and 8.7 below, by reference to the impacts it would have on existing future occupants of the development.

## **8.6. Refusal No 1 - Impact on Neighbouring Amenity**

### Policy

- 8.6.1. When it comes to considering the impact of development on neighbouring amenities, the following policies and sections of the development plan are relevant to the recurring theme that all new development must respect and integrate with the established character of the area and be appropriate to the surrounding neighbourhood.
- 8.6.2. Policy SC11 promotes compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area. Policy QHSN10 'Urban Density' seeks to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area. Section 15.5.5 states that higher density will be supported subject to suitable context and design and that new development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood.

### Daylight and Sunlight

- 8.6.3. The observers on the appeal, who have submitted substantial grounds as to why the proposed development is in their opinion an inappropriate form of development acknowledge that the results of the Sunlight, Daylight and Overshadowing Assessment indicate that the development is generally acceptable from this



perspective, but do raise concerns about overshadowing of blocks 1 and 2 onto the houses 1-7 The Haven and the impact of overshadowing on the gardens of the houses on St Mobhi Road.

- 8.6.4. Section 8.0 of the Sunlight, Daylight and Overshadowing Assessment confirms that the Vertical Sky Component (VSC) (a measure for daylight) at the front ground floor windows at 1-7 the Haven would be affected with the development in place, but will be affected only to the extent that the rooms will continue to achieve an acceptable level of daylight, compliant with the BRE Guidelines. The same applies to sunlight at 1-7 The Haven in that they would be affected but would continue to receive an acceptable level of sunlight for both APSH (Annual Probable Sunlight Hours) and WPSH (Winter Probable Sunlight Hours). Neighbouring gardens will continue to receive an adequate level of sunlight.
- 8.6.5. While neighbouring properties would be impacted by the proposed development, those impact are within the tolerances provided for in BRE 209 Guidelines and I am satisfied that impacts on the availability of sunlight and daylight to existing properties would not result in any unacceptable impacts.

#### Overlooking of 1-7 The Haven

- 8.6.6. At the time that the appeal was submitted, it was a requirement that directly opposing windows would be separated by a distance of 22 meters, and proximity was raised in the observations in respect of the impact that Blocks 1 and 2 would have on 1-7 The Haven. The Compact Settlement Guidelines, specifically SPPR1 has reduced the separation distance requirement between opposing first floor windows to 16m. Block 1 would be sited directly opposite and 20.5m from the front elevations of 3, 4, 5 and 6 The Haven while units 1, 2 and 7 would not be directly overlooked. Block 2 is offset from The Haven and while there would be a small overlap between the buildings, no windows from Block 2 would directly oppose No.1 The Haven. Block 2 is facing directly into an area of open space at the side of Mobhi Court and No.1 The Haven. Block 2 would be located 21.65m south of the nearest part of the 3 storey Mobhi Court building. I also note that the areas in front of The Haven are open parking spaces and are overlooked directly by passing pedestrians and motorists. I am satisfied that the separation distance between Blocks 1 And 2

and The Haven is acceptable and is consistent with SPPR 1 of the Compact Settlement Guidelines.

- 8.6.7. I am satisfied that the height of blocks 1 (3 storey) and 2 (4 storey) would not have a negative impact on the two storey houses in the Haven, and would not be out of context relative to the prevailing context, taking into account that the Mobhi Court apartments are 3 storey and the permitted development under construction c85m to the north (ABP-313193-22) is 6 storey in height at its southern end, in proximity to the north of the Haven.

#### Overbearance from Block 3

- 8.6.8. In addressing the perception of overbearance the applicant states that overbearance is associated with outlook, but feels that the planning officer did not adequately explain why Block 3 would be deemed to be overbearing. Section 15.9.18 of the development plan states that Overbearance in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space.
- 8.6.9. Although substantial in size and length, I would concur with the applicant that Block 3 would not be overbearing when viewed from the interior of the houses at St Mobhi Road due to the substantial separation distance.
- 8.6.10. The applicant's opinion in respect of the overbearance impacts on the rear gardens, as set out on page 21 of the grounds of appeal, is that if overbearance is tied to outlook, then the development would not give rise to unacceptable impacts. This opinion implies that if overbearance in the garden is not tied to outlook that Block 3 would have an unacceptable impact of the houses on Mobhi Road. Having read section 15.9.18 of the development plan, I am satisfied that outlook only refers to view from the main habitable house and the proposed location of Block 3 would have an overbearing impact on the rear gardens of the adjacent houses on St. Mobhi Road, given that it would extent from between 14.85m and 17.25m above the level of the adjoining gardens at a distance of as close as 5m from the mutual boundary.
- 8.6.11. I would agree with the view of the planning authority, where the first reason for refusal stated that the development would have an overbearing impact on properties 57, 59, 61, 63, 65 and 67 St. Mobhi Road. Accordingly, the proposed development would seriously injure the residential amenities of the stated neighbouring and

adjoining properties, and would be contrary to the provisions set out under sections 15.13.4 of the Dublin City Development Plan 2022-2028.

#### Impact on rear gardens on Mobhi Road

- 8.6.12. Section 15.13.4 'Overlooking and Overbearance' states that overlooking may be overcome by 1) building configurations (bulk and massing); 2) Elevational design / window placement; 3) Using oblique windows; 4) Using architectural features; and 5) Landscape and boundary treatments.
- 8.6.13. As discussed in 8.11 below, it is proposed to remove all existing vegetation along the site's eastern boundary, so Block 3 would be entirely visible from the rear gardens of the adjacent houses, with the only mitigation being the trees and hedging in the neighbouring gardens and at a later stage, the proposed boundary landscaping within the site, which would not be extensive, with just 7 trees proposed to be planted. The land slopes downhill north to south, so while the public notices refer to the building having a maximum height of 14.85m, the southern part of the building would be 17.25m high and would read as a 5 storey building.
- 8.6.14. Section 15.13.4 Backland Housing of the development plan, states that applications for backland housing should consider the provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- 8.6.15. Since the appeal was submitted, the Compact Settlement Guidelines have come into effect and permit opposing first floor windows to be 16m apart, which would require an 8m separation from the eastern boundary. The development does not achieve that, with separation distances of 5.9m and 7.5m achieved, while the balconies would be c5m from the boundary. The applicant has proposed to develop Block 2 proximate to the boundary as they consider that the adjoining gardens have no development potential, which I will discuss below.
- 8.6.16. While each application must be assessed on its own merits, I have reviewed the application and decision in ABP-313193-22, as it is a similar and proximate backland development. I note that while the permitted development would also be located close to the shared boundary, all but one small part of the building would be more than 8m from the shared boundary and that part of the building that would be facing the boundary with the St. Mobhi Road gardens, would predominantly read as a 4 storey building, due to difference in levels between the two properties.

- 8.6.17. A fundamental difference is that in ABP-313193-22, the majority of units are dual aspect and run from the front to the back of the building, whereas in the current application a corridor runs down the middle of the apartment block meaning many apartments are single aspect and overlook the St. Mobhi Road gardens. The permitted units in ABP-313193-22 have a unit depth of 15m, whereas the main depth of the proposed Block 3 is 18.8m. The proximity of Block 3 to both the eastern and western boundaries and the resulting impact on the amenities of the neighbouring houses is in my opinion an indication of overdevelopment and not something that could be solved by condition as it would require a fundamental redesign of the block.
- 8.6.18. I also consider that the height that would be acceptable at this part of the site is a function of proximity to the boundaries and impact on neighbouring amenity. In its current proposed format, I consider the height and proximity of Block 3 to the eastern boundary are not acceptable, taking into account that there is no mitigation in the form of landscaping and the main form of mitigation is the use of fritted glazing and planters on the balconies, while still facilitating overlooking of the neighbouring gardens from as close as 5m from the shared boundary.
- 8.6.19. I would be of the opinion that this site is capable of accommodating development of at least 4 storeys, but the design solution is not acceptable, and I would consider that the reason for refusal in the previous application regarding overlooking would still stand, particularly as this is a new development that is seeking to mitigate or compensate for proximity to boundaries by installing opaque fritted glazing and planted buffers.

#### Future development potential of rear gardens of St Mobhi Road

- 8.6.20. The two observations that were submitted on behalf of groups of the local residents stated that by placing Block C so close to the rear garden boundaries of the adjoining houses, it effectively meant that the applicant did not consider there to be any development potential for these rear gardens.
- 8.6.21. The applicant's grounds of appeal stated that there was no development potential in the rear gardens of the house on St Mobhi Road, while they also indicated that their objective is to maximise the development potential of the application lands, while also acknowledging at section 1.1 of the appeal that the site is an 'awkward triangular shape'. In their conclusion on the impact of Block 3 on the St Mobhi

Houses, the appeal states at page 21 that 'we further confirm that the gardens of the St. Mobhi Road properties do not present further development opportunity. In this situation, the long rear gardens/ low density nature of the neighbouring properties provides an opportunity for the optimal redevelopment of the subject site which is constrained by a number of factors'.

- 8.6.22. I consider that the above text is an acceptance by the applicant that the proposed development is an overdevelopment of the site, and it would only be possible to develop the site in the manner proposed by using the rear gardens of the adjoining houses as part of the amenity thereof and discounting any potential future development in those gardens.
- 8.6.23. The St Mobhi Road gardens are extensively long and deep and there is evidence of the development potential thereof in the form of the terrace of three houses that are known as Mobhi Mews fronting onto St. Mobhi Boithirin, immediately adjacent to the protected structure.
- 8.6.24. Section 15.13.4 'Backland Housing' of the Development plan, which relates to the current application site states that where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. It also states that this should be discussed at pre-planning stage and piecemeal backland development with multiple vehicular access points will not be encouraged.
- 8.6.25. Having inspected the site and viewed area photography, and acknowledging the triangular shape of the application site, I would agree with the applicant that it is not an easy site upon which to design a complaint scheme. However, I also consider that the rear gardens of the adjacent houses on Saint Mobhi Road have development potential that would be permanently compromised by the proposed development, as it would effectively landlock the gardens as well as having an impact by reason of proximity, which I have previously discussed in relation to the impact of the development on the amenities of neighbouring houses.
- 8.6.26. Based on the information provided in one of the observations the rear gardens would have an approximate area of 0.25 hectares which based on the development plan density of 60-120 units per hectare, which the observers support for the area, would

have scope for between 15 and 30 residential units. Such a density could not be achieved through piecemeal development of individual gardens.

- 8.6.27. Taking the above into consideration, I am satisfied that the proposed development would not represent an efficient use of serviced urban land that is sited proximate to existing high frequency bus routes 9, E1 and E2 and the planned high frequency public transport in the form of the approved Bus Connects and planned Metrolink.

## **8.7. Refusal No 2 - Impact on Amenities of Future Residents**

- 8.7.1. I have reviewed the housing quality assessment and the application plans, and I am satisfied that the proposed development would comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines - December 2022, in respect of minimum floor space requirements, dual aspect ratios, floor to ceiling heights, number of units per core, private open space and communal open space areas. I will however examine the quality of living environment for future occupants in terms of access to sunlight and daylight and amenity below.
- 8.7.2. The second refusal reason states that a number of the residential units would provide poor residential amenity, due to limited outlook as a result of fritted glass or heavily screened balconies to address unresolved overlooking, due to insufficient sunlight, and due to overbearing impacts and unacceptable overlooking due to insufficient separation distances within the site (between Blocks 1 and 2). It goes on to state that Block 1 would have no independent access to communal open space
- Proximity of Blocks 1 and 2
- 8.7.3. The separation distance between directly opposing windows in Blocks 1 and 2 was the subject matter of a refusal reason in the previous SHD application. As pointed out by the observers, this application proposes the same footprint of development, which means that there would be directly opposing windows at a distance of 12 metres, which would also be the location within which access to the basement car park will be provided. This area will not be private. In order to address the obvious concerns that arise, the applicant has proposed to provide louvered windows in the east facing facade of block number one. This mitigation measure would see the views from block 1 orientated in a northwards direction, which I do not consider to be

acceptable and is just one of many mitigation measures proposed to be provided by the applicant to address issues that should not be arising in a new development.

- 8.7.4. The proximity of overlooking windows between blocks 1 and 2 would also be contrary to the provisions of SPPR 1 of the Compact Settlement Guidelines, which state that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the side of apartment units, above ground floor level shall be maintained. While it also states that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces, I do not consider that suitable privacy measures have been proposed and the proposed development would therefore be contrary to SPPR1 of the guidelines and the relationship between the two buildings would require a fundamental redesign, that I am satisfied could not be addressed by a condition.

(NEW ISSUE) - Proximity of Block 2 and the protected structure

- 8.7.5. Similar to the above, Unit 77 that is proposed to be installed at the first floor of the protected structure would be located either 11.8m or 13.9m from proposed first floor units 10 and 11 in Block B, and similar to Block 1, the relationship between the two buildings would require a fundamental redesign of either the units themselves or the relationship between the buildings, in order to be compliant with the 16m minimum separation distance requirement of SPPR1 of the Compact Settlement Guidelines.

Proximity of Block 3 and protected structure

- 8.7.6. A similar argument is made by the observers that the northern side of Block 3 would be too close to the protected structure. However, I note that a separation distance of 17.25 meters is stated on the drawing, and while the buildings would be as close as 16 meters at one point, I consider this separation distance to be acceptable and would be compliant with the requirements of SPPR1 of the compact settlement guidelines.

Sunlight and Daylight

- 8.7.7. The quality of daylight that would be received at 16 of the proposed apartments, would be poor and would not provide for an adequate level of internal amenity for the future occupants of the apartments. I am not satisfied that this is acceptable in terms of a new development and indicates that the proposal constitutes overdevelopment and an excessive density.

Block 1 access to open space

- 8.7.8. The second refusal reason included that Block 1 would not have independent access to the communal open space. In response, the applicant stated that the units have been factored into the open space calculations and that access is available via a 40m walk along the footpath. Due to the configuration of the site and the presence of the culvert, I consider it reasonable that future occupants would walk to the open space and I do not consider this would warrant a refusal of permission in its own right. However when looked at in the whole, the inability of residents of a new development to access on site open space directly from within the site is an indicator of overdevelopment or inappropriate use. Noting the concerns raised in the planning officer's report regarding the availability of childcare spaces proximate to the site, and noting that developments of 101 (ABP-308905-20) and 44 (ABP-0313193-22) apartments have been permitted on sites within 250m of the site without any childcare spaces being provided, if it were to be shown that demand does exist for a childcare facility in the immediate area (See 8.14.21-23 below), this part of the site may be a suitable location for such a facility.

**8.8. Impact on Protected Structure**

Exterior of Protected Structure

- 8.8.1. There is a protected structure on the site and Policy BHA2 of the development refers to 'Development of Protected Structures' which seeks to protect protected structures from any works that would negatively impact their special character and appearance and ensure that any development affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
- 8.8.2. While the observers welcome the restoration of the protected structure, I do not agree with their comments that the gardens and original features such as tennis



courts and swimming pool should be restored. It is evident from the AHIA and a third party submission on the application that the features in the garden were added at different times after the house was first built. The building has lain empty for approximately 20 years these external features were already disused at the time that the house was added to the record of protected structures. The house is in a very poor state of repair internally, and there are internal signs that water ingress from the roof is damaging the interior of the structure, including collapsed elements of the internal ceilings. While the observers note that the applicant has obligations to protect the structure regardless of this application, this application is addressing the comprehensive redevelopment of the site to include the protected structure and would consist of an efficient use of zoned and serviced urban land.

- 8.8.3. The observers have also commented extensively that the applicant has previously been refused permission for a version of the same development and that while this proposal constitutes a reduction of two floors, the footprint of the building is largely the same except for Block 1, which has been set back slightly from the footpath and proximity to the boundaries particularly to the north and east.
- 8.8.4. With respect to the potential impact of blocks two and three on the character and setting of the protected structure, I note the extensive observations submitted. In particular one observation sets out the architectural history of the site and I also note the content of the applicants own Architectural Heritage Impact Assessment (AHIA) report. In that context, the protected structure was built close to and facing the road with openings in the front boundary wall that allowed passing members of the public to view the front courtyard and the front elevations of the house. However, other than that, there were no direct views into the site other than passing glimpses of the top part of the western façade of the house, behind the roadside boundary wall, which would now be opened up and would face block number 2 as well as being adjacent to the propose mini park which would be a public open space.
- 8.8.5. I also noted on the occasion of the site visit that there are two large mature evergreen trees planted inside of the boundary wall that restrict views of the western façade of the protected structure as you approach it from the west along The Haven.
- 8.8.6. The observers have stated that everyone except the applicant thinks the entire boundary wall should be retained along the roadside and that the wall contributes

positively to the streetscape and creates a sense of enclosure around the attendant grounds of the protected structure.

- 8.8.7. Only part of the boundary wall could be considered to be original and that includes the area where there is an opening for a garage door that would have been a non-original intervention. The majority of the wall which faces The Haven is a simple unplastered concrete block wall, offering nothing to the setting or character of the protected structure.
- 8.8.8. The key feature of the wall is that part in front of the house with openings that allow views of the front of the building by passersby on the street. That part would be retained and maintained. It is now visible as the site hoarding referred to in the conservation officers' report has been removed from along the roadside allowing views of the wall.
- 8.8.9. The main character and setting of the house pertains to views which are available from the public road and footpaths in the front of the site. The surrounding context has changed significantly since the house was built and is limited in extent by Mobhi Mews being built right up against the boundary of the site, which limits and restricts views of the site on approach from the northeast, while to the north there are two no. three storey apartment blocks built approximately 21 meters to the north of the site. and it has no discernible negative impact on the site or setting or character of the protected structure in my opinion.
- 8.8.10. Observers also raised concerns that with Blocks 2 and 3 in place, views of the protected structure from the adjoining footpath, that currently have a backdrop of skyline to the south and treetops to the west, would be replace by views of the tops of Blocks 2 and 3 and would negatively affect the character and setting of the protected structure.
- 8.8.11. While there would be impacts on these narrow views, I do not consider the impacts to be significant and with respect to the exterior of the protected structure, I consider that the proposed development would open up views of the house that were never before available to the passing public and to the residents of the development and would be beneficial and positive to the character and setting of the protected structure, while returning its use to the residential 54 years after it was last lived in. At the same time, it is also proposed to retain the key features of the front boundary

wall, which include the openings in the wall, while views of the front of the house would be enhanced by the restoration of the front courtyard.

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

### Traffic Congestion

- 8.9.1. Observers have stated that the local road network is at or over capacity and cannot accommodate the traffic generated from the development. The Traffic and Transport Assessment has modelled the development with and without the permitted Bus Connects corridor in place which will restrict traffic from turning left from St. Mobhi Boithirin onto St. Mobhi Road. The TTA demonstrates that the nearest and most relevant junction, being the junction of St. Mobhi Boithirin and St. Mobhi Road is operating and would continue operating within its effective capacity beyond 2040, while the traffic volumes would reduce with Bus Connects in place, as a bus gate would be installed at the junction of Mobhi Road and Griffith Avenue during evening peak hours to compensate for the fact that there is no northbound bus lane along Mobhi Road. Peak movements would be in the AM with 22 departures and 9 arrivals projected. I am satisfied that there is sufficient capacity in the local road network to cater for the demands that the proposed development would place on it.

### Car Parking

- 8.9.2. The application proposed to provide 32 car parking spaces, with 31 in a basement under Block 2 and 1 accessible space at surface level. This would include 29 dedicated spaces and 3 car share spaces.
- 8.9.3. The observers state that 32 is an insufficient quantity of car parking and it will lead to additional demands on already limited public street parking.
- 8.9.4. The site is located in parking Zone 2 in Map J of the Development Plan, which refers to areas located alongside key public transport corridors. A maximum provision of 1 car parking space per dwelling applies, resulting in a maximum requirement of 78 spaces.
- 8.9.5. There is significant policy support in the Apartment Guidelines, Compact Settlement Guidelines, the National Planning Framework and the Climate Action Plan in support

of reduced parking, and in areas where car-parking levels are reduced people are more likely to walk, cycle, or choose public transport for daily travel.

- 8.9.6. SPPR 3 'Car Parking' in the Compact Settlement Guidelines provides that, it is a specific planning policy requirement that in urban neighbourhood's sites, car-parking provision should be minimised, substantially reduced or wholly eliminated. It also recommends that the maximum car parking provision be 1 space per dwelling.
- 8.9.7. Table 3.1 defines urban neighbourhoods as (iv) lands around existing or planned high-capacity public transport nodes or interchanges – all within the city and suburbs area. The site is 2 minutes' walk from existing bus stops and the recently approved Bus Connects corridor and lies within a 5 minute walk of a proposed Metrolink stop. I am satisfied the site is in an 'urban neighbourhood'.
- 8.9.8. Section 4.21 of the Apartment Guidelines referring to 'Central and/or Accessible Urban Location' states that on sites such as the application site that within 5 minutes' walk of high frequency bus services (minimum 10 minute peak hour frequency), that the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances
- 8.9.9. The applicant proposed a parking provision of 0.37 spaces per apartment, or 0.41 inclusive of the three car share spaces, which does amount to a substantial reduction in line with policy.
- 8.9.10. I note that the Roads, Streets and Traffic department had recommended that the applicant be asked further information to provide revised basement drawing showing a reduced car parking provision to ensure modal trips are consistent with objective SMT01, by increasing the number of accessible spaces and providing for car share facilities and a small quantum of visitor spaces, with details of how the latter should be managed and controlled. In response to this, I do note that the applicant submitted a Residential Travel Plan (RTP), the purpose of which is to promote more sustainable modes of transport than the car, reducing congestion, noise pollution and environmental impacts. It would be a dynamic document that would set targets in line with SMT01 (see paragraph 5.2.5), with successful measures retained and unsupported ones discarded. The modal split targets seek to reduce car driving and passenger trips, while increasing trips by bus, bicycle and on foot. The RTP also stated that shared cars make the equivalent number of trips as 14 private cars in a

day, so the 3 cars, would reduce the parking demand by the equivalent of 39 spaces. I am satisfied that it is not necessary to reduce the parking provision in the basement, but, if the board is minded to grant permission, I would consider it reasonable that a condition could be attached to require that a number of spaces be identified and used exclusively for the requirements of visitors to the development.

- 8.9.11. While observers state that a lack of parking (i.e. 32 spaces proposed v a maximum of 78 required by the development plan) would result in an overspill of parking around the local area, I am also satisfied that it would not be necessary to increase on-site parking provision as suggested by the observers to the appeal. In that respect I note Section 1.1 of the Compact Settlement Guidelines states that An Bord Pleanála shall have regard to Ministerial Guidelines and shall apply any specific planning policy requirements (SPPRs) of the Guidelines and to SPPR1 'Car Parking' in the CSG's that provides in urban neighbourhood's sites, car-parking provision should be minimised, substantially reduced or wholly eliminated.

#### Bicycle and motorcycle parking

- 8.9.12. I am satisfied that adequate provision has been made for both bicycle and motorcycle parking and should demand exist for additional parking in the future that the management company could arrange same within the confines of the basement.
- 8.9.13. In response to the Conservation Officer's response to the grounds of appeal, the applicant has proposed to relocate the proposed ground level bicycle parking away from close to the protected structure. If the board is minded to grant permission for the development, I am satisfied that this could be addressed by way of a condition.

#### Bus Capacity

- 8.9.14. The observers have stated that there is insufficient capacity in the local bus network to cater for the needs of the development. The TTA states that 5 different services serve the site and busses have different capacities from 78 to 91. Since the TTA was prepared the bus network has been amended, so that the site is now served by three routes along Mobhi Road being the No 9, E1 and E2. All three routes run through Dublin city centre, where connections to Dart and Luas can be made.
- 8.9.15. The 9 serves Limekiln Avenue to Charlestown and operates citybound from 06:20 to 23:20 Monday to Friday with a peak frequency of 10 minute intervals, extending to

12 and 15 minutes at different times of the day. It operates in a similar timetable towards the site from the city centre.

- 8.9.16. The E1 serves Ballywaltrim to Northwood and operates 24 hours with peak morning services as frequent as 2, 3 and 4 minutes. There would be 14 city centre bound busses serving the site between 7 and 8am and a further 8 busses between 8 and 9am, with frequencies from 7-10 minutes for the rest of the day Monday to Friday. It operates at 10 minute intervals on Saturdays and 15 minutes on Sundays
- 8.9.17. The E2 also operates a 24 hour schedule on a route serving Dun Laoghaire to Harristown with up to 8 busses per hour passing the site and peak frequency of 7 minutes.
- 8.9.18. I am satisfied that the site is served by a high frequency bus service and this will improve further once the bus connects corridor has been opened.

## **8.10. Biodiversity and Tree Loss**

### Bats

- 8.10.1. The observations refer to bat sitings on the site, but no evidence has been provided to support their claims. I am satisfied by reference to the applicant's Ecological Impact Assessment that the site does not host habitats that supports the roosting of protected bat species.

### 8.10.2. Loss of two trees to provide new access

- 8.10.3. In order to provide access to the new basement area, it is proposed to remove two trees on the public footpath at the front of the site. The neighbours, particularly those living directly to the north in The Haven are opposed to this and state that the applicant has not got a right to remove the trees.

- 8.10.4. I note that the proposed removal of trees did not form part of the recommended request for further information from the Road, Streets and Traffic Department, that I have set out in detail in section 3.2.2 above. I also note section 15.6.10 of the development plan referring to 'Tree Removal', which states that where a proposal impacts on trees within the public realm, a revised design will need to be considered to avoid conflicts with street trees. Where a conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new development or widened

vehicular entrance and cannot be conveniently relocated within the public domain, then when agreed by Parks Services and the Planning Department by way of condition to a grant of permission, a financial contribution will be required in lieu.

- 8.10.5. I am satisfied that, should the board be minded to grant permission for the proposed development including the removal of two on street trees, to facilitate access to the basement carpark, I am satisfied that this matter could be addressed by way of condition. The payment would be separate to and would not be covered under the Section 48 Development contribution scheme. It is stated in 15.6.10 to be calculated by the Capital Asset Value for Amenity Trees (CAVAT) by an Arboriculturist, while the payment is required to be lodged with Dublin City Council before the tree can be removed.

#### Removal of trees

- 8.10.6. The observers note that the proposed development would result in the removal of all trees currently on the site and that is, in their opinion, a consequence of the extent of the development proposed, which would see Blocks 1 and 2 built tight against or very close to the sites north and north western boundaries, while the trees along the rest of the eastern and western boundaries would require removal to facilitate block 3. They object to the loss of trees that they consider forms part of the vistas from their homes, particularly the residents in The Haven to the north, while at the same time they residents on St Mobhi Road state that the applicant cannot rely upon trees in their gardens as part of the mitigation measures to overlooking of their properties as the trees may be removed at some time.
- 8.10.7. The observer also queried the accuracy of the trees survey showing trees on their properties as the arborist did not access their gardens on St. Mobhi Road. This is clearly stated in the Tree Protection Plan drawing, so I accept that the exact location of trees show to be outside of the site boundary may not be accurate, particularly for those trees locate at a distance from the shared boundary.
- 8.10.8. The Arboricultural Report is accompanied by three drawings that identify the individual trees, while Appendix A provides a detailed condition report on the trees. The report recommends the felling of all 20 trees on the site to facilitate the development, with permission from DCC required to remove two trees on the public

footpath to facilitate the site entrance. It is also proposed to cut back 15 trees that overhang the site and are located on neighbouring properties to the east and west.

8.10.9. With the exception of two trees in the southern part of the site, the existing trees are all located along or very close to the sites boundaries, with some conflicting with boundary walls due to root spread and those located along the boundary with the Bon Secours hospital have already been affected by the cutting of the limbs that overhung the hospital carpark and present an unsightly vista from the hospital grounds. Aside from the quality of the trees, I am satisfied that that need to remove all trees from the site is a reflection of the proposed footprint of the development, with Blocks 1, 2 and 3 planned to extent to, or close to the site boundaries.

8.10.10. Having read the Arboricultural report and viewed the trees on the site, I would not object to the general conclusions reached in the Arboricultural assessment i.e. that the majority of trees on the site are of fair/poor quality. I would also agree that while the proposal to remove all trees on the site would temporarily alter the character of the site, I do not consider that the trees are of particularly valuable character and did not form part of original landscaping of the site, with the trees along the western boundary planted to block views of the hospital, while the trees in the northwestern corner were self-setting, and are growing right up against the northern boundary wall as shown in photographs in the Arboricultural Report.

8.10.11. I also note that trees T948 and T949 act an impediment to views of the western side of the protected structure.

8.10.12. The Conservation Officer did not raise any concerns regarding the removal of the trees and the Landscape Design Report proposes the planting of new trees, particularly along the eastern boundary, with other trees along the western boundary in front of Block 3 and other ornamental planting throughout the site. I am satisfied that the loss of the existing trees would not be significant from a biodiversity perspective while the planting of trees can be addressed by way of a landscaping condition.

## **8.11. Archaeology**

8.11.1. The Archaeological Assessment provides an overview of and demonstrates that the northwestern corner of the site is located in the vicinity of a complex of monuments



associated with St Mobhi's Church and an earlier ecclesiastical complex and is located within a zone of Archaeological interest thereof. It states that a number of trenches were excavated to identify modern services, as were trial holes to determine the subsoil type and groundwater levels. While no archaeological remains were found, it notes that there is potential for sub-surface remains to exist and a number of mitigation measures are proposed including licenced archaeological testing and reporting.

- 8.11.2. I note that the City Archaeologist has no objection and recommended a condition be attached to address pre-construction testing. I would have no objection to this approach and if the board is minded to grant permission an appropriate condition could be attached, by reference to the detailed condition proposed by the City Archaeologist.

## **8.12. Infrastructure**

### Culvert

- 8.12.1. I note the response of the Drainage planning section to the grounds of the appeal where they stated that the agreement reached in 2021 with the applicant regarding proximity to the culverted stream has been superseded by policy SI10 of the development plan 2022-2028.
- 8.12.2. It is the policy in SI10 'Managing Development Within and Adjacent to River Corridors' to require development proposals that are within or adjacent to river corridors in the City (excluding the Camac River) to provide for a minimum setback distance of 10-15m from the top of the river bank in order to create an appropriate riparian zone. It also stated that the Council will support riparian zones greater than 10 metres depending on site-specific characteristics and where such zones can integrate with public/communal open space.
- 8.12.3. At no point in the submissions of the drainage division have they described the Claremont culvert that passes through the site as a river. It is in fact a small tributary stream of the River Tolka, which is encased in a 1.27 meter diameter pipe running across approximately 12.5 metre of the site. Therefore, I am satisfied that SI10 does not apply to the culvert, as it is not a river corridor.

- 8.12.4. Objective SI08 of the development plan 'River Restoration Strategies/ Masterplans' is to prepare river-specific restoration strategies/ masterplans for the City's rivers and their tributaries in order to create a comprehensive, collaborative and integrated catchment management planning approach to improving the river corridor which addresses water quality, flooding, hydromorphology, ecology, biodiversity, heritage, amenity and tourism. No such plan has been prepared for the Claremont stream.
- 8.12.5. Considering the depth of the existing culvert beneath the surrounding ground and road levels and the properties and structures it runs through and proximate to, I do not realistically consider that this stream would ever be physically reopened at this location, or that it's opening would serve any functional purpose.
- 8.12.6. I am satisfied that the board is not precluded by SI10 from considering the proposal to locate Blocks 1 and 2, 3m and 5m respectively from the edge of the culvert giving it an overall width of 9.9m, which would be adequate to provide access thereto.
- 8.12.7. With respect to the proposal to secure the safety of and future access to the culvert, the observers opined that insufficient detail had been provided. I am satisfied that the applicant has provided adequate information and drawings explaining how the culvert would be protected at the outset of the project by installing secant piles to support the external walls of Blocks 1 and 2, while a new reinforced concrete retaining wall would then be built 1m either side of the culvert on top of which a removable precast slab would be placed. This new structure would secure the safety and integrity of the existing culvert and ensure no loading would be exerted on it. The slab and all the ground around it would be capable of being removed to provide access to the slab. Therefore, I am satisfied that the proposed development would not affect the continued operation of the culvert.
- 8.12.8. The one issue that has not been addressed in the application is the potential impact on access to the basement parking and waste storage areas in the event that the culvert did have to be opened up. This was not addressed in the traffic and transport assessment (see Section 8.15 below).

#### Foul Drainage Options

- 8.12.9. As part of the appeal and in response the query raised by Irish Water about the proposal to install a new foul pumping station in the public road in front of the site, which was objected to by the observers to the application, the applicant submitted a

drawing to the board titled 'Foul Drainage Discharge Options' (Dwg. No. C-0126)'. The drawing provides two different options for the installation of a pumping station entirely within the site boundary, close to the boundary with St Mobhi Boithirin and located between the protected structure and proposed Block 2.

8.12.10. Both Options would see Block 1 have its own connection to the existing foul sewer that flows west to east along St Mobhi Boithirin, as access to the main site area is restricted by the presence of the culvert over the stream to the east of proposed Block 1.

8.12.11. Option 1 would provide for an entirely independent sewage pumping station for Blocks 2,3 and 4. It would require the installation of a new rising main along the footpath, where it would connect to the mains in Mobhi Road and would remain independent of the existing public sewer. This is the applicants preferred option as they consider it would protect the integrity of the protected structure.

8.12.12. Option 2 would provide for the decommissioning of the existing Irish Water pumping station and a small section of the existing rising main in the road in front of the site and the diversion of all effluent into a new pumping station on the site, before reconnecting to the existing rising main in front of the site.

8.12.13. I am satisfied that this matter could be addressed by way of a condition requiring that the nature of the final connection solution be agreed with Irish Water.

#### Green Roofs

8.12.14. As part of the SUDS proposals, the applicant has proposed to provide green-blue roofs on the 3 new buildings Blocks 1, 2 and 3, which would have combined area of 1,089sqm, while the roof of the protected structure which has a surface area of 244sqm is not proposed to have a green-blue roof.

8.12.15. This matter arose in the report of the Drainage Report by reference to SI23 of the Development plan and was responded to by the applicant in the grounds of appeal. SI23 states that it is a policy to require all new developments with roof areas in excess of 100 sq. metres to provide for a green blue roof designed in accordance with the requirements of Dublin City Council's Green & Blue Roof Guide (2021).

8.12.16. In response to the appeal, the applicant stated that the development is compliant with SUDS requirements and the non-provision of a green-blue roof is

considered acceptable. DCC responded by stating that the applicant has not demonstrated that they met the exemption criteria in the Green & Blue Roof Guide 2021.

- 8.12.17. I note that the exemption criteria includes there the green-blue roof is considered incompatible with conservation (built heritage) requirements. I also note that the wording of policy SI23 refers to 'new development'. The roof area on Balnagowan House is not a new development, but is protected structure with a rating of National importance on the NIAH, and while works would be carried out thereto, I do not consider that it is appropriate to have the roof converted to a green blue roof, as it would fundamentally alter its character. I am satisfied that the combined attenuation tank, hydrobrake, use of permeable paving and green-blue roofs on the three new proposed buildings would be acceptable and that the applicant has complied with the requirements of Policy SI23 of the development plan.

#### Potable Water Upgrade

- 8.12.18. The observers state that the applicant has failed to advertise in the public notices that they intend to carry out works to upgrade the water connection to the site. I note that in the Confirmation of Feasibility Irish Water indicated that the existing watermain must be upgraded and the cost of the works would have to be funded by the applicant. While showing the proposed works on the application drawings, I am satisfied that the applicant is not required to advertise the works, as the upgrade works required by Irish Water are a normal part of infrastructural services serving developments and while funded by the applicant/developer, does not mean that they would carry out the works, which would benefit not just the site, but the wider area.

#### Childcare / Creche

- 8.12.19. The planning authority indicated that the childcare space vacancies identified in the Childcare Demand Assessment (CDA) were too far removed from the site to benefit the development, and also stated that a revised CDA would be required by way of further information as no account had been taken of children over the age of 5, or unmet pre-school and school aged demand.
- 8.12.20. The 'Planning Guidelines for Childcare Facilities (2001)' require one childcare facility for 20 children for every 75 units. The proposed development would consist of

78 apartments, while the applicant estimated a demand of 7-8 spaces. Section 4.7 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' states 'One-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms'. Discounting the 37 no 1-bedroom units the number of units falls to 41, which is well below the threshold. Therefore, no childcare facility is required.

8.12.21. However, cumulatively, there may be demand for a new childcare facility in the area as no childcare facility was required for the 44 apartments under construction on the site c85m to the north (ABP-313193-22) or in respect of the 101 unit SHD application c250m to the south (ABP-308905-20), which are both below the threshold and by reference to the comments in the planning officers report that the Childcare Demand Assessment indicated that there was a lack of spaces in the vicinity of the site.

### **8.13. Construction Impacts**

8.13.1. The observers raise concerns about construction related impact including those related to noise and air pollution, HGV movements and parking availability for workers, as well as impacts from dewatering and vibration due to construction of the basement on the structural integrity of their homes.

8.13.2. The concerns expressed by the observers are in relation to typical issues that could arise in the construction of any development and if the board is minded to grant permission, I am satisfied that these matter can be addressed by the attachment of appropriate construction related conditions.

### **8.14. Public Open Space**

8.14.1. The Dublin City Development Plan 2022-2028 provides that a minimum of 10% of public open space must be provided for residential developments in Z3 zoned areas. The site has an area of 0.4795ha, 10% of which is 479.5sqm. The applicant has proposed to provide 133sqm of public open space in the form of a mini-park along the interface with St Mobhi Boithirin and between the protected structure and proposed Block 2. This leaves a shortfall of 346.5sqm.

8.14.2. Section 15.8.7 of the development plan provides for circumstances such as exists in the current application. It states that in some instances, for schemes with more than nine apartments, it may be more appropriate to seek a financial contribution towards the provision of public open space elsewhere in the vicinity, where it would not be feasible, due to site constraints to locate the open space on site. Taking into consideration the size and triangular shape of the 0.4795ha site, I am satisfied that it is not possible or feasible to provide functional public open space on the site. There are several large areas of public open space within a 5-10-minute walk from the site that could serve the public open space needs of the future occupants of the development. If the board is minded to grant permission, I am satisfied that it would be appropriate to attach a condition requiring the payment of a financial contribution in lieu of open space, in the amount of €5,000 per apartment in accordance with the Dublin City Development Contribution Scheme 2023-2026.

#### **8.15. NEW ISSUE – Access to Basement if Culvert has to be opened**

- 8.15.1. A matter that was not addressed in the application is that the proposed access would be built on top of the culvert and while provision has been made to provide access thereto, by excavating the ground on either side of Blocks 1 and 2, this would require that the access to the basement parking and bin stores would be effectively eliminated for a period of time. The implications of the closure of the ramp for an extended period of time on parking within the wider area, or servicing of the apartments, has not been considered in the application.
- 8.15.2. If the board is minded to grant permission, it may wish to seek submissions from the applicant in this regard.

### **9.0 AA Screening**

- 9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by Moore Group Environmental Services, I conclude that the proposed development could result in significant effects on the following European Sites:

- South Dublin Bay and River Tolka Estuary SPA (site code 004024),

- North Dublin Bay SAC (site code 000206)
- North Bull Island SPA (site code 004006).

9.2. It is therefore determined that Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is required.

9.3. No mitigation measures were taken into consideration in coming to this determination.

## 10.0 NIS (Appropriate Assessment) Conclusion

10.1. The proposed residential development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

10.2. Having carried out screening for AA of the project, it was concluded that it may have a significant effect on 1) South Dublin Bay and River Tolka Estuary SPA (site code 004024); 2) North Dublin Bay SAC (site code 000206) and 3) North Bull Island SPA (site code 004006). Consequently, AA was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. The possibility for significant effects was excluded for other European sites.

10.3. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC or North Bull Island SPA, or any other European site, in view of the site's conservation objectives.

10.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## 11.0 Recommendation

11.1. I recommend that permission be REFUSED for the following reason/s.

## 12.0 Reasons and Considerations

- 1 The proposed development by reason of the proximity of Block 3 to the eastern boundary would constitute overdevelopment of the subject site by

reason of excessive density, would result in an overly dominant and visually incongruous development at this location and would result in an unacceptable and detrimental impact to the residential amenities of the adjoining properties at St Mobhi Road by way of overlooking and loss of privacy, notwithstanding the mitigation measures proposed and would severely impact the future development potential of the substantial rear gardens of No's 57, 59, 61, 63, 65 and 67 St Mobhi Road. As such, the proposed development would be contrary to Policies SC12 and QHSN10 and Section 15.5.5 of the development, which promotes higher densities provided that the development respects and successfully integrates with the character of the area and achieves a density that is appropriate to the site conditions and surrounding neighbourhood. The proposed development would also have a negative impact on the rear gardens of the adjoining house on St. Mobhi Road by reason of overbearance and to grant permission for the proposed development would be contrary to the proper planning and sustainable development of the area.

- 2 SPPR1 of the Compact Settlement Guidelines provides that a minimum of 16m separation distance is required to be maintained between opposing windows serving habitable rooms, with exceptions allowed where suitable privacy measures have been designed into the scheme to prevent undue overlooking. Opposing windows at first and second floor levels in Blocks 1 and 2, and at first floor level in Blocks 2 and 4 (the protected structure) would be less than 16m from each other and while mitigation measures are proposed on the western façade of block 1, it would result in orientation the windows in northwards direction, thereby providing a poor level of internal amenity for future residents. Overall the siting of the three blocks would provide an unacceptable level of amenity for future occupants of the apartments and would be contrary to the provisions of SPPR 1 of the Compact Settlement Guidelines.
- 3 The proposed mitigation measures proposed for Block 3, in the form of fritted glazing, and heavily screened balconies, which are proposed to avoid overlooking over the rear gardens of No's 57, 59, 61, 63, 65 and 67 St Mobhi Road, by reason of proximity of Block 3 to the shared boundary,



would result in a poor standard of internal amenity for future occupants of Block 3 by reason of a diminished quality of daylight being available in 16 no apartment, contrary to the provisions of Section 15.13.4 of the development plan referring to backland development, which permits the relaxation of some standards to promote densification provided that the applicant demonstrates high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal. The board is not satisfied that the applicant has demonstrated that the site constraints have been factored into the design of block 3 and to grant permission for the proposed development would be contrary to the provisions of Section 15.13.4 of the development plan and to the proper planning and sustainable development of the area.

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

---

Joe Bonner  
Senior Planning Inspector

3<sup>rd</sup> March 2025

## Appendix 1 Form 1

### EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-317317-23		
<b>Proposed Development Summary</b>	PROTECTED STRUCTURE: Construction of 78 apartments and all associated and ancillary site works. A Natura Impact Statement was submitted as part of this application.		
<b>Development Address</b>	Lands at Balnagowan House, St. Mobhi Boithirin, Glasnevin, Dublin 9		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Class 10(b)(i) of Part 2: 500 dwelling units Class 10(b)(iv) of Part 2: Urban Development Class 14 of Part 2 (demolition)	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	✓	The proposed development is not a type of project for which EIA is mandatory, as per Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (as amended).  The proposed development does not meet or exceed any relevant thresholds.	Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			

Yes	✓	<p><u>Class 10(b)(i) of Part 2:</u> 78 units proposed, while the threshold is 500 dwelling units.</p> <p><u>Class 10(b)(iv) of Part 2:</u> The threshold for Urban development which would involve an area greater than ... 2 ha in the case of a business district or 10ha in other parts of a built-up area. The site area is 0.4795ha.</p> <p><u>Class 14 of Part 2 (demolition)</u> (No threshold). This element is described as '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.</p> <p>It is proposed that outbuildings with a combined floor area of 171.5sqm would be demolished to facilitate the development along with part of the front boundary wall.</p> <p>The proposed development does not meet or exceed any relevant thresholds.</p>	Preliminary Examination Required (Form 2)
-----	---	---	---

5. Has Schedule 7A information been submitted?		
No		
Yes	✓	Form 3 – EIA Screening Determination enclosed.

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Form 3 - EIA Screening Determination

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>	<b>ABP 317317-23</b>	
<b>Development Summary</b>	PROTECTED STRUCTURE: Construction of 78 apartments and all associated and ancillary site works. A Natura Impact Statement was submitted as part of this application.	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	Yes	The Planning officer's report concluded that an EIAR was not required having regard to the nature and scale of the proposed development.
<b>2. Has Schedule 7A information been submitted?</b>	Yes	An EIA Screening Report with Schedule 7A information accompanied the application.
<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	A Report for the purposes of Appropriate Assessment Screening (AASR) has been submitted with the application, which considers the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).  A Natural Impact Statmemn has also been submitted.
<b>4. Is a 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	

<p>5. 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</p>	<p>Yes</p>	<p>Prior to the zoning of the site as 'Z1' 'Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2022-2028, that came into effect on 14<sup>th</sup> of December 2022, the draft plan was subject to Strategic Environmental Assessment (Directive 2001/42/EC), Strategic Flood Risk Assessment and Appropriate Assessment.</p> <p>Other assessments included in the application are:</p> <ul style="list-style-type: none"> <li>• Habitats Directive (92/43/EEC) and Birds Directive (79/409/EEC) – see Ecological Impact Assessment, AA Screening Report and NIS.</li> <li>• Floods Directive (2007/60/EC) – See Site Specific Flood Risk Assessment (FRA).</li> <li>• Seveso Directives (82/501/EEC, II 96/82/EC, III 2012/18/EU) – See Planning Report.</li> <li>• Water Framework Directive (2000/60/EC) – See Ecological Impact Assessment, AA Screening Report, NIS, Engineering Services Report, Surface Water Management Plan, Outline Construction Management Plan.</li> <li>• Waste Framework Directive (2008/98/EC) – Resource and Waste Management Plan, Outline Construction Management Plan.</li> <li>• Strategic Environmental Assessment Directive (2001/42/EC) – Planning Report.</li> </ul>
--	------------	---

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (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.	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith.</b>			
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surroundings or environment?	No	<p>The project would comprise the construction of a part 3, part 4 and part 5 storey buildings on Z1 zoned lands, where residential development is permissible.</p> <p>The proposed development of three blocks of 3, 4 and 4/5 storeys are higher than the immediately adjacent buildings which are two and three storey, but a recent permission has been granted for a 5 and 6 storey apartment block c85m to the north of the site while another 5 and 6 storey building is under construction c 200m to the south of the site. While slightly higher than the immediately adjacent buildings, the proposed development would not be considered to be significantly different in character</p>	No

		or scale to existing and surrounding pattern of development.	
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>There will be permanent physical changes to the topography of the site during the construction phase of the project, as the ground will be lowered to facilitate the construction of a basement at the northern end of the site. The site slopes downhill from east to west along its northern end where it has road frontage while the ground also slopes more than 4m downhill from north to south</p> <p>The proposed residential land use will result in physical changes to the built environment at the site, involving the provision of apartments. These physical changes are consistent with the built-up character of the existing area.</p> <p>The applicant plans to protect the existing culvert running through the site and facilitate future access thereto for maintenance and I am satisfied that there would be no significant effects on waterbodies.</p> <p>I do not consider that the physical changes arising from the project are likely to result in significant effects on the environment in terms of topography, land use, and hydrology/ hydrogeology.</p>	No
<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	The project will use standard construction methods, materials and equipment, and the process will be managed through the implementation of the outline / final CEMP (Construction and Environmental Management Plan). Similarly, waste arising from the site preparation and construction phases including the soil and stones removed to create the basement will be managed through the implementation of a	No

		<p>final Resource and Waste Management Plan (RWMP) and will be disposed/re-used in accordance with applicable waste legislation and guidance. There is no significant use of natural resources anticipated.</p> <p>The project uses land more efficiently and sustainably than at present (brownfield/derelict residential site). Otherwise, the operational phase of the project will not use natural resources in short supply.</p> <p>The predicted water demands would be consistent with normal residential developments. Irish Water have confirmed that connections for Water and Wastewater are available, subject to improvement works and it is not proposed to extract groundwater. Surface water proposal include onsite attenuation and several SUDS features before discharge to the culvert running through the north western corner of the site.</p> <p>The original location for a proposed new foul water pumping station was not in accordance with the requirements of Irish Water, but two alternative options have been submitted as part of the appeal and this could be addressed by way of condition.</p> <p>The project includes an energy efficient design, several SuDS features, and is located in reasonably close proximity to several large amenities areas.</p> <p>Biodiversity resources have been considered in the EclA, the AA Screening Report and the NIS and I</p>	
--	--	--	--



		am satisfied that there would be no significant effects on relevant habitats or species.	
<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	<p>Demolition and construction phase activities would require the use of potentially harmful materials, such as fuels, hydraulic oils and other such substances and create waste for disposal. The use of such substances would be typical of construction sites.</p> <p>Asbestos has been identified in the buildings proposed to be demolished and the EHO has recommended that an asbestos survey be carried out.</p> <p>Any impacts would be local and temporary in nature and the implementation of a Construction and Waste Management Plan and mitigation measures outlined in the NIS will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p> <p>I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or the environment.</p>	No
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	Yes	<p>Conventional waste will be produced from construction activity and will be managed through the implementation of the outline / final CEMP and a final RWMP.</p> <p>Noise and dust emissions during the construction phase are likely. Any impacts would be local and temporary and would be managed through implementation of the outline / final CEMP.</p> <p>The operational phase of the project would not involve the use, storage, or production of any harmful substances. Conventional waste produced</p>	No

		from residential activity will be managed through the implementation of the Operational Waste Management Plan, which would satisfactorily mitigate potential impacts. Significant operational impacts are not anticipated.	
<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?	Yes	<p>The project involves preparatory works of demolition, excavation (top and subsoils), infilling (with imported material), and ground reprofiling (to facilitate site services, buildings, roads, footpaths, and open spaces.</p> <p>Standard construction methods, materials and equipment are to be used, and the process would be managed through the implementation of the CEMP.</p> <p>Surface water will be attenuated prior to discharge via hydrobrake to the Claremount stream that passes through the site. Wastewater and surface water will be discharged to separate public drainage systems. These matters are addressed in the applicant's Civil Engineering Report.</p> <p>Accordingly, as risks of contamination to ground or water bodies are mitigated and managed, I do not consider this aspect of the project would be likely to result in a significant effect on the environment.</p>	No
<b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	<p>Noise and vibration impacts are likely during the site development works, particularly in the installation of piles. These works are short term in duration, and impacts arising will be temporary, localised, and be managed through implementation of the CEMP.</p> <p>The operational phase of the project will also likely result in noise and light impacts associated with the residential use and (increased traffic</p>	No

		<p>generation, use of public, communal, private open spaces, which are considered to be typical of suburban developments. The lighting plan has been specifically designed so as not to cause light spillage.</p> <p>Traffic impacts will be mitigated by measures included in the TTA, Residential Travel Plan, the Car Park Management Strategy and through the implementation of the CEMP.</p> <p>The development has been designed to be Part L NZEB compliant and is targeted to have an A2 BER rating.</p> <p>I direct the Board to the response to Q: 2.8 below in respect of the project's effect on sensitive land uses.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality, noise, vibration, and light pollution.</p>	
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	Yes	<p>There is potential for water contamination, noise and dust emissions during the demolition and construction phases. However, such emissions would be controlled through the implementation of the CEMP. Site development works are short term in duration, and impacts arising will be temporary, localised and addressed by mitigation measures.</p> <p>The operational phase of the project would not likely cause risks to human health through water contamination or air pollution due to the nature (residential) and design (SuDS features) of the scheme, which would be connection to public</p>	No

		<p>water services systems, and the scale of residential use/ activities arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on human health.</p>	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	<p>The site is not located within close proximity to any Seveso / COMAH sites.</p> <p>There is no risk of major accidents given the nature and scale of the project and the location of the site.</p> <p>There is no significant flood risk as outlined in the applicant's Site Specific Flood Risk Assessment.</p>	No
<b>1.10</b> Will the project affect the social environment (population, employment)	Yes	<p>The project would increase localised temporary employment activity at the site during site demolition and construction works. The site development works are short term in duration and impacts arising will be temporary, localised and addressed by proposed mitigation measures in the outline CEMP.</p> <p>The development will result in an increased population in the area. This would not be significant given the existing and planned residential uses in this urban area and the proximity of the site to a wide range of supporting land uses and facilities.</p> <p>The receiving area is a mature suburban location, in relatively close proximity to education, amenities, services, public transport, and has the capacity to accommodate the impacts associated with the population increase.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.</p>	No

<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 site is zoned Z1 Sustainable Residential Neighbourhoods and is an infill / backland site, while a similar sized site is currently being developed c85m to the north. Both sites have been zoned for development. All other lands in the immediate area are already developed.</p> <p>The Ballymun/Finglas to City Centre Bus Connects Corridor was approved on the 12<sup>th</sup> of March 2024 c70m to the east of the site, while the Metrolink Railway order is currently under consideration by the board.</p> <p>I direct the Board to the response to Q: 3.1 below in respect of considerations of cumulative effects of the project.</p> <p>I do not anticipate that development together with other developments in the wider area would give rise to significant cumulative effects.</p>	<p>No</p>
<p><b>2. Location of proposed development</b></p>			
<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> <ul style="list-style-type: none"> <li>- European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>- NHA/ pNHA</li> <li>- Designated Nature Reserve</li> <li>- Designated refuge for flora or fauna</li> <li>- Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a</li> </ul>	<p>No</p>	<p>The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>The nearest European sites are listed in Section 5.3 of this report. The site would have potential to impact on three European sites identified in the Dublin bay area via impacts on surface waters draining to these sites. With the implementation of standard measures and specific mitigation measures, adverse impacts on these European sites are not anticipated. The Royal Canal proposed Natural Heritage Area (pNHA) is located</p>	<p>No</p>

development plan/ LAP/ draft plan or variation of a plan		<p>1.3km to the south of the application site. The proposed development would not result in significant impacts to any of these sites. Annex II habitats or habitats suitable for protected species, including plants, were not found on site during ecological surveys.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity.</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?	Yes	<p>The site is not under any wildlife or conservation designation.</p> <p>The EclA found that the site is comprised of two habitats being 'Buildings and artificial surfaces' (BL3), and 'Garden Grassland / Scrub mosaic (GA2/Ws1). The habitats are deemed to be of low to moderate ecological value.</p> <p>No rare or protected floral species were recorded while badger sets were not found, nor were bat roost, or suitable habitats therefor, either in trees or buildings.</p> <p>The site is limited as a foraging site for birds. Mitigation measures in the form of a landscape plan have been included to create habitat for common nesting birds, on completion of the development.</p> <p>The site is evaluated as not offering suitable ex-situ habitat for wintering bird species (foraging or roosting), including the SCI bird species associated with nearby European sites, as evidenced by the small number of birds recorded during the site survey.</p>	No

		Subject to mitigation measures in the CEMP, the EclA determines that the development will not affect surface water or groundwater quality, no significant impacts are predicted.	
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	Yes	<p>There are no landscape designations or protected scenic views at the site.</p> <p>Balnagowan House, a protected structure recorded on the NIAH as being of national importance is located on the site. The area is not designated as an architectural conservation area (ACA). It is intended to preserve and restore Balnagowan House as part of the development and to convert it to 4 separate apartments.</p> <p>The AHIA sets out the current condition of the building and a programme of works that would be required to bring it back into use. The original house was extended by adding two first floor extensions to give it its current appearance. Minimal works are proposed to the exterior such that its appearance will not be significantly altered. Internal works will include extensive restoration works as well as a number of alterations to the floor plan layouts, to accommodate modern living. Many of the interventions do not involve original elements of the building, but several do, including moving or removing walls and replacing them with new walls in other locations.</p> <p>The Conservation officer has expressed concern about the proposed internal interventions.</p> <p>While the proposed development of Blocks 2 and 3 would impact on the character or setting of the Protected Structure on site, the significance of this impact is not considered to be significantly at odds</p>	No

		<p>with the wider environment, taking into account the nature of surrounding buildings, to the north and east.</p> <p>The Archaeological Assessment provides an overview of and demonstrates that the north western corner of the site is located in the vicinity of a complex of monuments associated with St Mobhi's Church and an earlier ecclesiastical complex and is located within a zone of Archaeological interest thereof. A number of trenches were excavated to identify modern services, as were trial holes to determine the subsoil type and groundwater levels. While no archaeological remains were found, there is potential for sub surface remains to exist and a number of mitigation measures are proposed including licenced archaeological testing.</p> <p>The city archaeologist has no objection and recommended a condition be attached to address pre-construction testing.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant negative effect on the environment in terms of archaeology and cultural heritage.</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?	No	There are no such resources on or close to the site.	No
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which	Yes	The culverted Claremont stream runs north to south through the site for c12.5m. The applicant proposed to protect the stream and culvert by creating a new outer reinforced concrete wall with	No



could be affected by the project, particularly in terms of their volume and flood risk?		<p>a removable cap that would both protect and provide for access thereto in the future. It is also proposed to install secant piles either side of the new walls upon which Blocks 1 and 2 would be constructed.</p> <p>The development will implement SUDS measures to control surface water run-off including green roofs and an attenuation tank, from which surface water would be released by hydrobrake into the stream. The site is not at risk of flooding.</p> <p>There are indirect hydrological links via the stream to European sites in Dublin Bay and while potential impacts arising from the discharge of surface waters to receiving waters are considered, no likely significant effects are anticipated.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the environment in terms of water.</p>	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
<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	<p>The site is served by a local urban road network and will access the R108 via St Mobhi Boithirin. Public transport bus services, as well as a range of pedestrian/cycle links are located on the R108. The R108 is connected via the local road network to regional and national roads.</p> <p>During the site development works, the project will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to / removed from the site. Site development works are short term in duration and impacts arising will be temporary, localised,</p>	No

		<p>and managed under the CEMP and measures in the TTA.</p> <p>Key transport routes in the vicinity of the site will not be congested by or otherwise affected by the project and I do not consider that there would be any significant congestion effects at either the construction or operational stage of the development. The development would be suitably designed and managed to promote sustainable transport modes and would not result in significant environmental problems such as excessive transport emissions or traffic congestion.</p>	
<p><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?</p>	Yes	<p>Blocks 1, 2 and 3 are proposed to be built immediately adjacent to the boundary with the Bon Secours Hospital. The main hospital building is c40m west of the site. The culverted Claremont stream flows underneath the carpark between the site and the proposed development, which would make the development to the carpark difficult. The hospital has applied for permission for the development of a 6 storey hospital building at the southern end of the campus at a distance of more than 200m from the site and there are no indications that this part of the hospital campus will be developed and no objection was raised by the hospital, to this application.</p> <p>Suitable construction mitigation measures would be included to address any potential impacts on the existing or planned hospital facilities. I am satisfied that the proposed development would not result in any significant effects on the hospital.</p> <p>The construction and operational phases of the project will not affect the hospital operations by</p>	No

		reason of traffic as they are accessed by different routes.	
<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?	No	<p>Existing and / or approved planning consents in the vicinity of the site have been noted in the application documentation and associated assessments, e.g. in respect of EclA. However, these developments are of a nature and scale that have been determined to not have likely significant effects on the environment.</p> <p>Most notably a permitted 52 apartment development is under construction on a site c85m to the north (ABP 313193-22), while reference is made to other developments including a SHD application of 101 units at Glasnevin Hill c240m southwest of the site, the superstructure of which is nearing completion.</p> <p>On the 12<sup>th</sup> of March 2024, the board approved the 'Bus Connects Ballymun/Finglas to City Centre Core Bus Corridor Scheme' ABP-314610-22. The corridor runs along the R108, c70m to the east and will also include works to the Ballymun road c180m to the west of the site, which is accessible by pedestrians and cyclists. It is one of 12 Bus connects projects that are planned to be built in the Dublin city area, in a staggered manner to avoid significant traffic, noise and impacts.</p> <p>If the proposed development and the local bus connects project were to proceed together, they could give rise to cumulative impacts, but taking into account the Bus connects will be planned to</p>	No

		<p>avoid significant impacts, and each corridor extends over an extensive linear corridor, I do not consider that those impacts would have significant cumulative effects on the environment.</p> <p>No existing or permitted developments have been identified in the vicinity which would give rise to significant cumulative environmental effects with the project.</p>	
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	There are no transboundary effects are arising.	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>	<b>X</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<input type="checkbox"/>	EIAR Required	
<b>D. MAIN REASONS AND CONSIDERATIONS</b>			
<p>Regard has been had to:</p> <p>a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of Schedule 2 to the Planning and Development Regulations 2001, as amended.</p> <p>b) The location of the site on zoned lands (Z1 – Sustainable Residential Neighbourhoods), and other relevant policies and objectives in the Dublin City Development Plan 2022-2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).</p>			

- c) The brownfield nature of the site and its location in an outer suburban area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) 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).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction and Environmental Management Plan, Ecological Impact Assessment, Natura Impact Statement, Landscape Design Report, Arboricultural Report, Site Specific Flood Risk Assessment, Archaeological Assessment and Architectural Heritage Impact Assessment.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Inspector \_\_\_\_\_

Date \_\_\_\_\_

Approved (DP/ADP) \_\_\_\_\_

Date \_\_\_\_\_

## Stage 1: Screening the need for Appropriate Assessment

### Finding of likely significant effects

#### Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposed residential development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Screening report has been prepared by Moore Group Environmental Services on behalf of the applicant and the objective information presented in that report informs this screening determination.

#### Description of the proposed development

In summary, it is proposed to demolish 3 outbuildings with a combined floor area of 171.5sqm and construct of 74 apartments in 3 new blocks (3, 4 and 5 storeys in height) as well as change the use of two storey Balnagowan House (a Protected Structure) from office to residential use, to provide 4 no. residential units, all on a site of 0.4795 hectares. The development will have a new entrance onto the adjacent road and a basement car park with 31 spaces as well as bin and bicycle storage. The site is brownfield, vacant and the grounds are overgrown.

I have provided a detailed description of the development in Section 2 of my report and detailed specifications of the proposal are provided in the AA screening report and other planning documents provided by the applicant.

#### Consultations and Submissions

The submissions and observations from the Planning Authority and prescribed bodies are summarised in sections 3.2 and 3.4 respectively.

- The EHO recommended that an Asbestos Survey be carried out.
- The drainage division considered that a 10-15m buffer should be maintained from the river while the basement Impact Assessment did not adequately identify potential impacts and/or mitigate measures.

The potential presence of bats on the site was referenced in some of the third party observations.

#### European Sites

Three European sites are identified located within a potential zone of influence of the proposed development. These are:

European Site	Qualifying Interests	Distance	Connections
<b>South Dublin Bay and River Tolka Estuary SPA</b> [site code 004024]	<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></ul>	3.1km	Indirect surface water via culvert and river Tolka to European

	<ul style="list-style-type: none"> <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 tetanus</i>) [A162]</li> <li>• Black-headed gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Roseate tern (<i>Sterna dougallii</i>) [A192]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Arctic tern (<i>Sterna paradisaea</i>) [A194]</li> <li>• Wetland and waterbirds [A999]</li> </ul> <a href="https://www.npws.ie/protected-sites/search/by-code?code=004024">https://www.npws.ie/protected-sites/search/by-code?code=004024</a>		<p>Sites in Dublin Bay.</p> <p>Indirect - foul sewage via public sewer discharging to Ringsend WWTP, with potential overflow into Dublin Bay.</p>	
<b>North Bull Island SPA</b> [site code 004006]	<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>• 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 (<i>Haematopus ostralegus</i>) [A130]</li> <li>• Golden plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Knot (<i>Calidris canutus</i>) [A143]</li> <li>• Sanderling (<i>Calidris alba</i>) [A144]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Black-tailed godwit (<i>Limosa limosa</i>) [A156]</li> <li>• Bar-tailed godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Curlew (<i>Numenius Arquata</i>) [A160]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Turnstone (<i>Arenaria tetanus</i>) [A169]</li> <li>• Black-headed gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Wetland and waterbirds [A999]</li> </ul> <a href="https://www.npws.ie/protected-sites/spa/004006">https://www.npws.ie/protected-sites/spa/004006</a>	5.8km	As above	
<b>North Dublin Bay SAC</b> [site code 000206]	<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 (<i>Glaucopuccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Embryonic shifting dunes [2110]</li> </ul>	5.8km	As above	

	<ul style="list-style-type: none"> <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> <a href="https://www.npws.ie/protected-sites/sac/000206">https://www.npws.ie/protected-sites/sac/000206</a>		
--	--	--	--

While there are other European sites within 15km of the site I note that the applicant only included the three European sites listed above in their initial screening consideration as the only potential links to European Sites are indirect via surface water or from sewage. I consider this reasonable, and I have only included those sites with any possible ecological connection or pathway in this screening determination.

#### Surface Water

The site has indirect hydrological linkages connecting the project site to the listed European Site. Pollutants entering the culvert could find their way into the European Sites and could have an impact on the qualifying interests of all three sites. Surface water will be discharged to the culverted Claremont Stream that passes through the site. The culvert flows into the River Tolka c405m downstream. The Tolka in turn flows into South Dublin Bay and River Tolka Estuary SPA at the Eastpoint Business Park.

#### Foul Sewage

The site will discharge sewage to the public sewerage network that ultimately ends up in the Ringsend Wastewater Treatment Plant (WWTP), which occasionally overflows and discharges into Dublin Bay. The additional loadings from the proposed 78 apartments would add to the loadings on the WWTP.

### **Likely impacts of the project alone or in combination with other plans and projects**

The proposed development will not result in any direct effects on any of the SAC's or SPA's listed above, while habitat loss or fragmentation would not arise given the location and nature of the site. Taking into account the size and scale of the proposed development and the presence of a culverted stream flowing through the site, impacts from the proposed development require consideration.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed residential development.

Sources of potential impact identified in the AA screening report are:

#### **Construction Phase**

- Vegetation clearance,
- Demolition
- Surface water runoff from soil excavation/ infill/ landscaping (including borrow pits),
- Dust, noise, vibration
- Lighting disturbance



- Impact on groundwater/ dewatering
- Storage of excavated/ construction materials
- Access to site
- Pests

### **Operational phase**

- Direct emission to air and water
- Surface water runoff containing contaminant or sediment
- Lighting disturbance
- Noise / vibration
- Changes to water / groundwater due to drainage or abstraction
- Presence of people, vehicles and activities
- Physical presence of structures (e.g. collision risk)

### **Likely significant effects on the European site(s) in view of the conservation objectives**

This site is not located adjacent to or within a European site, therefore there is no risk of habitat loss or fragmentation or any effects on the qualifying interest species directly or ex-situ.

It is proposed to discharge surface water into the Claremont stream culvert that runs through the northwestern corner of the site that discharges downstream to the River Tolka, close to Glasnevin Bridge. This provides an indirect distant connectivity to the European sites located in Dublin Bay.

- There is potential for impacts on water quality and the River Tolka from silt laden or nutrient rich surface water runoff resulting from soil excavation and other construction related activities.
- Chemical spills could result in fish mortality and could affect feeding habitats for bird species that rely on sand and mud flats downstream in north Dublin Bay for food sources.
- Wet concrete and cement are very alkaline and corrosive and could cause serious pollution to the water course if they enter into the culvert.

I consider that such impacts could be significant in terms of the stated conservation objectives of South Dublin Bay and River Tolka Estuary SPA (site code 004024), North Dublin Bay SAC (site code 000206) and North Bull Island SPA (site code 004006) when considered on their own or in combination with other projects and plans in relation to pollution related pressures on qualifying interest habitats described above.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on all three European sites.

I do not consider that the wastewater loading that would be generated by the proposed development once operational would generate any significant additional demands on the existing public sewer network or on the Ringsend wastewater treatment plant (WWTP). Whilst there would be a marginal increase in loadings to the sewer network and the WWTP, upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under an EPA licencing regime that is subject to separate AA Screening. I also note that no negative effects to European sites have been identified from the existing Ringsend

WWTP. However, There is no real likelihood of any significant effects on European Sites in the Dublin Bay area as a result of wastewater generated at the site cannot be ruled excluded and impacts could be significant in terms of the stated conservation objectives of the three European Sites.

The EHO recommended that an asbestos survey report be carried out prior to issuing a grant of permission. I am satisfied that the removal of asbestos could be addressed through a final Construction and Environmental Management Plan. Asbestos removal and disposal are typical and well-practiced elements of construction and demolition, and would be expected to be carried out by any competent developer, whether or not they were explicitly required by the terms of the conditions of a planning permission.

Survey details provided with the applicant's Ecological Impact Assessment did not highlight any 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 the construction and operational phases, given the separation distance from the sensitive areas across an extensive urban area.

#### **In-combination Effects**

The applicants AA Screening Report refers to potential in-combination effects with other permitted developments and land uses in the area and lists 13 planning applications that were granted within 100m of the site in the 3 year period preceding March 2023 and were considered together with the proposed development, with a view to identifying any possible significant in-combination effects. The applications were generally small scale extensions to neighbouring houses, as well as two extensions at the Bon Secours Hospital of 132sqm and 1,309sqm.

In addition to considering the screening report, due to the time that has elapsed since the EIA Screening Report was prepared (March 2023), a search of was undertaken using Dublin City Council's online Planning Register, myplan.ie and the Bord Pleanála planning search tool to determine if any projects had been approved in proximity to the site in the interim.

On the 21<sup>st</sup> of July 2023, the board granted permission for the development of 52 apartments on a site c85m to the north of the application site (ABP-313193-22). In its decision, the board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of identification of the European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European Sites in view of the site's conservation objectives. It concluded that no in combination effects arose and that Stage 2 Appropriate Assessment was not, therefore, required.

On the 12<sup>th</sup> of March 2024, the board approved the 'Bus Connects Ballymun / Finglas to City Centre Core Bus Corridor Scheme' (ABP-314610-22). The corridor runs along the R108, c70m to the east. The board concluded that it 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.

The proposed development is not associated with any loss of semi-natural habitat or pollution that could by itself or in combination with other plans or projects, adversely affect the integrity of the three European Sites cited above, in view of the conservation objectives of those sites.

**Overall Conclusion**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by Moore Group Environmental Services, I conclude that the proposed development could result in significant effects on the following European Sites:

- South Dublin Bay and River Tolka Estuary SPA (site code 004024),
- North Dublin Bay SAC (site code 000206)
- North Bull Island SPA (site code 004006).

It is therefore determined that Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is required.

No mitigation measures were taken into consideration in coming to this determination.

## **Appropriate Assessment Stage 2, Article 6(3) of Habitats Directive)**

### **1.0 Appropriate Assessment**

**1.1.** The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site

### **1.2. Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### **1.3. Screening the need for Appropriate Assessment**

- Refer to Appropriate Assessment Screening Determination.

### **1.4. Screening Determination**

Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed residential development of 78 apartments, individually or in-combination with other plans or projects will have a significant effect on the following European sites (i.e. there is the possibility of significant effect):

- South Dublin Bay and River Tolka Estuary SPA (site code 004024)
- North Dublin Bay SAC (site code 000206)
- North Bull Island SPA (site code 004006)

The possibility of significant effects on other European sites has been excluded on the basis of objective information.

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

### **1.5. The Natura Impact Statement**

The application included a Natura Impact Statement prepared by Moore Group Environmental Services for Balnagowan House Residential Development, dated the 15<sup>th</sup> of March 2023, and the author is stated to have completed over 1500 reports for the purpose of Appropriate Assessment Screening and NIS.

I am satisfied that the submitted NIS is in accordance with current guidance/ legislation/ best practice and the information included within the report in relation to baseline conditions and potential impacts are clearly set out and supported with sound scientific information and knowledge.

This NIS examines and assesses potential adverse effects of the proposed development on 1) South Dublin Bay and River Tolka Estuary SPA; 2) North Dublin Bay SAC; and 3) North Bull Island SPA, where it has been established that there is a possibility for significant indirect effects on the European sites, in the absence of mitigation as a result of the discharge of surface water to a culvert running through the site that flows into the River Tolka, which in turn flows into North Dublin Bay. As reported in the AA Screening, all other European Sites can be excluded from the need for further assessment.

The applicant's NIS includes the following:

- A description of the European sites potentially affected (as above).
- Includes up to date Site Synopsis for the three sites.
- Sets out the Conservation Objectives, Attributes, Measures and Targets for each of the Qualifying Interests (QI's) in the European Sites.
- Describes the existing environment by reference to a habitats survey carried out in May 2020.
- Potential effects on European Sites before mitigation.
- Effects on European sites without mitigation.
- Mitigation Measures
- Effects on European Sites with mitigation
- An Assessment of In-Combination Effects.

The applicants NIS concluded that it has reviewed the predicted impacts arising from the proposed development and found that with the implementation of appropriate mitigation measures specifically with regard to construction management, significant effects on the integrity of the three European site listed below can be ruled out:

- South Dublin Bay and River Tolka Estuary SPA 004024
- North Dublin Bay SAC 000206
- North Bull Island SPA 004006

It further stated that is the conclusion of this NIS, on the basis of the best scientific knowledge available, and with the implementation of the mitigation and restriction measures set out under section 3.6, that the possibility of any adverse effects on the integrity of the European Sites considered in this NIS (having regard to their conservation objectives), or on the integrity of any other European Sites (having regard to their conservation objectives) arising from the proposed development, either alone or in combination with other plans or projects, can be excluded beyond reasonable scientific doubt.

## **1.6. Appropriate Assessment of implications of the proposed development**

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

#### **1.6.1 Effects on European Sites before mitigation**

Section 3.4 of the NIS notes that a site specific flood risk assessment had been carried out and concluded that there is no risk of flooding affecting the site from fluvial sources, so it is possible to develop the site which is within Flood Zone C and the development does not affect the flood storage volume or increase flood risk elsewhere.

All potential impacts set out below are indirect impacts which would relate to pollutants entering the culverted stream that runs through the site, via the on-site surface water network.

- Section 3.4 sets out potential effects on European Sites before mitigation and excludes some impacts such as Eutrophication as a result of trophic changes in water quality discharged into Dublin Bay from the Ringsend WWTP as the WWTP operates under a licence and the ongoing upgrade works which are planned to be complete by the end of 2025 mean that there will be no operational phase impacts related to foul discharge on European Sites.

Section 3.5 sets out the effects on European Sites before mitigation to be :

##### **Construction Phase**

- Leakage, unmitigated run-off, or chemical spills can result in fish mortality and could affect feeding habits of birds that rely on the sand and mudflats downstream in Dublin bay for food sources.
- Wet concrete and cement are very alkaline and corrosive and, in the absence of mitigation, have the potential to cause serious pollution to watercourses and receiving water bodies in Dublin Bay.
- Elevated suspended solids may be harmful to salmonids resulting in reduced oxygenation in surface waters due to settlement and the formation of deposits on the

river bed, which in turn can give rise to septic and offensive conditions. Elevated suspended solids can clog salmonid gills and potentially cause mortality.

#### Operational Phase Impacts, without mitigation

- Potential overflows of sewage discharge to Dublin Bay from Ringsend WWPT which operates under an EPA license.
- Unmitigated stormwater can result in fish mortality and could affect feeding habitats for bird species that rely on the sand and mudflats downstream in Dublin bay for food sources.

I agree that these are the issues that could affect the QIs and SCIs of the 1) South Dublin Bay and River Tolka Estuary SPA; 2) North Dublin Bay SAC; and 3) North Bull Island SPA. I consider that these are indirect impacts and no direct impacts would occur. A degradation of water quality could affect the quality and/or amount of prey availability or feeding or breeding areas etc. for the SCI species even though I note that water quality is not specifically cited in the relevant attributes, measures, or targets. Therefore, the potential adverse effects outlined in the previous paragraph are common to both the SAC QIs and the SPA SCIs. The mitigation measures contained within the NIS are therefore also applicable to both European sites.

#### **1.6.2 Mitigation Measures**

The mitigate measures set out in section 3.6 of the NIS include those for 1) the construction phase and 2) the operational phase of the development under the heading of 'Protection of Surface Water'.

#### Construction Phase

Reference is made to specific measures incorporated into the Construction and Environmental Management Plan which will ensure that there are no likely effects on the River Tolka from surface water runoff and by extension avoiding negative effects on the European Sites in Dublin Bay, while the works will also follow best practice as outlines in Guidelines on the Protection of Fisheries during Construction Works in and Adjacent to Waters (IFI,2016)

A range of mitigation measures are identified to protect surface water primarily in the NIS and OCEMP. The full list of mitigation measure is set out below:



### Best Practice

The following best practice measures will be adopted as appropriate:

- Use of silt fences and silt bags to contain surface water run-off from the site;
- Discharge to public sewers - after prior agreement with the local authority;
- The existing storm water drainage system will be retained where possible during construction, with modifications as necessary to prevent ingress of debris;
- Control of spoil and other materials to prevent spillage;
- Oils/Fuels/Hazardous Wastes will be stored in bunded areas or in bunded containers;
- Washout from concrete trucks will be contained or prohibited on site;
- All drainage arrangements will be determined in consultation with the Local Authority;
- Sediment control will be implemented where surface water is contaminated with silt.

### Actions

- Water contaminated with silt will not be allowed to enter a watercourse or drain as it can cause pollution. All parts of the drainage system will be protected from construction runoff to prevent silt clogging the system and causing pollution downstream. Measures to prevent this include soil stabilisation, early construction of sediment management basins, channelling run-off away from watercourses and surface water drains and erosion prevention measures;
- Following construction, subsoil that has been compacted during construction should be broken up prior to the re-application of topsoil to reinstate the natural infiltration performance of the ground;
- Areas of SuDS that have been compacted will be refurbished;
- Pipe systems and orifices will be checked for blockages or partial blockages;
- Silt deposited during construction will be removed;

- Soils will be stabilised and protected from erosion whilst planting becomes established;
- Hydrocarbons or any hazardous chemicals will be stored in specific bunded areas. Refuelling of plant and machinery will also be carried out in bunded areas to minimise risk of any potential pollutants being discharged from the site;
- Pollution control measures will be implemented to control run-off from the site and prevent runoff which is potentially contaminated with sediments or hazardous chemicals entering the drainage network;
- Pouring of cement based materials for works will only be carried out in dry conditions. Pumped concrete will be monitored to ensure there is no accidental discharge. Mixer washings and excess concrete will not be discharged directly into the drainage network. Concrete washout areas will be created to avoid any accidental discharge from the proposed development site;
- Foul drainage from site offices and compounds, where not directed to the existing wastewater network, will be contained and disposed of off-site in an appropriate manner and in accordance with the relevant statutory regulations to prevent the pollution of watercourses;
- A response procedure will be put in place to deal with any accidental pollution events and spillage kits will be available on site. Construction staff will be familiar with the emergency procedures and use of the equipment.
- All site personnel will be trained in the importance of good environmental practices including reporting to the site manager when pollution, or the potential for pollution, is suspected. All persons working on-site will receive work specific induction in relation to surface water management and run off controls. Daily environmental toolbox talks / briefing sessions will be conducted to outline the relevant environmental control measures and to identify any environment risk areas/works.

#### Operation Phase

- SUDS measures will improve water quality and reduce the quantity of surface water discharging to the receiving system.

- Wastewater will be treated at the EPA licenced Ringsend WWTP and there will be no operational phase impacts.

I consider that the proposed mitigation measures related to the proposed development are standard, well-proven and good practice measures. I consider that the proposed measures are suitably detailed and that they are capable of being successfully implemented.

### **1.6.3 Effects on European Sites with Mitigation**

I agree with the assessment of effect with mitigation, as set out in Section 3.7 of the NIS, which are:

#### **Construction Phase**

- Having regard to the proposed mitigation measures outlined in Section 3.6 of the NIS as set out in 1.6.2 above, no impacts on European sites or species are predicted to occur during the developments construction phase.

#### **Operational Phase**

- Having regard to the proposed design and appropriate treatment of Surface Water and Wastewater, no impacts on European sites or species are predicted to occur during the operational phase of the proposed development.

### **1.7 In-combination effects**

Further to a consideration of plans and projects (which comprised a search of the local authority and Board's databases), Section 6.3.5.3 of the NIS considers that no significant in-combination effects are predicted to affect any of the European Sites.

I note reference is made to the National Biodiversity Plan 2017- 2021, which has been superceded by 'Ireland's 4th National Biodiversity Action Plan Ireland's 2023–2030' and that the Dublin City Biodiversity Action Plan 2015-2020, has been superceded by the 'Dublin City Biodiversity Action Plan 2021-2025'.

In addition to considering the projects listed in table 4 of the NIS, due to the time that has elapsed since the NIS was prepared (15<sup>th</sup> of March 2023), a search of was undertaken using Dublin City Council's online Planning Register, myplan.ie and the Bord Pleanála planning search tool to determine if any projects had been approved in proximity to the site in the interim.

On the 21<sup>st</sup> of July 2023, the board granted permission for the development of 52 apartments on a site c85m to the north of the application site (ABP-313193-22). In its decision, the board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of identification of the European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European Sites in view of the site's conservation objectives. It concluded that no in combination effects arose and that Stage 2 Appropriate Assessment was not, therefore, required.

On the 12<sup>th</sup> of March 2024, the board approved the 'Bus Connects Ballymun / Finglas to City Centre Core Bus Corridor Scheme' (ABP-314610-22). The corridor runs along the R108, c70m to the east. The board concluded that it 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.

At 3.8.3, the NIS concludes that the proposed development will have no predicted impacts on local ecology and biodiversity or on European sites, so that in-combination impacts can be ruled out.

I agree with the NIS finding that no adverse in-combination impacts are foreseen with any other plan or project, and I note that there is a history of grants of planning permission for similar development types in the area. As I do not consider the proposed development will have any undue adverse effects on 1) South Dublin Bay and River Tolka Estuary SPA; 2) North Bull Island SPA; and 3) North Dublin Bay SAC, I do not consider that it would have any in-combination effects.

## **1.8 Appropriate Assessment (AA) Conclusion**

The proposed residential development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

Having carried out screening for AA of the project, it was concluded that it may have a significant effect on 1) South Dublin Bay and River Tolka Estuary SPA (site code 004024); 2) North Dublin Bay SAC (site code 000206) and 3) North Bull Island SPA (site code 004006). Consequently, AA was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. The possibility for significant effects was excluded for other European sites.

Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC or North Bull Island SPA, or any other European site, in view of the site's conservation objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.