



An
Bord
Pleanála

Inspector's Report ABP-317840-23

Proposed Development	Demolish buildings and construct three blocks of seven to 12 storeys containing 118 build-to-sell and 78 build-to-rent apartments, and community, cultural and arts spaces
Location	Old Mill Bakery Site, 113 Phibsborough Road, Cross Guns Bridge, Phibsborough, Dublin 7, D07 XP46
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	LRD6025/23-S3
Planning Authority Decision	Grant Permission
Applicant	Bindford Limited
Type of Application	Large-Scale Residential Development
Type of Appeal	First & Third Parties
Appellant(s)	Bindford Limited John Conway and the Louth Environmental Group LUMRA

Prescribed Bodies

N/A

Observers

Tony and Elizabeth Keane Kenny

Frank McDonald

Cross Guns Campaign

Shandon Residents' Association

Dates of Site Inspections

26th October & 9th November, 2023

Inspector

Colm McLoughlin

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 Proposed Development	5
4.0 Planning History and LRD Opinion	8
5.0 Planning Authority Decision	13
6.0 Planning Policy	22
7.0 The Appeals	26
8.0 Assessment	48
9.0 Environmental Impact Assessment Screening	126
10.0 Appropriate Assessment	131
11.0 Conclusion and Recommendation	144
12.0 Recommended Order.....	145
13.0 Conditions	150
Appendices	166

1.0 Introduction

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

2.0 Site Location and Description

- 2.1. Situated approximately 2km to the north of Dublin city centre in the Phibsborough area between the fifth and sixth lock gates of the Royal Canal, and backing onto Leinster Street North and Shandon Road, the appeal site comprises a former bakery premises, including numerous pitched-roof buildings and concrete-tower, silo structures of varying heights, extending from the southeast boundary to a yard area on the northwest side with Shandon Mills. It is stated to measure a gross area of 0.73ha, including a shared 110m-long vehicular access from the Phibsborough Road close to Cross Guns bridge. The open areas on site feature overgrown, unmaintained vegetation and the existing buildings are unoccupied and falling into varying levels of disrepair. An electricity substation structure is situated centrally along the southwest boundary adjoining the site.
- 2.2. The immediate area is generally characterised by residential uses to the east, west and south. Adjoining to the southeast is the Cross Guns Quay apartment complex, including the six / seven-storey former, north-city, flour-mills building, which is a Protected Structure. Adjoining to the southwest is a laneway serving the rear of two-storey red-brick terraced housing along Leinster Street North. A three-storey townhouse / apartment building with rear gardens at nos.1-8 Shandon Mills is situated on the northwest boundary of the site. On the opposite northeast side of the canal there is extensive rail-line corridor.
- 2.3. The appeal site boundaries are primarily formed by capped 2m to 2.5m-high stonewalls with security fencing intermittently situated inside and topping these walls. Based on the first-party appellant's drawings, land levels on site drop gradually by approximately 2m from the northwestern boundary to the vehicular access along the Cross Guns Quay apartment complex.

3.0 Proposed Development

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

Demolition Works

- demolition and removal of various structures measuring a stated gross floor area of 3,372sq.m, comprising a former bakery premises, including various pitched-roof buildings and silo structures;

Construction Works

- construction of three blocks (A, B and C) with maximum heights ranging from seven to 12 storeys, comprising 196 residential units in a mix of 118 build-to-sell and 78 build-to-rent apartments, a community, cultural and arts space (588sqm) comprising six artists' studios with associated ancillary meeting and resource rooms, a café / gallery (63sq.m), a retail / workshop area (81sq.m) and associated staff facilities;
- residents' support facilities (463sq.m), including lounge, gym, media room, reception / concierge, lobby space, management office, parcel lockers, storage units and ancillary equipment / repair spaces;
- two single-storey cycle stores, a plant room and a waste and recycling bin store;

Ancillary and Supporting Works

- provision of an upgraded vehicular access from Phibsborough Road to a surface-level service and parking area and a basement-level car park and service area (1,410sq.m), and two gated-pedestrian accesses off the Royal Canal towpath with associated openings and lowering of the boundary wall;
- installation of telecommunications infrastructure at roof level to proposed block A, including eight micro-link dishes and all associated equipment;
- all ancillary site development works and services, including electricity substation, switchroom, plant rooms, metre room, communication room, communal and public open spaces, landscaping, boundary treatments, external lighting, services and connections, drainage and underground stormwater attenuation tank and green roofs.

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

Table 1. Development Standards

Site Area (gross)	0.73ha
No. of apartments	196
Part V units (% build-to-sell units)	40 (20%)
Demolished Gross Floor Area (GFA)	3,372sq.m
Apartments (net floor area)	14,314sq.m
Ancillary Apartment Areas GFA	1,770sq.m
Non-residential GFA (% GFA)	588sq.m (4.1%)
GFA	16,672sq.m
Residential Density (gross)	269 units per ha
Communal Open Space	2,459sq.m
Public Open Space (% of gross site area)	774sq.m (11%)
Plot Ratio (gross site area)	2.1
Site Coverage (gross site area)	37.6%

Table 2. Unit Mix

	Studio	One-bedroom	Two-bedroom (four-person)	Total
Apartments	52	80	64	196
% of units	26%	41%	33%	100%

Table 3. Stated Maximum Building Heights

Block	Storeys	Height
A	7	26.2m
B	7	26.2m
C	12	40.3m

Table 4. Parking Spaces

Car parking (standard)	19
Car parking (car-share)	2
Car parking (accessible)	5
Motorcycle parking	5
Cycle parking (visitor)	359 (98)

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

- Planning Report;
- Environmental Impact Assessment (EIA) Screening;
- Natura Impact Statement (NIS);
- Design Statement;
- Building Height Report;
- Architectural Heritage Impact Assessment;
- Traffic and Transportation Assessment and Mobility Management Plan;
- Engineering Assessment Report;
- Daylight and Sunlight Analysis;
- Response to LRD Opinion, including Basement Impact Assessment;
- Verified Photomontages and Computer-Generated Images (CGIs);
- Part V Pack;
- Ecological Impact Assessment Report;
- Ecological Summary Letter;
- Archaeological Impact Assessment;
- Social & Community Infrastructure Audit;
- Culture and Arts Infrastructure Assessment;
- Statement of Consistency with Design Manual for Urban Roads and Streets (DMURS);
- Flood Risk Assessment;
- Construction Environmental Management Plan;
- Outline Construction & Demolition Waste Management Plan;
- Biodiversity Enhancement Plan;
- Landscape Report;
- Road Safety Audit;
- Universal Design Statement;
- Community Safety Strategy;
- Building Life Cycle Report;
- Telecommunications Report;
- Townscape & Visual Impact Assessment;
- Housing Quality Assessment;
- Development Summary & Schedule;
- Planning Stage Structural Report;
- Operational Waste & Recycling Management Plan;

- Build to Rent Market Justification Report;
- Site Lighting Report;
- Environmental Noise Survey;
- Climate Action Energy Statement;
- Microclimatic Wind Analysis and Pedestrian Comfort Report;
- Utilities Report;
- Air Quality Assessment.

4.0 Planning History and LRD Opinion

4.1. Appeal Site

4.1.1. The following planning applications relate to the appeal site.

- An Bord Pleanála (ABP) reference (ref.) 309345-21 – in May 2021 a strategic housing development was granted permission for the demolition of structures on site and the construction of three blocks of four to 12 storeys consisting of 205 build-to-rent apartments, a café and residential amenities facilities. This decision is subject of legal proceedings and it is understood that the development may not now proceed;
- ABP ref. PL29N.243444 / Dublin City Council (DCC) ref.2402/14 – permission granted by the Board in 2014 for the demolition of buildings and the construction of 20 three-storey houses and 2no. four to six-storey blocks containing eight apartments and two commercial units;
- ABP ref. PL29N.231198 / DCC ref.6818/07 – permission was refused by the Board in 2009 for the demolition of buildings and the construction of 3no. three to 13-storey blocks containing 148 residential units in a mix of townhouses and apartments, 35 medical units, a childcare facility, a café and a gym, due to excessive buildings heights, massing impacts on the canal amenity space, impacts on neighbouring residences, excessive additional traffic arising and the provisions of the Phibsborough / Mountjoy Local Area Plan;

- DCC ref.1745/07 – permission was refused by the Planning Authority in 2007 for the demolition of buildings and the construction of 4no. two to 13-storey blocks containing 213 residential units in a mix of townhouses and apartments, and a childcare facility, due to the excessive building height and development density, the impacts on neighbouring amenities, the visual impacts on a residential conservation area and the excess proportion of north-facing, single-aspect units;
- DCC ref.4033/06 – permission was refused by the Planning Authority in 2006 for the demolition of buildings and the construction of 4no. two to 13-storey blocks containing 267 residential units in a mix of townhouses and apartments, a community centre and a childcare facility, due to excessive building heights and development density, substandard apartments and inadequate open space provision.

4.1.2. The following Railway Order application relates to part of the appeal site:

- ABP ref. 314724-22 – submitted to the Board in September 2022 for the construction of the Metrolink project from Charlemont to Swords Estuary via Dublin Airport, with the canalside boundary of the appeal site and the existing northwest yard area on the appeal site included in the project area as part of the temporary works area. A decision on this application is due in December 2023;

4.1.3. The following Vacant Sites Register reference relates to the appeal site:

- ABP ref. VV29N.300593 / DCC ref. VS-0048 – appeal site entered into the Planning Authority Vacant Sites Register on 28th day of November 2017. Following an appeal, the site was considered by the Board to be a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015.

4.2. Surrounding Area

4.2.1. The following applications relate to lands adjoining the appeal site:

- DCC Part 8 application – amendments comprising widening of the existing towpath by realigning the northern bank of the Royal Canal in three stretches

between Cross Guns Bridge, Phibsborough, Dublin 7 and Ashtown, Dublin 15. This is currently the subject of a recent public consultation phase;

- DCC ref. WEB1440/23 – in August 2023 the Planning Authority granted planning permission for a two-storey house adjoining no.34 Shandon Road located approximately 15m to the southwest of the appeal site;
- ABP ref. HA29.314610-22 – Local Authority roads application lodged to the Board in September 2022 for BusConnects project ‘Ballymun/Finglas to city centre core bus corridor scheme’, including the stretch of the Phibsborough Road fronting the appeal site. I am not aware of a decision on this application;
- ABP ref. 305308-19 / DCC ref. 4752/18 – permission refused for two houses to the rear of 43 Shandon Road adjoining the northwest corner of the appeal site, due to the substandard accommodation and amenity space proposed.

4.2.2. The closest most recent major residential proposals within the immediate area include:

- ABP ref. 308875-20 – permission for a strategic housing development was granted by the Board in April 2021 for the partial demolition of structures at Phibsborough Shopping Centre located approximately 200m to the south of the appeal site and the construction of 297 build-to-rent, shared-accommodation bedspaces and amendments to a previous permission (ABP ref. 300241-17 / DCC ref. 2628/17);
- ABP ref. 315062-22 / DCC ref. LRD6001/22S3A – LRD permission granted in March 2023 for 168 apartments and amendments to previous permission (ABP ref. PL29N.246124 / DCC ref. 3665/15) at the former Printworks / Smurfit site, Botanic Road, located approximately 350m to the northeast of the appeal site.

4.3. Pre-application Consultation

4.3.1. The Planning Authority has forwarded a record of minutes arising from their meetings with the applicant for the previous strategic housing development application (ABP ref. 309345-21) on the appeal site. Pre-application consultation

(PAC) meeting minutes (DCC ref. 0222/22) dating from the 5th day of October, 2022, have also been forwarded relating to a proposal for a foodhall with outdoor seating areas and a playground at Cross Guns Bridge.

4.3.2. An initial LRD PAC meeting took place between representatives of the LRD applicant and the Planning Authority on the 3rd day of June, 2022 (under DCC ref. LRD PAC no. 6025/22-S1) in respect of a development generally comprising 205 build-to-rent apartments. A follow-up stage 2 meeting was held on the 17th day of November, 2022 (under DCC ref. LRD PAC no. 6025/22-S2), with respect to development comprising 198 build-to-rent apartments and a retail / café unit in three blocks ranging from four to 12 storeys. A copy of the Planning Authority's record of these meetings has been forwarded by the Planning Authority and based on these records the main topics raised for discussion included the following:

- build-to-rent principle;
- design strategy;
- residential amenity – existing and proposed;
- traffic and transportation;
- landscape, biodiversity and appropriate assessment (AA);
- surface water management, flood risk and wastewater;
- air quality monitoring and noise control;
- internal amenity space, canalside boundary and bin stores.

4.4. **Planning Authority Opinion**

4.4.1. In the Notice of LRD Opinion (under DCC ref. LRD6025/22-S2), which according to the Planning Authority was issued on the 15th day of December 2022, the Planning Authority states that they were of the opinion that the documents submitted constituted a reasonable basis for a LRD application under section 32D of the Act of 2000. In the opinion of the Planning Authority, an application for the proposed development should be accompanied by:

- a statement of response to the issues set out within the Planning Authority opinion;

- a statement of consistency with the Development Plan for the area.

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

- compliance with Development Plan objectives, including the need for various plans, assessments, statements, audits and reports;
- design strategy and building height responding to policies and context;
- residential amenity, including proposed lighting and requirements set out previously in condition 3 of the Board's decision under ABP ref. 309345-21;
- traffic and transportation issues, including engagement with the National Transport Authority (NTA), safety audit, BusConnects, DMURS, management plans and taking-in-charge details;
- landscape and biodiversity / AA – enhancement and protection measures, open space provision and lighting to the canal towpath;
- surface water management, flood risk and foul drainage;
- air quality and noise monitoring;
- Waterways Ireland consultation and bin storage location.

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

4.5.1. Section 7 of the application 'Planning Report' included a response to the Planning Authority's pre-application consultation opinion. This report outlines how the application is considered to comply with the respective requirements listed in the Planning Authority's opinion, including the build-to-rent market, building heights, residents' support facilities, design strategy, basement works impact, open space provision, climate and energy actions, social infrastructure, lighting, traffic and transportation, visual impacts, birds, bats, attenuation and infiltration, microclimate, noise impacts, Waterways Ireland consultation and bin storage. Separate documents addressing engineering, landscape impacts and biodiversity also accompanied the application in response to the Planning Authority LRD opinion.

5.0 Planning Authority Decision

5.1. Decision

5.1.1. The Planning Authority decided to grant planning permission for the proposed LRD subject to 29 conditions, the following of which are of note:

Condition 1 – the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the attached conditions;

Condition 4(a) – reduced height for block C with the eighth, ninth and tenth floors containing 12 apartments omitted;

Condition 4(b) – the café / gallery shall operate as a standard café;

Condition 4(c) – the workshop / retail facility shall be for community use;

Condition 4(d) – omit the telecommunications antennae;

Condition 4(e) – provide a defensible buffer of 1.5m to ground-floor private residential terraces;

Condition 4(e) – increase the height of communal / public open space boundary fence to 1.5m;

Condition 6 – the communal amenity facilities shall be capable of being occupied and operated prior to the first occupation of the residential units;

Condition 9 – communal residents' facilities and the community, arts and cultural spaces are to be retained as such and subject to a management booking system;

Condition 11 – café opening hours between 09:00 and 22:30 hours Monday through Sunday;

Condition 12 – retain boundary along the canalside wall as much as possible;

Condition 13 – transportation planning division requirements regarding operational, parking and construction management;

Condition 15(c) – additional play units in the communal space;

Condition 15(d)-(h) – biodiversity measures;

Condition 17(j)-(m) – gym controls.

5.2. Planning Authority Reports

5.2.1. Planning Reports

The recommendation within the report of the Planning Officer (July 2023) reflects the decision of the Planning Authority and can be summarised as follows:

Principle and Density

- the proposed development is consistent with the Z1 land-use zoning objectives for the site, as contained in the Dublin City Development Plan 2022-2028 with the proposed residential and community / cultural / recreational uses permitted in principle and the café / restaurant use open for consideration;
- redevelopment of the site is welcomed considering the urban context;
- a seven-year permission is not warranted, as other similar-sized schemes have been developed within the standard five-year timeframe;
- the key changes compared with the strategic housing development scheme (ABP 309345-21) comprise change from a fully build-to-rent scheme, the inclusion of a community, culture and arts space, a reduction by nine apartments, an increase of 211sq.m public open space, a reduction of 169sq.m communal open space and an increase of 3sq.m residential amenity space;
- the site is suitable for a high-density development given the location adjacent to a number of bus routes and the Cabra Luas stop;
- given the location and dimensions of the site, the proposed site coverage and plot ratio would be acceptable;
- the build-to-rent units can be considered in principle based on the transitional arrangements under Circular Letter NRUP 07/2022 and the site is suitably located to accommodate this housing tenure based on the provisions of section 15.10 of the Development Plan;

- conditions can be attached in relation to the allocation and management of Part V units;

Height, Design and Layout

- building heights need to be considered against the Development Plan policy and criteria that has changed since adjudicating on the previous scheme;
- any development of this site would be relatively prominent when viewed from surrounding properties;
- there are concerns regarding the visual impact of the taller elements of Block C, particularly when viewed from Cross Guns Bridge, nearby established residential areas along Leinster Street North, including the Z2-zoned residential conservation area, and Phibsborough village, including the Architectural Conservation Area (ACA), and accordingly, it is recommended that a condition be attached that omits levels 8, 9 and 10 from block C;
- the scheme maximises passive surveillance of both the internal communal open space, the public open space and the canal towpath, while the proposed entrance areas would be visible and well overlooked;
- even with the omission of a bin stores area (11sq.m) from calculations, an under provision of public open space is still not expected to arise;
- the location of the bin stores on the southern boundary would be acceptable;
- a contemporary building design is appropriate in this context;
- prior to commencement of the development, the applicant should consult further with Waterways Ireland regarding the alterations to the canalside wall;

Non-residential Elements

- a cultural infrastructure assessment accompanied the application outlining the means of addressing the Development Plan objective CUO25, requiring a minimum of 5% community, arts and cultural space in the development, noting the limited provision of artist workspace and studios in Phibsborough;
- the café and workshop / retail area would not be considered to solely form artists' space, therefore, conditions should be attached allowing for the café to

operate as a standard café and the workshop / retail area to be maintained for community, arts and cultural use;

- the community, arts and cultural spaces should be subject of a management company;
- signage details for the café are noted and a condition should be attached to ensure no further advertising is displayed;
- the telecommunication infrastructure would detract from the visual amenities of the area, set an undesirable precedent and should only be located on residential lands as a last resort, therefore, this element of the proposals should be omitted;

Residential Amenities and Development Standards

- Specific Planning Policy Requirement (SPRR 1) of the Apartment Guidelines is applicable for the build-to-sell units, which the proposals would comply with;
- the proposed housing mix, including the proportion of universal design units, and the extent of units exceeding the minimum apartment standards by greater than 10%, apartment floor areas, floor to ceiling heights and private amenity space, would meet or exceed the relevant standards;
- noting the provision of opaque glazing to the secondary aspect in 23 studio units, on balance the proportion of dual aspect apartments meets the standards;
- 68% of the development floor area would feature lift and stair core provision per unit, compliant with Development Plan policy and SPPR 6 of the Apartment Guidelines;
- the proposed storage for apartment A2E1 (5.96sq.m) is slightly below the minimum requirement;
- a buffer should be provided for the ground-floor terraces;
- the wall between the public and communal space could be increased in height to ensure that private areas remain secured;
- the communal space would be attractive, accessible and useable, and is considered to be acceptable;

- the floor area provision of residential support facilities per build-to-rent unit would comply with the Development Plan requirements and the quality of this space is considered acceptable;
- the allowance for all units within the development to use the residents' support facilities would be positive;
- undue overlooking would not arise between the units, with opaque glazing proposed to windows in the elevations of blocks A and B to address same;
- the Building Life Cycle Report and microclimate assessments are noted;
- the sunlight provision would be acceptable in the context of the orientation of the site, including significant north-facing frontage, the provisions of the Apartment Guidelines allowing for north-facing, single-aspects units overlooking a waterbody, such as a canal, and the compensatory design measures set out in section 6.3 of the application Sunlight and Daylight Analysis;
- the proposed development would not have a detrimental impact for future residents of the development by way of wind microclimate;
- windows and façades facing the rail compound should be designed to comply with the Environmental Noise Survey;

Neighbouring Residential Amenities

- the impact of the proposed development on the vertical sky component (VSC) for the 34 neighbouring windows tested would not fall below a ratio of 0.8;
- the assessment of annual probable sunlight hours (APSH) indicates that neighbouring residences would not be adversely affected by the proposals;
- undue overshadowing of neighbouring gardens would not arise;
- overshadowing along the canal towpath would not be excessive given the time of year when this would occur and the orientation of the site;
- all balconies to the south-facing studio units should have obscure glazing fitted to further limit the potential for overlooking;

- the use of perforated metal screens to the south-facing windows in block C would control views from these windows;
- the required reduction of three floors from proposed block C would ensure that this block would not have undue overbearing impacts on the amenity of the surrounding area;

Access, Parking and Traffic

- the memorandum of understanding between the applicant and Transport Infrastructure Ireland (TII) is noted and, with a condition, this should address the matters raised by the NTA;
- the junction with Phibsborough Road is acceptable in principle subject to a detailed design agreement with the Planning Authority and the NTA;
- arising from the Road Safety Audit and the need for on-site management, as well as control of vehicular access to the communal area, the proposed layout is appropriate, subject to the servicing and operations aspects;
- sufficient set-down parking facilities would be provided;
- the proposed quantum of car parking spaces would be appropriate given the provisions of policy SMT01 seeking to achieve a transition to more sustainable travel modes, a previous permission on site and the existing / future accessibility of the site, albeit subject to compliance with section 4.25 of the Apartment Guidelines in addressing non-standard spaces and alternative mobility solutions;
- provision of two car parking spaces for visitors, accessible car parking spaces to feature electric-vehicle charging from the outset, three additional car-club spaces and an updated mobility management plan are required and should be requested via conditions;
- the proposed quantum of cycle parking spaces for the community, retail and café uses should be clarified;
- a revised design for the cycle parking stores to provide a minimum aisle width of 2.5m is required;

- the contents of the traffic and transportation assessment are noted, including the junction analysis and movements alongside the anticipated operational BusConnects project;
- the auto-track details with regards to the access to the bin stores are noted;
- a detailed final CEMP and construction traffic management plan would be necessary to be provided as conditions of the permission;
- proposals do not feature road infrastructure that is to be taken in charge;

Natural and Built Environment

- a condition for an archaeological assessment, including testing, shall be attached in the event of a grant of planning permission;
- all mitigation measures contained in the Ecological Impact Assessment and the NIS should form conditions in the event of a grant of permission, including demolition works outside of nesting season and the installation of swift boxes;
- otters may be impacted by works;
- lighting sympathetic to bats that are recorded as foraging in the area and other nocturnal species should be used;
- hoarding to screen geese from the works would be important;
- no external lighting should be installed on the canalside of the development to maintain use of the canal by otters and bats;
- to address the impacts on otters arising from people congregating in the public open space, the proposed gates to this space should be closed between 20:00 and 07:00 hours daily;
- notwithstanding that the applicant has submitted a NIS, the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of any European sites in view of the sites' conservation objectives;
- the project would not be likely to have significant effects on the environment and the preparation and submission of an EIA Report (EIAR) is not required.

Inter-Department Reports

- Archaeology, Conservation and Heritage (Archaeology Officer) – condition recommended;
- Engineering Department (Drainage Division) – no objection, subject to conditions addressing green / blue roofs, surface water management controls and measures, mitigation proposed in the Basement Impact Assessment, licenses and design specifications;
- Transportation Planning Division – grant with conditions addressing details for the Phibsborough Road interface, liaising in relation to Metrolink and BusConnects, provision of electric-vehicle charging points and the provision of management plans for the demolition, construction, mobility and car parking elements;
- Parks, Biodiversity and Landscape Services – conditions recommended regarding open space management, landscaping implementation and biodiversity mitigation, monitoring and enhancement;
- Air Quality Monitoring and Noise Control Unit (Environmental Health) - conditions recommended addressing context relative to the Irish Rail compound, retail / café and gym operation.

5.3. Prescribed Bodies

- Uisce Éireann – wastewater and water supply are feasible without infrastructure upgrades, the developer would be responsible for the design and construction of infrastructure within the site and conditions are recommended, including those relating to connections and agreements, and compliance with Uisce Éireann standards, codes, and practices;
- Irish Rail – no response;
- TII – supplementary development contributions apply, as the site falls within the area for the ‘Section 49 Supplementary Development Contribution Scheme - Luas Cross City (St. Stephen’s Green to Broombridge Line)’;

- NTA – left-in, left-out junction onto Phibsborough Road would align with the BusConnects project, cycle parking to be relocated following engagement with the Metrolink Project Team, cycle and car parking noted, with further consideration recommended regarding liaising with the NTA, car-share parking spaces and the reduction of stacked cycle parking spaces to facilitate access for non-standard cycle spaces.

5.4. **Third-Party Submissions**

5.4.1. According to the Planning Authority, 31 third-party submissions were received during the consultation period for the application, the majority of which were submitted from residents, resident groups and owners of properties in the immediate areas, as well as local-elected representatives. The submissions included various images of the area and extracts from planning applications. The substantive issues raised in these third-party submissions are similar to those raised in the third-parties grounds of appeal and the observations to the appeal as summarised below in section 7, with the following other substantive issues raised:

- absence of family-sized, three bedroom units, resulting in a poor unsustainable apartment mix in an area featuring an excessive supply of single-occupancy units that are of limited community gain;
- there is no demand for build-to-rent apartments;
- the apartments designated as build-to-rent, would never be owned by the community;
- any change of use of the artists' studios should require planning permission;
- the gates to the public open space should remain open during specific timeframes;
- 07:00 to 19:00 construction hours would be unacceptable;
- proposals would lead to increased traffic congestion and pollution;
- the proposals feature inadequate set-down areas;
- the development would feature dangerous entry and exit points;
- there are discrepancies in the application materials, including the drawings.

6.0 Planning Policy

6.1. National Planning Policy

Project Ireland 2040 - National Planning Framework

- 6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations.
- 6.1.2. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Other NPOs of relevance to this appeal include NPOs 3(a) (40% of homes in existing settlement footprints), 3(b) (50% of new homes in the five largest cities, including Dublin), 4 (attractive, liveable and well-designed urban places), 13 (development standards), 27 (transport alternatives) and 35 (increased densities) all relating to densification and compact urban growth.

Ministerial and Other Guidelines

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

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (hereinafter the 'New Apartment Guidelines');
- Design Manual for Urban Roads and Streets (DMURS) (2019);

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Water Services Guidelines for Planning Authorities – Draft (2018) and Circular FPS 01/2018 issued by the Department of Housing, Planning and Local Government on the 17th day of January, 2018;
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001).

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

- Cycle Design Manual (2023);
- Climate Action Plan (2023);
- Transport Strategy for the Greater Dublin Area 2022-2042;
- Places for People – National Policy on Architecture (2022);
- Building Research Establishment (BRE) 209 Guide - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (3rd Edition, 2022);
- Housing for All – A New Housing Plan for Ireland (2021);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- National Biodiversity Action Plan 2017-2021;
- Road Safety Audits (Transport Infrastructure Ireland, 2017);
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (TII, 2014);
- AA of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);

- EIA Guidance for Consent Authorities regarding Sub-threshold Development (2003);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0);
- Framework and Principles for the Protection of the Archaeological Heritage (1999);
- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996).

6.2. Regional Planning Policy

6.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant to this appeal:

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

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

6.3. Local Planning Policy

Dublin City Development Plan 2022-2028

6.3.1. The appeal site and the adjoining Cross Guns Quay apartment complex and Shandon Mills development feature zoning referred to within the maps accompanying the Dublin City Development Plan 2022-2028, as ‘Z1 – Sustainable Residential Neighbourhoods’. According to the Development Plan, this ‘Z1’ zoning

has a stated objective 'to protect, provide and improve residential amenities'. The adjoining canal towpath features a land-use zoning objective 'Z9 – Amenity / Open Space lands / Green Network' with a stated objective in the Development Plan 'to preserve, provide and improve recreational amenity, open space and ecosystem services'. The properties to the rear of the site along Shandon Road and Leinster Street North feature a land-use zoning 'Z2 - Residential Neighbourhoods (Conservation Areas)', with a stated objective 'to protect and/or improve the amenities of residential conservation areas'.

- 6.3.2. The Record of Protected Structures (RPS) appended to the Development Plan includes a building in the adjoining Cross Guns Quay apartment complex (RPS ref.6732), which is described in the record as a multi-storey, stone, former-mill building. The adjoining canal infrastructure, as well as the rail-line corridor on the opposite side of the canal, are included within a Conservation Area. Chapter 11 of the Development Plan provides guidance relating to the built heritage of the city, including policy BHA2, which requires the scale, mass, height, density, layout and materials of new development to be sensitive to the setting and character of neighbouring Protected Structures and policy BHA9, which aims to ensure developments contribute positively to the character and distinctiveness of all Dublin's conservation areas.
- 6.3.3. Under housing policy QHSN2 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above. Policy QHSN10 of the Development Plan promotes sustainable densities with due consideration for design standards and the surrounding character. Further guidance regarding urban density is set out in Development Plan appendix 3 titled 'Achieving Sustainable Compact Growth: Policy for Density and Building Height in the City'. Indicative plot ratios and site coverage percentages are listed in table 2 of this appendix. The Development Plan includes a host of policies addressing and promoting apartment developments, including policies QHSN36, QHSN37, QHSN38 and QHSN39.
- 6.3.4. Policies SC15, SC16 and SC17 listed in section 4.5.4 of the Development Plan, set out the Planning Authority's strategy and criteria when considering appropriate building heights, including reference to the performance-based criteria contained in the aforementioned appendix 3 to the Development Plan. Policies CUO25 and

CUO31 of the Development Plan set out the Planning Authority's approach with regards community, artist and cultural spaces, including the need for such spaces in large-scale developments and in new communities. Other relevant sections of the Development Plan include:

- Section 4.5.2 - Approach to the Inner Suburbs and Outer City as Part of the Metropolitan Area (policy SC8);
- Section 4.5.3 – Urban Density (policies SC10, SC11, SC12 and SC13);
- Section 4.5.9 – Urban Design & Architecture (policies SC19, SC20, SC21, SC22 and SC23);
- Section 5.5.7 – Specific Housing Typologies – Build-to-rent accommodation (policies QHSN41, QHSN42 and QHSN44);
- Section 8.5.1 - Addressing Climate Change through Sustainable Mobility;
- Section 9.5.1 – Water Supply and Wastewater;
- Section 9.5.3 – Flood Management;
- Section 9.5.4 – Surface Water Management and Sustainable Drainage Systems (SuDS);
- Section 15.4 – Key Design Principles;
- Section 15.5 – Site Characteristics and Design Parameters;
- Section 15.8 - Residential Development;
- Section 15.9 – Apartment Standards;
- Section 15.10 – Build-to-Rent Developments.

7.0 The Appeals

7.1. Grounds of Appeal – First Party

- 7.1.1. A first-party appeal has been lodged only against condition nos.1 and 4(a) attached to the Planning Authority's notification of a decision to grant planning permission for the proposed development. This appeal included correspondence from the first party's architects. The following grounds of appeal are raised:

Planning Authority Support

- the Planning Authority supported the project in providing for a more efficient use of urban land and they did not find issue with the proposed density, site coverage, plot ratio or impacts on neighbouring amenities arising from overlooking or overshadowing;
- the Planning Authority concluded that the redevelopment of the site proximate to public transport and as part of a cluster of taller buildings would not detract from the residential or visual amenities of the area, subject to amendments to the height of proposed block C;

Condition No.1 - Seven-Year Permission

- condition no.1 is not reasonable and should be amended or an additional condition should be added to provide for a seven-year permission;
- the rationale for requesting the additional timeframe for the permission was recognised by the Planning Authority, including the potential for legal challenges;
- the Planning Authority fail to recognise that the Judicial Review process does not put a stay on the commencement date of a planning permission;
- based on timelines involved during Judicial Review procedures relating to a previous application (ABP ref. 309345-21) almost two years had passed since the date of a permission to grant the proposed development, until the conceding of the case or the date initially set for a hearing;
- had a hearing occurred with respect to the previous application (ABP ref. 309345-21), this would have lengthened the process further in waiting on a Judgement;
- the timelines involved in the judicial review proceedings relating to ABP ref. 309345-21 suggest that the developer would have three years to complete a development if the permission was not quashed, which would be an extremely tight construction timeframe for a complex apartment scheme on a constrained brownfield site, and considering the need to secure funding, undertake detailed design, tender, procure, commence and be substantially complete;

Condition No.4(a) – Omission of three Floors to Block C

- the 12-storey height of block C is justified as it would provide for an attractive local landmark, replacing the existing tall, dilapidated, unsightly silo landmark structure and it would provide increased legibility in the surrounding area;
- block C was not found to unduly impact on the amenities of neighbouring properties;
- the reduction in height of block C would detract from the architectural quality of the design, replacing the elegant proposed 12-storey building with a squat nine-storey building;
- the proposed 12-storey height of block C remains as per the height of the building that had previously been considered by the Board's Inspector to be acceptable when assessing proposals under ABP ref. 309345-21;
- the Development Plan allows for increased building height in this location and a material contravention of planning policy would not arise, as addressed in detail within appendix A to the appeal;
- when assessing proposals under ABP ref. 309345-21, density, plot ratio and site coverage values similar to those initially proposed were considered acceptable, and the subject proposals now provide for an improved scheme to the benefit of future occupants and the wider population;
- the architectural rationale for the proposed building heights is set out in the application Building Height Report and this was influenced by the varying heights and built heritage of the area, the existing buildings on a unique site, the provision of an attractive frontage onto the canal setting, the need to avoid overbearing impacts, the stepping of buildings to address the immediate context, the need to address visual impacts and the forming of a local landmark;
- the visual impact assessment included as part of the application concluded that the development would make an appropriate contribution to the built fabric of the area and would not result in any significant townscape or visual impacts;

- the Planning Authority did not initially consider block C to have a strong visual impact on the townscape in Phibsborough;
- the Architectural Heritage Impact Assessment concluded that the proposed development would not have adverse impacts on the setting of the adjacent Protected Structure and would improve the existing appearance of the site onto the canal towpath;
- the Planning Authority's justification in reducing the number of floors to block C to address the visual impact from the south, contradicts the fact that they acknowledge that any development in this context, including a nine-storey structure, would be visually prominent and as they also recognise the limitations of the existing silo structures;
- the omission of three storeys to proposed block C would not alter the visual impact of this block, would not provide for the same level of visual interest or character, would not achieve the same local landmark as had initially been intended and would have no perceivable improvement for neighbouring properties;
- proposed blocks A and B would have a greater visual impact than block C, given their existing setting and the scale of structures on site;
- the Planning Authority has not substantiated their reason to require a reduction in floors to block C based on overbearing impacts, whereas the provision of a taller, slim building would be less overbearing in breaking up the appearance of structures onto the canal and the immediate streets.

7.2. Grounds of Appeal – Third Parties

7.2.1. The third-party grounds of appeal from John Conway and the Louth Environmental Group, objecting to the proposed development, can be summarised as follows:

Screening for EIA

- the application EIA Screening Report, including the description of the project, is inadequate and is not to a sufficient standard to rule out the likelihood of significant effects on the environment;

- the EIA Screening Report does not comply with the mandatory requirements of the Act of 2000 or the Planning and Development Regulations 2001, as revised (hereinafter ‘the Regulations’);
- insufficient and inadequate information is included with the application;
- the planning application, including the Planning Report, does not comply with the mandatory requirements of the Act of 2000, the Regulations and the EIA Directive;
- the EIAR submitted fails to provide comprehensive cumulative impact assessment of the proposed development, including other projects, and the overall likely impacts on the environment;
- the application and EIA Screening Report fails to consider the impact on the Royal Canal proposed Natural Heritage Area (pNHA), the demolition and piling works, soil stabilisation or remediation requirements, noise impacts, heritage impacts and impacts on otters;
- the Planning Authority failed to carry out an EIA screening;

Appropriate Assessment (AA)

- the information submitted contains lacunae and is not based on appropriate scientific expertise, and the AA Screening Report does not have sufficient or adequate information for a complete AA screening to be carried out;
- it is unclear how the zone of influence for the AA Screening was arrived at, including the 15km limitation;
- an AA considering the entire project, including all necessary or ancillary elements, has not been provided, therefore, the Board is precluded from granting permission for the proposed development, as significant negative impacts on protected sites and species cannot be ruled out beyond all scientific doubt;
- insufficient surveys have been carried out to assess the impacts of bird collision / flight risks;
- the NIS failed to consider the impacts on otters noted to be active along the canal;

Development Standards

- where proposals fail to comply with relevant design standards or where applications do not include necessary supporting documentation, the Board is precluded from granting permission;
- an Operational Management Statement, a Service Delivery and Access Strategy, a Surface Water Management Plan and a Site Investigation Report have not been provided;
- the Board is precluded from granting permission if it has not been demonstrated that the proposals comply with universal design objective QHSN011 of the Development Plan;
- the upgrade and mitigation measures to address noise impacts have not been detailed in the proposals, or included as a condition of the Planning Authority decision, and the measures would require significant redesign of the façade that would not be possible under post-consent agreements;
- the reliance on the Royal Canal as an amenity space to justify the development, including the extent of single-aspect, north-facing apartments, is not justified given the location of the Irish Rail depot, and as such the proposals would fail to comply with the Apartment Guidelines and would materially contravene the Development Plan;
- the height, massing and footprint of the development would seriously injure the architectural setting of the adjacent Protected Structure, contrary to policy BHA2 of the Development Plan;
- partial demolition of the northeast boundary wall along the canal comprises demolition works in a conservation area, materially contravening objectives BHA10 and BHA17 (strategy to protect industrial heritage) of the Development Plan;
- the Planning Authority has not specified the extent of the works that should take place to the northeast boundary wall, which could allow for extensive works that the public would not have scope to engage in;

Section 28 Guidelines

- the Building Heights Guidelines and the Apartment Guidelines, including their respective SPPRs, are unconstitutional and contrary to the SEA Directive, and the Board should refuse to consider and cannot grant permission for the proposed development if relying on these Guidelines;
- the density, unit mix, units per circulation core (lift/stair access) and building height for the proposed development would materially contravene the provisions of the Development Plan and does not comply with the provisions of the Building Heights Guidelines and the Apartment Guidelines and, therefore, permission should be refused;

Other Matters

- the application, including documentation and the site notice development description, does not comply with planning regulatory requirements, including the lack of detail with respect to demolition works and / or subterranean structures, such as piling;
- the application Architectural Heritage Impact Assessment does not meet the requirements of the Architectural Heritage Protection Guidelines, as it fails to describe the significance of the Protected Structure and the Royal Canal Conservation Area;
- the Planning Authority failed to consult with the Conservation Department in relation to the Protected Structure and Waterways Ireland.

7.2.2. The third-party grounds of appeal from LUMRA, a local residents' and community group objecting to the proposed development, with input stated to be prepared by a conservation architect addressing built heritage matters, can be summarised as follows:

Scale, Density and Land Use

- proposals would result in overdevelopment of the site and an excessive density, contrary to the zoning objectives, the RSES, the site planning history, the Local Area Plan and Government planning guidelines, while materially contravening and contradicting planning policy;

- a Local Area Plan is required for this area based on the population of the area and the subject proposals are premature pending a new local area plan;
- the Phibsborough / Mountjoy Local Area Plan 2008-2014 forms the statutory plan for this area and the proposals fail to comply with the provisions of the Local Area Plan, including the design strategy, limited breaks, building heights, failure to enhance the canalside as an amenity space and failure to be subordinate to the Mill building;
- flaws in the LRD process, including reliance on the previous quashed scheme as a starting point for discussions, with an absence of third party involvement at pre-planning stage;
- the proposals are essentially a reiteration of the previous strategic housing development;
- design, scale, height, length and massing would be contrary to Development Plan provisions, and the design response lacks quality with the existing situation on site not justifying the proposals;
- lack of an adequate mix of uses and water-based uses should have been provided for;
- the site is within the 'outer suburbs' for the purposes of considering density and other development standards contained in the Development Plan;
- density should be reduced;
- the build-to-rent element is not permissible as the New Apartment Guidelines that were in place after December 2022 do not provide for this housing typology;
- excessive build-to-rent units in the area with justification for these units not substantiated in the proposals and scope for the entire development to be a build-to-rent scheme;

Layout

- the building line setback from the canal should be increased to align with the adjacent apartment complex building;

- the substandard open spaces would provide a poor level of amenity for future residents;
- an increase in public open space via widening of the canal towpath should be provided and additional public open space should be provided on site;
- block B should be removed from the development;
- the bin store should be relocated, as this facility would present amenity issues for neighbouring residents by failing to comply with planning provisions, as well as failing to address previous concerns and ensure suitable access and means for collection;
- the cycle stores should be provided in the main buildings, along with shower and locker facilities;
- the non-residential uses are poorly sited and inadequate;

Building Heights and Visual Impacts

- excessive building heights are proposed, including the reduced heights suggested by the Planning Authority, as they would be taller than the prevailing building heights in the area and such heights are not justified by the existing structures;
- the buildings cannot be successfully integrated into the site, as it is not a designated landmark site;
- there would be an abrupt transition in building heights from Shandon Mills, as well as adverse visual impacts during the construction phase;
- failure to comply with Development Plan performance criteria and policy provisions in not providing buildings of a height contributing positively to the city and sensitive to local amenities;
- proposals would have a visually incongruous and dominant appearance that is out of the character and impacting on the visual amenities of the area;
- a six-storey height restriction should be applied;
- the impact of the height of the building on flora and fauna needs consideration;

- the visual impact assessment has failed to consider the impact on the most sensitive receptors, the red-bricked rows of housing, with no CGI viewpoints from private properties, Leinster Street North, Shandon Mills and Shandon Road;
- a landscape rather than a townscape visual impact assessment is required;

Built Heritage

- the design, scale and height of proposed block C would compete with, detract from and would not be sympathetic to the setting and character of the adjacent Protected Structure;
- proposals would have an obtrusive and overbearing appearance along the canal, which is a conservation area used for recreational purposes;
- perforated screens to mitigate overlooking would unduly dominate the setting and character of the residential conservation area;
- the Architectural Heritage Impact Assessment does not meet the requirements of the Architectural Heritage Protection Guidelines by failing to describe the significance of the adjacent Protected Structure, the 6th lock Protected Structure and the Royal Canal conservation area;
- the boundary wall onto the canal, which forms part of the 6th lock Protected Structure and limits access to light and the site, should be maintained;

Accommodation Standards

- an excessive proportion of north-facing, single-aspect units is proposed, with the circumstances not justifying this provision and the amenity of these units further compounded by adverse noise from rail operations,
- proposals feature an insufficient floor area for the apartments;
- excessive rail noise and associated disturbance would arise for residents, including during nighttime hours and for the external amenity spaces, with mitigation not outlined to address same;
- daylight / sunlight has not been fully addressed with failure to consider lighting to the ground-floor studio apartments and artists' studios;

- redesign of units would achieve better lighting particularly to single-aspect, north-facing units;
- 28 rooms would fail to receive sufficient sunlight and the compensatory design measures would not justify the shortfalls in lighting relative to the standards;
- the absence of a childcare facility is not justified;

Impacts on Neighbouring Amenities

- overlooking impacts would arise due to shortfalls in separation distances resulting in a loss of privacy for neighbouring residents;
- the buildings would result in a heightened sense of enclosure for residents of nos.1 to 8 Shandon Mills;
- overbearing impacts for residents of Leinster Street North, Shandon Road and Shandon Mills;
- proposals would depreciate the value of neighbouring properties;
- the development would be injurious to the amenities of neighbouring residents, contrary to Development Plan provisions;
- the units should be redesigned, the buildings set back further from residences, the balconies should be omitted, the roof element should be redesigned and the building heights should be reduced to avoid impacts on neighbouring properties;

Royal Canal corridor

- the Royal Canal is a designated conservation area and the proposed buildings, as well as the alterations to the boundary wall with new openings onto the towpath, would impact on the conservation area, as well as the habitat of protected species, including otters and bats;
- overshadowing and overbearing impacts would arise along the canal;
- proposals would be prejudicial to the cycle and pedestrian route along the canal;
- proposals would interfere with the character and landscape along the canal;

Traffic, Access and Parking

- proposals feature a lack of parking relative to standards and would lead to overspill parking in neighbouring areas;
- parking and access would be contrary to the Development Plan core strategy principles;
- the accessible parking bays should be repositioned on site;
- a safe pedestrian and cycle path should be provided from the site to the public road;
- gates should be removed;
- cycle stores would not be well equipped, they would provide unattractive, inaccessible and insecure parking and they would be in the wrong location despite previous concerns;

Consultation

- no consultation with local residents;
- failure to consult with Waterways Ireland cannot be overcome by engagement at compliance stage;
- consultation with respect to the relevant section of the Planning Authority dealing with the recreation and amenity value of the canal has not taken place, unlike under a previous application (ABP ref. PL29N.243444 / DCC ref. 2402/14);
- absence of Planning Authority conservation officer report on the file;

Other Matters

- the proposals fail to align with aspects of the proposals considered important under ABP ref. PL29N.243444 / DCC ref. 2402/14;
- proposals are comparable with the development refused permission under DCC ref. 1745/07;
- proposals represent a poor planning precedent causing a substantive planning risk;

- updated application details are required, including EIA screening report, AA, noise report, design statement, planning report, drawings, townscape and visual impact assessment and universal design details (objective QHSN011);
- an operational management statement, a service delivery and access strategy, a surface water management plan and a site investigations report are required;
- inaccurate application details, including reference to the mill building being seven storeys and the precise locations of the silo tower structures, which may impact on lighting assessments;
- the application features an incomplete development description and the drawings omit essential details, including demolition works and subterranean structures such as piling;
- the original submission to the Planning Authority from the third-party appellant should be considered, including comments regarding the design approach, the quality of the accommodation and the impacts on built heritage;
- the implications of a reduced building height for the purposes of EIA screening and AA needs to be considered;
- inadequate EIA screening;
- incomplete AA.

7.3. Planning Authority Response

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

7.4. First-Party Response to Third-Party Appeals

- 7.4.1. The first party has responded to the third-party appellants' grounds of appeal, with appended responses prepared by conservation architects, ecologists, mechanical and electrical engineers, as well as environmental, transport, landscape/visual impact assessment and legal consultants, including an Otter Survey Report dated September 2023 and a basement foundation and pile layout drawing (no.20-011-WMS-ZZ-ZZ-S-0099 P01). The response submission can be summarised as follows:

Strategic Housing Development application status

- the Board conceded the judicial review proceedings in the previous strategic housing development case (ABP ref. 309345-21) on one ground relating to sunlight / daylight requirements, while many of the other grounds pleaded have again been raised in the third-party appeals and remain to be argued in the High Court case, which has not been subject of an Order quashing the permission;
- the applicant was entitled to lodge the LRD application despite the extant strategic housing development permission being subject of a judicial review;
- the LRD process was commenced separate to the strategic housing development application;
- it is unreasonable to suggest that the Planning Authority did not engage fully with the scheme and it was completely reasonable to include aspects of the strategic housing development proposals in the LRD proposals;

EIA Screening

- the asserted 'insufficient information' for the purposes of EIA screening has not been substantiated or proven and comprehensive information in this regard has been submitted as part of the application;
- pollution and nuisance, primarily associated with the construction phase, is addressed within the CEMP and the Outline Construction, Demolition and Environmental Waste Management Plan with various mitigation measures to address the short-term impacts arising;

- mandatory information for the purposes of EIA screening has been submitted, including cumulative impacts, impacts on the Royal Canal pNHA, noise and heritage impacts;

AA

- the comments of the Planning Authority, including those relating to biodiversity are noted;
- concrete evidence to corroborate inadequacies in the AA has not been provided;
- the zone of influence was determined based on the source-pathway-receptor model, as well as planning guidance and practice notes, with all potentially-impacted European sites included for AA screening;
- sufficient ecological surveys, including continued monitoring of otters and bird flight paths, has been undertaken to guide the project;

Accommodation Standards

- the necessary reports to align with Development Plan requirements for a development of this type have been submitted;
- universal design has been incorporated into the proposals in line with Development Plan requirements, including objective QHSN011;
- in relation to noise mitigation measures, condition 1 of the permission requires the proposals to be in accordance with the specifications set out in the application and would not necessitate material alterations to the elevations;
- the enhanced glazing and ventilation to account for the noise associated with the rail operations would mitigate the predicted impacts, and residents would be able to enjoy the amenity of the canal in a similar capacity to other adjacent residences;
- the proportion of dual aspect units exceeds the minimum requirement;
- the daylight provision to north-facing units complies with the relevant guidelines;

Neighbouring Residential Amenities

- modelling of lighting impacts is rigorous, while overbearing and overlooking impacts have been addressed as part of the application documentation;
- the design response was cognisant of the residential context and appropriate separation distances were provided;
- mitigation measures to address overlooking are provided for by way of obscure glazing, internal layouts and perforated screens;

Built Heritage

- the proposals do not involve works to a Protected Structure or its curtilage;
- the setting for the Protected Structure would inevitably change, however, there would be benefits in removing the unsightly buildings on site, the provision of a setback from the side elevation of the adjacent Protected Structure, the contrast in existing and new buildings and the complementing of the Protected Structure with a new building design;
- works to the canalside wall to facilitate access and surveillance of the towpath from the ground-floor residences would follow the approach along the adjoining apartment complex, would provide a safer walking and cycle route and would form exceptional circumstances contributing to significant public benefit;
- the works proposed to the canal wall could be omitted or conditioned to be implemented in consultation / agreement with Waterways Ireland;
- an Architectural Heritage Impact Assessment was submitted compliant with the minimum criteria set out in the relevant guidelines, while addressing the Royal Canal conservation area;

Plans and Guidelines

- previous or draft Local Area Plans for this area have either expired or were not adopted;
- there is no current Local Area Plan for the Phibsborough area and no statutory obligation on the Planning Authority to prepare same;

- the legal status of section 28 Guidelines is not a matter for adjudicating on in a planning appeal;
- the Development Plan includes policies and objectives to align with various section 28 guidelines and national planning policy;
- the application does not rely on national policies to justify the proposals in materially contravening statutory planning policy;

Development Standards

- the Planning Authority did not consider the proposals to represent a material contravention of the Development Plan;
- the mix of uses proposed accords with the Z1 residential zoning for the site;
- density limits have not been surpassed as the 250 units per hectare is not an absolute ceiling and there is scope in the Development Plan for increased densities comparable with those in the Cross Guns Quay apartment complex;
- the plot ratio and site coverage would be below the minimum range for this area, therefore, overdevelopment would not arise;
- proposed block C would not fall into the Development Plan category of a 'landmark' building based on its height;
- the adjoining flour mills building rises to a height comparable with a standard seven to eight-storey building and the existing site and adjoining complex historically featured buildings taller than the surrounding two-storey residential streets;
- building heights have been fully justified, including context with respect to 'locally-higher buildings' and the default six-storey height in the canal ring;
- there is not a necessity for the proposed building heights to be subsidiary to the adjacent Protected Structure;
- the unit mix and units per core have been shown to comply with Development Plan standards and the relevant SPPRs of the Apartment Guidelines;

- the provision of gates would be appropriate given that they would not necessarily hinder permeability, although this could be addressed via condition, if necessary;
- the extent and location of the public and communal open space complies with Development Plan requirements;
- the bin stores would be single storey and separated from Leinster Street North by a service lane, and their locations were considered acceptable by the Planning Authority;
- the development would not generate sufficient demand for a dedicated childcare facility and the existing provision of childcare facilities in the area is noted;

Build-to-Rent

- the transitional arrangements allow for a scheme that comprises an element of build-to-rent units;
- the 2020 version of the New Apartment Guidelines apply, while the more recent version of these guidelines recognise that build-to-rent accommodation can continue to play a role in delivering apartments;

Parking

- the car parking provision is appropriate relative to the site context and planning policy, including the accessible surface-level spaces suitable for some residents of the scheme;
- the cycle parking proposed would exceed the Development Plan requirements, while providing a range of accessible spaces that do not require additional locker / shower facilities or new cycle infrastructure;

Other Matters

- the application was declared valid by the Planning Authority with additional details provided in the application to describe the demolition and subterranean works;
- the development description was sufficiently detailed in notifying the public of the application;

- accurate drawings were submitted, including the approximate locations of the concrete silo tanks;
- it is a matter for the Planning Authority to consult within its own departments and the direct involvement of the conservation department is not a prerequisite, particularly where the site is not within an ACA or where there are no Protected Structures on site;
- several attempts were made to engage with Waterways Ireland and the lack of engagement with this organisation is not unusual and would only be with respect to the positive impacts of the project for the canal;
- the third-party appellants refer to the incorrect guidance when attempting to undermine the townscape and visual impact assessment undertaken;
- the selection of viewpoints for the visual impact assessment accords with the relevant guidelines 'IEMA and Landscape Institute Guidelines for Landscape and Visual Assessment' (3rd edition, 2013);
- evidence to suggest that the proposals would lead to a depreciation in the value of properties has not been provided with the ongoing condition of the site likely to have more negative impacts for neighbouring properties;
- the subject proposals would not set precedent for similar proposals, as they would have to be assessed on their own merits;
- mitigation measures for bat species have been outlined;
- shadow studies reveal the extent of overshadowing of the canal at present with no significant impact arising for biodiversity and public amenity with the development in place.

7.5. Third-Party Response to First and Third-Party Appeals

- 7.5.1. The third-party appellant, LUMRA, has responded to the first-party appellants' grounds of appeal and reaffirmed matters raised in their own appeal. The response submission can be summarised as follows:

Application Status

- the judgement ‘Clane Community Council v An Bord Pleanála & Ors (approved) [2023] IEHC 467 (28 July 2023)’ cannot be ignored;
- the applicant resubmitted the previous strategic housing development scheme as the basis for this LRD scheme and the Planning Authority should not have accepted this;
- the Planning Authority LRD opinion is prejudiced as it considered the LRD scheme as essentially the previous strategic housing development and set out how this was to be revised;
- the pre-application procedure pertaining to the strategic housing development scheme was exhausted once judicial review proceedings resulted in the ceding of the previous Board decision and this should not have been relied upon by the Planning Authority;
- the LRD scheme is only slightly different to the strategic housing development scheme, despite the fact that the design process should have been recommenced;

Planning Principles

- the applicant fails to mention that the permission for the previous strategic housing development has been quashed and has no legal standing;
- the applicant is trying to reinstate the permission that was quashed by the High Court;
- the application is premature pending a new Local Area Plan;
- the applicant is picking and choosing the parts of the previous decision that they accept;
- failing refusal of the application in its entirety, the Planning Authority decision should stand;
- the application should be considered de novo;

Building Heights

- the 12-storey block only attempts to create a distraction in the process;

- the pre-application process did not give a basis for the proposed building heights;
- maximum heights of six to nine storeys were only ever supported by the Planning Authority and An Bord Pleanála;
- the applicant has attempted to shoehorn the proposals into the site regardless of the resultant impacts;
- the 12-storey element would impact on the canal, the conservation area, recreational amenities, local ecology, residential amenities, the setting of Protected Structures and conservation areas, and the visual amenities of the area;
- the existing silo structure and mill building, the architectural design, the diagrams submitted, the previous quashed permission, the Townscape and Visual Impact Assessment and the overbearing impacts arguments do not justify heights of seven storeys or more on site, with the most recent permission only allowing for six storeys (ABP ref. PL29N.243444 / DCC ref.2402/14);
- the site is not identified for a landmark building and a nine-storey building could not be considered as resulting in a 'squat' form;
- the reduced heights and density would remain excessive relative to Development Plan standards;

Permission Timeframe

- the local community should not be subjected to seven years of uncertainty and construction phase impacts;
- the job of the applicant is to make a planning application that would not be quashed by the High Court, thereby avoiding delays caused by the judicial review process, which are accounted for under section 40(3)(b) of the Act of 2000.

7.5.2. LUMRA responded to the third-party grounds of appeal from John Conway and the Louth Environmental Group, by stating that they support this appeal submission.

7.6. Observations

7.6.1. Four observations were submitted within the prescribed period to the Board in response to the grounds of appeal, generally supporting the third-parties grounds of appeal. These observations largely reaffirm issues raised within the third-party submissions to the Planning Authority at the application stage and within the third-party grounds of appeal, as collectively summarised above. The following other substantive matters were raised in the observations:

- proposed building heights should be capped at six storeys, as per the Hamilton Gardens development;
- an extended permission should not be granted given the history of the site and previous scope for it to be developed;
- suitably-scaled, affordable housing should only be delivered on site;
- proposals exceed the Development Plan density standards;
- proposals would be contrary to Z1 zoning objectives for the site;
- there has been limited change in the proposals when compared with the previous strategic housing development (ABP ref. 309345-21) with only a partial reduction in building height required by Planning Authority condition;
- there is no statutory zoning of the site for taller buildings and the immediate area does not feature a cluster of higher-density taller buildings;
- there is nothing to prevent the scheme featuring all build-to-rent apartments;
- the immediate area is best described as a low-rise, medium-density area and does not feature the low densities synonymous with suburban areas;
- overshadowing of the canal amenity space would arise particularly during winter months;
- the site is more suited for an innovative low-rise, medium-density housing scheme in line with the approach set out in the Draft Sustainable and Compact Settlements Guidelines for Planning Authorities – Proposed Policy Approach (2023).

7.7. Further Submissions

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

8.0 Assessment

8.1. Introduction

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

- Development Principles;
- Density;
- Building Heights;
- Impacts on Built Heritage;
- Visual Impacts;
- Impacts on Neighbouring Amenities;
- Residential Amenities and Development Standards;
- Vehicular Access and Parking;
- Design and Layout;
- Natural Environment.

- 8.1.2. Throughout my assessment below I acknowledge where the first party has referred to the previous consideration of a strategic housing development (ABP ref. 309345-21) relating to the appeal site, however, from the outset and for clarity, I wish to highlight that the previous strategic housing development (ABP ref. 309345-21) does

not in any form provide justification for any element of the subject proposals. The subject proposals are assessed below on their own individual merits and the previous assessment, as well as the Board's decision under ABP ref. 309345-21 are not material considerations in my assessment or in arriving at a final recommendation on the appeals.

8.2. Development Principles

LRD Process

- 8.2.1. The third-party appellants assert that there has been flaws in the LRD process engaged in as part of this application, including reliance on the strategic housing development scheme (ABP ref. 309345-21), subject of judicial review proceedings, as a starting point for discussions and that this led to the Planning Authority not fully engaging in the scheme. The third parties refer to the High Court judgement 'Clane Community Council v An Bord Pleanála & Ors (approved) [2023] IEHC 467 (28 July 2023)' as justifying their position in this regard. In response, the first party asserts that they were entitled to lodge the LRD application despite the judicial review proceedings with respect to the strategic housing development permission (ABP ref. 309345-21). The first party also contends that it is unreasonable for third parties to suggest that the Planning Authority did not engage fully with the scheme and that it was completely reasonable for the LRD application proposals to feature aspects of the previous strategic housing development.
- 8.2.2. Sections 4.3 and 4.4 of my report noted the unique planning case file assigned and used by the Planning Authority for this LRD application and the process engaged in between the first party and the Planning Authority, which the Planning Authority was satisfied to be in accordance with legislative requirements and which ultimately led to the appeals submitted to the Board. The LRD application has not relied on pre-application undertaken as part of the previous strategic housing development application, therefore, I fail to see how the issues raised by the third parties arising from the 'Clane Community Council' judgement could be considered comparable with this situation. Regardless of the planning history of the site, I am satisfied these appeals arise from a new application and the proposed LRD can be considered on its individual planning merits with respect to relevant planning policy.

Section 28 Guidelines and Statutory Plans

- 8.2.3. Third-parties have questioned the constitutional basis of the Building Heights Guidelines and the New Apartment Guidelines, including their respective SPPRs, asserting that the Board should refuse to consider and cannot grant permission for the proposed development if relying on these Guidelines. The first party has responded to this by stating that the appeal process is not intended to adjudicate on unsubstantiated claims regarding the legal status of section 28 Guidelines. In this regard I note the High Court judgement (ref. [2023] IEHC 178) delivered in April 2023 dismissing a Judicial Review based on similar grounds. I am not aware of this High Court judgement being appealed further. Notwithstanding this, I am satisfied that the constitutional basis of national planning guidelines is beyond the scope of my assessment.
- 8.2.4. The third-party appellants refer to the need for any assessment of the proposed development to have regard to the standards and planning policy outlined within the Phibsborough Mountjoy Local Area Plan 2008, as well as design and scale considerations raised within an issues paper pertaining to the preparation of Phibsborough Mountjoy Amended Local Area Plan 2014. The first party refers to the 2008 Local Area Plan as having expired, while the commencing of the Local Area Plan preparation process in 2014 did not result in the adoption of a new Local Area Plan for Phibsborough. The Planning Authority confirm that a Local Area Plan is not in place for this area.
- 8.2.5. The third-party appellants also assert that the proposed development would be premature pending the completion of a Local Area Plan for this area, which they assert to be necessary based on population parameters and legislative requirements. The first-party also asserts that the Planning Authority does not have a statutory obligation to prepare a Local Area Plan for the Phibsborough area. The Development Plan identifies three areas in the city that are prioritised for the commencement of statutory local plans over the period of the Development Plan, excluding the subject Phibsborough area. Phibsborough key urban village is listed in the Development Plan as being an area that is proposed to be subject of a Local Area Plan and / or a village improvement plan, although no specific timelines are offered within the Development Plan with respect to the preparation of such a plan or the area that would be covered by same.

8.2.6. Based on the information available, I am satisfied that the only statutory plan that the Board must have regard to in this case, is the Dublin City Development Plan 2022-2028. The subject lands are zoned for development in the Development Plan. Given the information available, including the absence of a timeframe for the preparation of a statutory local plan for this area, I am satisfied that the subject proposals could not be considered to be premature pending the adoption of a Local Area Plan for the area.

Procedures

8.2.7. The third-party appellants refer to a lack of public consultation with respect to the application for the proposed development, including the inability for the public to engage at the pre-application process. I note that there is no formal requirement to undertake public consultation prior to lodgement of the application and, according to the Planning Authority, the statutory requirements were adhered to regarding the advertisement of planning notices and the creation of a website to display the application details. I am satisfied that concerned parties and the public were presented with opportunities to make submissions at application and appeal stage and this did not prevent the concerned parties from making representations with respect to the proposed development.

8.2.8. The third-party appellants also assert that the development description was not sufficiently detailed with respect to demolition and subterranean works, and in notifying the public of the application. The first party considers the development description to be valid as it provided a brief description of the nature and extent of the proposed development, and as the application was supplemented by various reports and drawings, including an Outline Construction, Demolition and Environmental Waste Management Plan and Planning Stage - Structural Report addressing the demolition and structural works. I note that the notices and details submitted regarding the application were considered acceptable by the Planning Authority and I am satisfied that extensive and sufficient information, including various management plans, site and ground investigations, subterranean works and Service Delivery and Access Strategy, has been presented with the application to allow for thorough and comprehensive assessments of the impacts of the proposed development. There is also scope for matters that would not have material impacts

to be addressed via condition in the event of a grant of planning permission for the proposed development.

- 8.2.9. The third parties also refer to the absence of reports from the Planning Authority Conservation Officer and Sports and Recreation department, as well as the failure to consult with Waterways Ireland regarding the works to the boundary wall and the impacts on the canal amenity space. The first party has provided copies of correspondence with Waterways Ireland. Waterways Ireland were consulted by the Board with respect to the appeals, but no response was received, and it is not strictly necessary for Conservation Officer or Sports and Recreation section reports to be provided prior to the Planning Authority deciding on this application. The Board consulted with the Planning Authority with respect to the appeals and in responding no comments relating to built heritage or impacts on the canal were received.
- 8.2.10. This assessment represents my consideration of all planning issues material to the proposed development. The decision of the Planning Authority included conditions, inter alia, restricting the use of non-residential elements, omitting the proposed telecommunications antennae, controlling café opening hours, phasing occupation of the development and requiring agreement regarding Part V social housing. These conditions are not contested as part of the appeals and I am satisfied that similar conditions to address these matters would appear reasonable to attach in the event of a grant of planning permission for the proposed development.

Seven-Year Permission

- 8.2.11. The first-party appellant has appealed against condition no.1 of the Planning Authority decision, which states that the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the attached conditions. The first-party appellant asserts that this would restrict the seven-year permission sought as part of the development description and that this additional length for the permission would be necessary given the likelihood of legal challenges, should a permission arise. Within the Planning Officer's report, the merits of allowing for a seven-year permission are assessed, whereby it is concluded that such a request would not be acceded to in this case given the scale of the development, which would be comparable with other developments of a similar scale that had been permitted and constructed based on a

standard five-year permission timeframe. A third-party appellant asserts that the seven-year permission would not be warranted and that it would incur additional nuisance and disruption for local residents of the area given the potential extended construction period.

- 8.2.12. While the Planning Authority has assessed whether or not it would be appropriate to provide for a seven-year permission in this case, I do not consider the recommendation within the Planning Officer's report has been followed through to the Planning Authority decision for the following reasons. The wording of condition no.1 states that the 'development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the conditions attached hereto' and that 'for the avoidance of doubt, this permission shall not be construed as approving any development shown on the plans, particulars and specifications, the nature and extent of which has not been adequately stated in the statutory public notices'. The development description stated in the statutory public notices and detailed in the decision by the Planning Authority specifically states that 'planning permission is sought for a period of 7 years'. The remainder of the 29 conditions attached to the decision of the Planning Authority do not in any way address the period of the permission.
- 8.2.13. Accordingly, I do not consider that the Planning Authority decision has actually provided for a limitation of the period of the permission that had been applied for in the first instance, therefore, a seven-year planning permission would currently apply in these circumstances. Notwithstanding this, it is open to the Board to consider this matter de novo and I am satisfied that all parties to the appeal had an opportunity to offer their opinions on this issue.
- 8.2.14. The first-party appellant states that should permission be granted for the proposed development, based on timelines involved with the strategic housing development on this site (ABP ref. 309345-21), potential legal proceedings could add approximately another two years to the process, which would eat into the project timelines. They also refer to funding, detailed design, tendering, procuring and construction works as potentially leading to a tight timeframe for the project.
- 8.2.15. The Outline Construction, Demolition and Environmental Waste Management Plan submitted with the application states that the development would be constructed in a

single phase and that it is anticipated that the total construction period for the development would be approximately 24 months. The Development Management Guidelines for Planning Authorities (2007) advise that extended durations beyond the standard five years for permissions may be appropriate in some situations, including major developments. Given the limited scale of the site, the likelihood that it would be constructed in a single phase and the stated timelines outlined for the construction phase, as well as other project management subphases that could reasonably be initiated prior to commencing development, I am satisfied that there would not appear to be substantive justification in this case for the period of the permission to extend beyond the standard five-year period. Accordingly, in the event of a grant of planning permission for the proposed development, I am satisfied that it would be reasonable for a condition to be attached to clarify the period of the permission as being for five years.

Permissible Uses

- 8.2.16. The appeal site features a 'Z1 – Sustainable Residential Neighbourhoods' land-use zoning with a stated objective in the Development Plan 'to protect, provide and improve residential amenities'. Observers assert that the proposals would be contrary to land-use zoning objectives for the site, while the Planning Authority are generally satisfied that the mix of uses proposed accords with the zoning for the site. The first-party appellant asserts that the proposed development is consistent with the land-use zoning objectives for the site. The objections from third parties with respect to the proposals being contrary to zoning objectives for the site primarily relate to the scale of the development proposed and its impact on the area. Consideration with respect to the scale of the proposals is undertaken in subsequent sections below.
- 8.2.17. Within the Development Plan it is stated that residential, community facility, cultural / recreational and local shop uses are permissible on Z1 zoned lands, while build-to-rent residential and restaurant uses are open for consideration on these lands. Based on the provisions of the Development Plan, I am satisfied that the 118 proposed build-to-sell apartments, the retail / workshop unit with a limited floor area measuring 81sq.m, and the community, cultural and arts space, would comfortably fall into land uses assigned as being permissible in principle on these lands and, therefore, would be appropriate for the site. Notwithstanding this, condition 4(c) of the Planning Authority decision requires the workshop / retail facility to be used for

community use, which the first party has not contested, and which would be appropriate to be provided for should permission be granted for the development.

Open for Consideration Uses

- 8.2.18. An open for consideration use is stated in the Development Plan as being a use that would be compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area. With the provision of adequate controls a café / gallery facility at ground floor, would not be a use that would conflict with overhead or other neighbouring residential uses. The scale of the proposed café / gallery uses with internal floor area amounting to 64sq.m and an external terrace seating area, would not be excessive and would add a level of vibrancy to the canalside walk and would complement the community, cultural and arts space. The Planning Authority decision included a condition to require the café / gallery space to function as a standard café unit. The requirements of this condition have not been contested and I am satisfied that such a condition would be reasonable and warranted in the event of a grant of planning permission for the proposed development.
- 8.2.19. The third parties state that the build-to-rent apartments should not be permitted having regard to the restrictions on this housing type in the 2022 update of the New Apartment Guidelines, as well as unsubstantiated justification for these apartments. The New Apartment Guidelines were updated in July 2023 confirming the transitional arrangements that would apply to applications for build-to-rent apartment developments that were in the system on or before the 21st day of December 2022. The transitional arrangements apply to the subject appeal given that according to the Planning Authority the LRD opinion was issued on the 15th day of December 2022, therefore, the standards set out in the 2020 version of the New Apartment Guidelines are applicable, including the provisions under SPPRs 7 and 8, and it is these standards that the Board must have regard to when deciding upon the subject appeal. I am satisfied that the principle of the application in providing build-to-rent apartments on this site would not be contrary to Government guidance. The first-party has submitted a draft covenant or legal agreement with their application, in compliance with the provisions of SPPR 7(a) of the New Apartment Guidelines and a

finalised covenant or legal agreement can be requested as a condition in the event of a grant of planning permission for the proposed development.

- 8.2.20. The Development Plan describes build-to-rent development as purpose-built residential accommodation and associated amenities, built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord. Policy QHSN40 of the Development Plan aims to facilitate the provision of build-to-rent developments in specific locations in the city avoiding a proliferation of such developments in any one area, with a 40% cap on this housing type in any large developments and compliance with the standards in the New Apartment Guidelines. Specific locations for this housing tenure include areas within 500m walking distance of significant employment locations, areas within 500m of major public transport interchanges and within identified Strategic Development Regenerations Areas (SDRA). The site is not within an SDRA. The Planning Authority assert that the location would be appropriate for build-to-rent accommodation as it is within a ten-minute walk of Phibsborough Luas stop and there are numerous bus routes operating along Phibsborough Road.
- 8.2.21. The Development Plan does not define major public transport interchanges but does give examples of such interchanges all of which feature connections between Luas and / or rail services with bus services. The closest Luas stops at Cabra and Phibsborough and the rail stop at Drumcondra are not within 500m walking distance of the appeal site. Consequently, I would not consider the site location as being suitable for build-to-rent apartments based on its proximity to a major public transport interchange. The Development Plan does not specifically define 'significant employment locations' but does state that Dublin City is the country's most significant employment centre. The New Apartment Guidelines state that significant employment locations may include hospitals and third-level institutions. The application Social & Community Infrastructure Audit includes an illustration of a ten-minute walk time isochrone from the appeal site, as well as a 750m distance from the centre of the site. The maps available would suggest that parts of Mountjoy prison and the Mater Hospital, both of which are substantial institutional sites, would be partially within 500m of the appeal site. I am satisfied that these facilities can be considered as 'significant employment locations' given the staffing required to

operate them and, accordingly, the appeal site is in a suitable location for a build-to-rent residential accommodation as part of this scheme.

- 8.2.22. The application included a Build to Rent Justification Report asserting that based on a profile of the area and details regarding housing demand, the location of the appeal site would be suitable in providing build-to-rent accommodation. As part of this Report, the first party identified existing and permitted build-to-rent apartments in the wider area to the appeal site, including 485 existing units at Hamilton Gardens, 98 existing apartments at Richmond Gardens and 21 permitted units on Wellington Street. All of these build-to-rent units would be over 1km from the appeal site. The map included as appendix 1 to the Report and the information available arising from the appeals do not indicate a proliferation of build-to-rent accommodation schemes in the Phibsborough area. The application details also note that 39.8% of the proposed units would be of the built-to-rent tenure, therefore, the 40% cap set in policy QHSN40 has not been exceeded.
- 8.2.23. Accordingly, the appeal site is in a location identified as being appropriate for build-to-rent accommodation and the build-to-rent proportion of the development would not exceed the stated 40% cap. I am satisfied that the scale of build-to-rent apartments on this site would not result in a proliferation or an oversaturation of such schemes in the area immediate to the appeal site.
- 8.2.24. Based on the section 28 Guidelines addressing the regulation of commercial institutional investment in housing, there is not a requirement to regulate investment in the proposed units, as apartments are exempt from a restrictive-ownership condition. The proposed development would assist in providing for a suitable mix of housing in this area. In reaching this conclusion I acknowledge that the development could in time feature entirely build-to-rent apartments, notwithstanding that 60.2% of the units are being proposed as build-to-sell units. Further consideration with respect to the standard of the build-to-rent accommodation is undertaken below.

Mix of Uses

- 8.2.25. The third parties assert that the development would feature an inadequate mix of uses and water-based uses should have been provided for. The proposals feature six artists' studios, gallery space, terraces, a project room and a workshop at ground-floor level opening onto the canalside and communal space. Development Plan

objective CUO25 requires a minimum of 5% community, arts and cultural predominantly internal space for developments of this scale and the first party submitted a Cultural and Arts Infrastructure Assessment to show compliance with same. As part of this report the first party identified existing cultural infrastructure within a 2km radius of the site, referring to existing artist studio facilities where the demand for such facilities exceeds their supply, and an absence of art studios in the Phibsborough area. The first party sets out that the gallery spaces and workshop spaces would complement the artists' studio units and would provide scope for collaborative work.

- 8.2.26. Conditions in the event of a permission require the workshop / retail space to form community space and the gallery / café space to form standard café space. Objective CUO25 does not restrict the inclusion of external space as community, cultural and arts space. Given that the terrace space fronting the artists' studios, resource and project rooms (approximately 132sq.m) is not communal or public open space (see drawing no. 1723B-OMP-ZZ-00-DR-A-7003) it could be used as community, arts and cultural space. When excluding the café space (64sq.m) and including the external terrace area along the canal, I am satisfied that the community, cultural and arts space measuring 656sq.m or 5% of the net residential floorspace would meet the requirements set out in objective CUO25 of the Development Plan, would be appropriate for the site and would complement the other proposed uses, subject to certain conditions with respect to management and operation of the spaces. In this regard, I am satisfied that the attachment of conditions similar to those recommended by the Planning Authority controlling use of this space would be reasonable in the event of a grant of planning permission for the proposed development.
- 8.2.27. Third parties assert that the scheme should feature up to 40% mixed uses primarily based on a permission granting development on the site in 2014 (ABP ref. PL29N.243444). For Z10 zoned lands within the city, the Development Plan assigns a specific split in residential and non-residential floorspace similar to that referenced by the third parties, however, this split is not applicable with regard to Z1 zoned lands. According to the Development Plan, the objectives for Z1 lands seek to ensure that there will be a range of uses that have potential to foster development within new residential communities. The potential range of uses is limited based on

the permissible and open for consideration uses outlined in the Development Plan, and it is clear that these uses would need to be complementary to any residential use. Furthermore, water-based uses are not strictly necessary in this zone.

- 8.2.28. As noted above, I am satisfied that each of the uses proposed would comply with the land-use zoning objectives for the site and I am satisfied that the scale and type of non-residential uses proposed would complement the residential uses. Accordingly, I am satisfied that the proposed development would not result in a mix of uses non-compliant with the Z1 land-use zoning objectives required in the Development Plan.

Conclusion

- 8.2.29. In conclusion, I am satisfied that the proposed development could not be considered to contravene the Z1 land-use zoning objective for the site, as contained in the Development Plan. The Planning Authority has requested the attachment of conditions with respect to general contributions and bonds, which I consider standard and necessary to attach in the event of a grant of planning permission for the proposed development.

8.3. **Density**

- 8.3.1. Comprising 196 units on a site area of 0.73ha, the proposed development would feature a density of 269 units per hectare. The first-party appellant considers the density of the development to be justifiable based on national planning policy contained in the Building Heights Guidelines and the New Apartment Guidelines, the site conditions and context, including public transport options, the indicative density range categories and density limitations in the Development Plan, the previous consideration of residential densities for the site and the need for compact growth.
- 8.3.2. The Planning Authority consider the density of the proposed development to be appropriate based on the site location relative to bus routes and the Cabra Luas stop. The third-party appellants assert that the proposed development would feature an excessive density for this area leading to overdevelopment of the site, and the proposed density would materially contravene the provisions of the Development Plan and would fail to comply with the provisions of the Building Heights Guidelines and New Apartment Guidelines. In response to the third parties, the first party asserts that Development Plan density limits have not been surpassed and the

increased densities would be comparable with those in the Cross Guns Quay apartment complex.

Neighbouring Densities

- 8.3.3. The immediate areas to the appeal site are defined by a broad range of residential densities, including low to medium density terraced housing along Leinster Street North, Shandon Road and Shandon Park (approximately 40 units per hectare), and adjoining high-density developments, such as Shandon Mills townhouses and apartments (approximately 154 units per hectare) and the Cross Guns Quay apartment complex (approximately 230 units per hectare). I note that net densities of 162 units per hectare were recently permitted for the Daneswell LRD (ABP ref. 315062-22) in March 2023 (168 apartments on 1ha) located approximately 350m to the northeast of the appeal site at the former Printworks / Smurfit site on Botanic Road.

National Policy and Section 28 Guidelines

- 8.3.4. In terms of density and the national policy context, the NPF promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed, higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within existing urban envelopes. It is recognised that a significant and sustained increase in housing output and apartment-type development is necessary.
- 8.3.5. The Building Heights Guidelines and the New Apartment Guidelines both support increased densities in appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout.
- 8.3.6. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and this should not only be facilitated but should be actively sought out and brought forward by our planning processes, in particular by Local Authorities and An Bord Pleanála. These Guidelines caution that due regard must be given to the

locational context and to the availability of public transport services and other associated infrastructure required to underpin sustainable residential communities.

- 8.3.7. The New Apartment Guidelines note that increased housing supply must include a dramatic increase in the provision of apartment development to support ongoing population growth, a long-term move towards a smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable, with a focus on the accessibility of the site by public transport and proximity to settlement centres or employment locations. Suitable locations for increased densities stated in the Guidelines include 'central and/or accessible urban locations', 'intermediate urban locations' and 'peripheral and/or less accessible urban locations'. The Guidelines also state that the range of locations is not exhaustive and will require local assessment that considers relevant planning factors.
- 8.3.8. The Sustainable Residential Development Guidelines set out where increased residential densities will generally be encouraged, including in city or town centres, on brownfield sites within city or town centres, along public transport corridors, on inner-suburban / infill sites, on institutional lands and on outer-suburban / greenfield sites.

Regional Policy

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

Development Plan Policy

- 8.3.10. Policy SC10 of the Development Plan addressing densities and the creation of sustainable communities, supports the principles of the Sustainable Residential Development Guidelines. Appendix 3 to the Development Plan sets out net density

ranges for residential developments based on their location within the city, including the city centre and canal belt, SDRAs, Strategic Development Zones (SDZs) and Local Area Plan lands, key urban villages (Z4-zoned land), former Z6-zoned, industrial lands and the outer suburbs. In considering the appropriateness of densities for a site, the Development Plan refers to the need to respect the character and amenities of an area, the need to consider access and capacity of public transport, the need for varied housing typologies and the need to create liveable places. These matters are addressed separately below when considering the various potential impacts of the development and the design quality of the proposals.

Access to Public Transport and Services

- 8.3.11. Both Cabra and Phibsborough Luas stops are within 1km or a 10 to 15-minute walk from the appeal site. The nearest public bus stops to the appeal site comprise stop nos.187, 199 and 838 along Phibsborough Road and Whitworth Road within a 50m to 200m easy walk of the vehicular entrance to the appeal site, and these stops are served by bus routes 4, 9, 40, 40B, 40D, 83, 83a, 140 and 155 connecting with the city centre. There are also other alternative public bus routes operating from stops on Cabra Road within 800m or a ten-minute easy walk of the appeal site.
- 8.3.12. The New Apartment Guidelines and the Development Plan refer to the capacity of public transport services requiring consideration with respect to appropriate densities, a matter that I specifically address further below. In considering the general provision of public transport available in this area, I would note that the capacity of services is intrinsically linked to frequency, as inferred in section 5.8 of the Sustainable Residential Development Guidelines. Based on the publicly-available timetables for the above bus routes, during off-peak hours approximately 24 bus services operate from the bus stops within a 200m walk of an entrance to the appeal site. During peak hours the nine bus routes using bus stop nos.187, 199 and 838 combine to provide 30 services in a single direction generally operating every two to three minutes.
- 8.3.13. Within their Traffic and Transport Assessment report, the first-party appellant has provided details of an assessment undertaken of the existing capacity of rail services from the neighbouring Luas stop and for the Phibsborough Road bus stops. It is asserted by the first-party appellant that as the Luas commences at Broombridge,

there is ample capacity available at the Cabra stop for inbound passengers during the morning peak hour. It was also noted that capacity exists in the local bus services as a greater number of passengers were recorded alighting buses, as opposed to boarding these services in the morning peak period.

- 8.3.14. The estimated indicative population of the development is stated by the first-party appellant in their Engineering Assessment Report as being 529 persons. Based on Central Statistics Office (CSO) census data referring to approximately 22% of the population in Dublin city and its suburbs travelling to work, school or college by public transport in 2016, the future modal split arising from the development would be akin to a maximum of 116 bus, rail or Luas trips in the morning peak hour. The first-party appellant has identified that 126 passengers alight at the two bus stops and the Cabra Luas stop closest to the appeal site, therefore there would be ample spare capacity to serve the estimated trips arising from the proposed development and local public transport services would be unlikely to be overwhelmed by the proposed development. I am satisfied that it is reasonable to conclude that similar overall capacities would arise during the evening peak hour for return trips on these routes given the similarities in frequency of services. Assessments contrary to these findings have not been presented. I also acknowledge that measures BUS5 and LRT11 of the Greater Dublin Transport Strategy 2022 to 2042 outline the intention of the NTA to address capacity issues for bus and Luas services arising from increased demand over the period of the strategy.

Location Category

- 8.3.15. The New Apartment Guidelines define an easy walk as a five-minute walk or a 400m to 500m distance, and a reasonable walk is defined as a ten-minute walk or a 800m to 1km distance. High-frequency bus services are stated in these Guidelines to operate at a minimum ten-minute, peak-hour frequency. Accessible urban locations are stated to include sites within easy walking distance to and from high frequency urban bus services. I am satisfied that based on the existing bus services operating in the area and the information presented, the future occupants of the proposed development would be served by high-frequency, high-capacity, public transport (Luas) services within reasonable walking distance of the site, and high-frequency, high capacity public bus services within easy walking distance of the site . The buses operating from the stops on Phibsborough Road and Whitworth Road all

connect with the city centre, which enables high frequency links from the appeal site to other public transport modes. O'Connell Street in the city centre is also a 25 to 30-minute walk or a 9-minute cycle from the appeal site and the proposals feature ample provision for cycle parking to serve the development. As noted above, the site is within walking distance of significant employment locations. There is an array of local services, including shops, available in Phibsborough, a key urban village less than a five-minute walk from the appeal site. The proposals themselves would also include a mix of uses, including uses that would serve the future residents of the scheme, as well as the neighbouring community. Accordingly, following the requirement for local assessment of location categories, I am satisfied that the site can be categorised as being within a 'central and / or accessible urban location' based on criteria within the New Apartment Guidelines.

- 8.3.16. Based on the proximity and accessibility criteria analysed above, I am satisfied that the appeal site can also be considered to fall into the category of a 'public transport corridor' when assessing the proposals against the provisions of the Sustainable Residential Development Guidelines.
- 8.3.17. With regard to the location categories listed in table 1 of appendix 3 the Development Plan for specific density ranges, third parties state that the site should be considered as being within the 'outer suburbs'. Section 4.5.2 of the Development Plan refers to the inner suburbs as comprising the established suburban communities, largely, located outside of the canal belt, for example, Phibsborough, and the 'outer city' as referring to newly developing areas on the fringe of the city administrative area, including Clongriffin-Belmayne, Ashtown-Pelletstown, Park West and Cherry Orchard. The appeal site would not be in a newly-developed area and is not in an outer suburbs location. The inner suburbs is not a location category referred to in table 1 of appendix 3 and the site does not fall comfortably into any of the location categories referred to in table 1. The Planning Authority refer to the site as falling into the 'city centre and canal belt' category listed in table 1. I can only assume that the locations referenced in table 1 are not exhaustive and given the location of the site inside the canal belt and proximate to the city centre, I consider it best to refer to the 'city centre and canal belt' as a general guide in identifying suitable densities for the appeal site. With respect to the indicative plot ratio and site coverage standards listed in table 2 of appendix 3 of the Development, the proposed

site coverage (37.6%) would not exceed the indicative standards for any areas of the city and the plot ratio (2.1:1) would only marginally exceed the indicative plot ratio standards for conservations areas, which I am satisfied that appeal site is not located within based on land-use zoning objectives. Consequently, I am satisfied that the proposed development would not exceed indicative plot ration or site coverage standards listed in the Development Plan.

Density Applicable

- 8.3.18. Central accessible urban locations such as the appeal site within the catchment of high frequency and high-capacity public transport services are suitable in supporting small to large-scale, higher-density development based on the provisions of the New Apartment Guidelines, the Sustainable Urban Housing Guidelines and the Development Plan. Minimum and maximum residential densities are not set within the New Apartment Guidelines for 'central and / or accessible urban locations'. Minimum net densities of 50 dwellings per hectare are recommended in the Sustainable Urban Housing Guidelines for sites within public transport corridors, with the highest densities being located at rail stations / bus stops and decreasing with distance away from such nodes. As a general rule, the Development Plan supports net residential densities of 100 to 250 units per hectare on lands within the 'city centre canal belt' and refers to a presumption against schemes in excess of 300 units per hectare across the city. The proposed development sits above this Development Plan density range, but below the maximum provision. To address the visual impacts of the development, as well as other factors, the Planning Authority has suggested the omission of three floors to block C containing 12 units, which would reduce the development density to 252 units per hectare and bring the development closer to the Development Plan density standards.
- 8.3.19. In circumstances where a scheme proposes a density that is significantly denser than the prevailing context, which I am satisfied would be applicable for the subject scheme based on my consideration of the site context and the prevailing densities referenced above, the appropriateness of the scheme must be considered against the performance criteria set out in table 3 of Appendix 3 to the Development Plan. This table sets out 46 items to be considered under ten objectives referring to urban design principles, such as promoting a sense of place and addressing the site

context, as well as providing appropriate legibility, continuity, enclosure of spaces, connectivity, attractive spaces, mixed uses and activities, and sustainable buildings.

Conclusion

- 8.3.20. Based on the provisions of the NPF, the RSES and the stated section 28 Guidelines, the appeal site is in a location that can cater for increased densities, albeit subject to certain criteria and safeguards being met. The proposals would clearly contribute to the compact urban growth principles contained in the NPF. However, the density of the proposed scheme does not strictly comply with the density ranges contained in the Development Plan. Consequently, for a conclusion to be reached on this matter, further consideration of the scheme against the performance criteria needs to be undertaken, and I undertake this in section 8.10 of my report below.
- 8.3.21. The density ranges listed in the Development Plan are provided as a 'general rule' with flexibility to applied when considering proposals against these ranges. Furthermore, these density ranges are not specifically referenced within a policy or objective of the Development Plan. Accordingly, non-compliance with such ranges could not reasonably be construed as being representative of a material contravention of the Development Plan.

8.4. Building Heights

Context

- 8.4.1. The existing buildings on site feature maximum heights generally ranging from 5.7m to 29.7m. The tallest building in the adjoining Cross Guns Quay apartment complex is the mill building measuring a height of 23m to roof-ridge level. This building reads as a six-storey structure from the northeast elevation onto the canal and a seven-storey structure to the southwest elevation onto the rear car park and access road. The three-storey townhouse buildings at nos.1-8 Shandon Mills measures approximately 11.5m in height to roof-ridge level. The two-storey housing to the rear of the site along Leinster Street North and Shandon Road measure 8m to 9m in height to roof-ridge level. When measuring to roof-parapet level, the highest element of the proposed development would comprise apartment block C, which would feature a 12-storey element approximately 40.3m in height and setback by 2.7m from the canal towpath. The other proposed buildings, blocks A and B, feature

heights up to seven-storeys (23.2m) with an average 3m setback from the canal towpath. Other ancillary structures proposed include single-storey bin and cycle stores. Variations in building height profiles relative to the existing buildings, ground levels and neighbouring buildings are illustrated on the site section and elevation drawings submitted with the application (see drawing nos.1723B-OMP-ZZ-ZZ-DR-A-2001-2004 and 3001-3002). When excluding the silo tower structures on site, all three proposed apartment blocks would be taller than buildings in the vicinity, with the tallest element of block C approximately 17m taller than the mill building.

8.4.2. The Planning Authority did not raise concerns regarding the heights of proposed blocks A and B, however, they did raise concerns regarding the height of proposed block C. These concerns related to the visual impact of the block where visible from the established residential areas to the south along Leinster Street North and from a number of locations along Phibsborough Road between Cross Guns Bridge and Phibsborough village centre. Consequently, the Planning Authority recommended the attachment of a condition reducing the height of block C by three storeys. The Planning Authority also refer to this reduction in height to block C, as addressing the potential for block C to have an undue overbearing impact on the amenity of the surrounding area. The existing silo tower structures proposed to be demolished would be 11.4m lower than the roof parapet to block C. The reduction in building height to block C, as recommended by the Planning Authority, would result in block C having a similar height to the existing silo tower structure, albeit with block C featuring a greater mass than the silo tower structures.

8.4.3. The first party has appealed the condition to reduce the height of proposed block C, asserting that it would be appropriate for the site in replacing existing structures, providing a degree of legibility and a quality architectural response addressing the canalside setting and local architectural heritage. It was also considered by the first party that the original 12-storey proposal would form part of a cluster of tall buildings characteristic of the immediate area and the condition was not warranted as the 12-storey building height was not raised as a concern by the Board during previous consideration of a similar scheme (ABP ref. 309345-21). The first party also asserts that the proposed heights comply with planning provisions, with a Building Height Report outlining how this would arise and as the original proposals would not have undue impacts on the residential or visual amenities of the area. According to the

first party, the omission of three floors to block C would result in a nine-storey squat building form, which would not achieve the local landmark building that had initially been intended as part of the design response in developing the site.

- 8.4.4. The proposed building heights and scale are asserted to be excessive by the third-party appellants, which they consider to be out of character with surrounding building heights, lacking an appropriate transition in scale relative to the immediate buildings, and injuring the setting of a Protected Structure. The third-party appellants assert that based on the site context and the provisions of the Development Plan, maximum building heights of up to six storeys would only be appropriate. According to third parties, a landmark building is not provided for on the site and the proposals, including the suggested reduction in building heights, would fail to comply with the performance criteria and policy provisions set out in the Development Plan, by not contributing positively to the city and local amenities. The third parties assert that a nine-storey building could not be considered as resulting in a squat form and the pre-planning and planning history for the site does not justify the proposed building heights.
- 8.4.5. In response to the third parties, the first-party appellant asserts that proposed block C would not be a 'landmark' building for the purposes of assessing against Development Plan provisions and that the proposed heights are justified by the heights of adjacent buildings and the scope for locally-higher buildings on site.

Building Height Policy

- 8.4.6. Policy SC16 of the Development Plan recognises that Dublin city is fundamentally a low-rise city, but that there is scope for increased heights in locations, subject to compliance with performance criteria, principles and development standards, including those listed in appendix 3 to the Development Plan. Key criteria that all proposals for increased urban scale and height must demonstrate compliance with include those relating to the general contribution of a development to the compact urban growth principles of the NPF, access, infrastructural capacity, open space, unit mix, emergency access, ecology and site context, each of which are addressed as part of this assessment below.
- 8.4.7. As a general rule, the Development Plan promotes innovative, five to eight storey, mixed-use developments in key areas, including the 'city centre and within the canal

ring (inner suburbs)'. As concluded above, the site is within the 'inner suburbs'. Following the approach set out in the Building Heights Guidelines, the Development Plan refers to building heights of at least six storeys at street level within the canal ring of Dublin. The Development Plan requires appropriate separation distances and transitions in scale where developments abut lower-density development and any proposals for increased height within sensitive historical areas of the city, including the canals, must demonstrate that they do not have an adverse impact on these environments and that they make a positive contribution to the historic context.

- 8.4.8. Heights greater than six storeys may be considered in certain circumstances, depending on the site's location and context and subject to assessment against the performance-based criteria set out in table 3 of appendix 3 to the Development Plan, as referenced in section 8.3 above. The performance criteria objectives partially overlap with the criteria for the assessment of increased building heights contained in the Building Heights Guidelines.

Landmark / Tall Buildings

- 8.4.9. The Development Plan also refers to additional criteria for the assessment of landmark buildings. The first party initially referred to proposed block C as forming a landmark building, and in response the third parties highlighted that the appeal site was not suitable for a landmark building. In response to the third-party appeals, the first party acknowledged that block C cannot strictly be considered a landmark/tall building based on the definition of same in the Development Plan, referring to such buildings as typically being greater than 50m in height. I am satisfied that the subject proposals would not feature landmark / tall buildings based on the Development Plan provisions, therefore, the criteria for assessment in table 4 of appendix 3 to the Development Plan would not strictly be applicable in this case.

Conclusion

- 8.4.10. As the proposals would exceed six storeys, as well as the density ranges, in section 8.10 below I consider whether the increased heights on site are justified based on the performance criteria set in the Development Plan. A Masterplan, including phasing arrangements, is normally sought as part of the assessment against performance criteria, however, this would not be necessary in this case, as proposals for the entire site to be developed have been submitted by the first party.

8.5. Impacts on Architectural Heritage

- 8.5.1. The buildings on site are not of conservation status and I am satisfied that there are no planning provisions strictly requiring these buildings to be maintained as part of the proposed redevelopment of the site.

Royal Canal Boundary Wall

- 8.5.2. The site features a stonewall along the boundary with the canal towpath and this has an average height of approximately 2m to 2.5m over the towpath with steel security railings and overgrown vegetation atop sections of this. The wall features newer and older elements, including replacement concrete block sections and extensive graffiti. Surface level on the appeal site is approximately 1.4m above the level of the adjacent towpath. It is proposed to introduce two openings into this wall to provide gated access to the appeal site. The wall would also be lowered for its full extent along the appeal site to a height of 1.1m when measured from the towpath, with a 1.1m-high railing to be placed on top of this.
- 8.5.3. Objective BHA10 of the Development Plan refers to a presumption against the demolition or substantial loss of a structure that positively contributes to the character of a Conservation Area, except in exceptional circumstances where such loss would also contribute to a significant public benefit. Objective BA12 of the Development Plan aims to promote an awareness of Dublin's heritage, including canalsides and the various features such as lock-keepers' dwellings, locks and graving docks associated with that heritage. Objective BHA17 supports and promotes a strategy for the protection and restoration of the industrial heritage of the city's waterways, canals and rivers, including retaining features such as walls.
- 8.5.4. The third parties assert that the proposed partial demolition of the northeast boundary wall along the canal comprises demolition works impacting on the Royal Canal conservation area, which would materially contravene objectives BHA10 and BHA17 of the Development Plan. It is also asserted by third parties that this boundary wall forms part of the Royal Canal sixth lock, a Protected Structure.
- 8.5.5. The adjacent multi-storey, stone, former-mill building is also included in the record of Protected Structures appended to the Development Plan (RPS ref. 6732). Shandon Mills overlooking the sixth lock of the Royal Canal (RPS ref. 6733) and Cross Guns Quay bridge (RPS ref. 8807) are Protected Structures. I acknowledge that the

precise extents of these Protected Structure, including their curtilage or attendant grounds, are not detailed in the Development Plan. The third-party submission refers to RPS ref. 803 as comprising 'entrance gates, railings and perimeter stone walls at Blessington Street Basin, including stone wall to Royal Canal Bank'. I do not consider this Protected Structure (RPS ref.803) to extend or comprise the subject canalside stonewalls, which are located 1km to the north of Blessington basin across a dense urban environment. Furthermore, I am satisfied that RPS ref. 6733 refers to a mill building in the Shandon Mills complex with reference to the sixth lock used in the RPS as a means of describing the building location. Other locks along the cities canal infrastructure are specifically included in the RPS. The National Inventory of Architectural Heritage (NIAH) lists both the fifth and sixth locks (refs. 50060182 and 50060184) as being of regional importance for architectural, social and technical reasons. I am satisfied that no parties have definitively substantiated that the subject boundary wall is in fact a Protected Structure, or that it forms part of the curtilage or attendant grounds to same. Notwithstanding this, the canalside boundary wall is clearly a feature of historical merit within the Royal Canal conservation area, as acknowledged in the application details and the appeals submitted.

8.5.6. I recognise the consistent height and alignment of the stonewall along the canal towpath, as well as the manner in which this feature provides a division between the appeal site and encloses the canal infrastructure. I also recognise the various alterations and interventions to this stone wall, in particular the replaced sections and graffiti that substantially undermine its original appearance. I also note the interventions to the boundary wall immediately to the east of the appeal site fronting the Cross Guns Quays development, which the subject proposals would follow to an extent. A review of the immediate canal environs does not indicate a consistent boundary treatment along the southern side of the canal.

8.5.7. I am satisfied that the openings in the boundary wall would be necessary as a means of accessing the proposed scheme, with the canal towpath providing a direct and attractive route towards Prospect Road and Phibsborough Road. Lowering of the wall would be beneficial in relation to the lighting and outlook for ground-floor internal areas, while also providing for greater levels of passive surveillance over the towpath and canal infrastructure, which I note to be subject of a Part 8 Local Authority application as part of a greenway project. While the alterations to the canal wall

would substantially alter the appearance of this structure and facilitate access, I am satisfied that there is sufficient rationale for these works, particularly as the alterations would be of benefit to the public in enhancing surveillance of the canal route and providing access to additional uses, including the café, community, arts and open space proposed as part of the development. It is also noted that elements of the boundary, including the graffiti and security fencing atop the stonewall, are unsightly and currently significantly undermining its aesthetic value. Furthermore, there is limited consistency in boundaries along the immediate stretch of the Royal Canal, the boundary wall would not be demolished in its entirety and the alignment of the boundary with the canal would be maintained. Consequently, I am satisfied that this element of the project would not have undue impact on the setting or character of the Royal Canal conservation area and there are exceptional circumstances to justify this element of the project. Based on the information available, the proposed partial demolition of the boundary wall would appear reasonable, particularly given the overall development strategy in providing for efficient use of urban lands, and the proposals would comply with objective BHA10 of the Development Plan.

- 8.5.8. The Planning Authority refer to the need for the boundary wall to be retained as much as possible and for any further modifications to the wall to be minimised and designed in consultation with Waterways Ireland. Third parties assert that this could lead to substantive works to the wall, which could have implications for the conservation area that third parties could not engage in. The wording suggested by the Planning Authority does not infer that substantive alterations to the boundary wall would be anticipated when compared with the proposals set out, and Waterways Ireland has not raised issue with the proposals despite being consulted by the Board on the appeals. Any material changes to the permission would be enforcement matters within the remit of the Planning Authority.

Impact on Royal Canal Conservation Area

- 8.5.9. The Royal Canal conservation area extends along the canal corridor from Spencer Dock to the city boundary with Fingal. Policy BHA9 of the Development Plan aims to protect the special interest and character of conservation areas. Third parties have asserted that the proposed development would have a negative impact on the setting and character of the Royal Canal conservation area by impacting on its amenity value and appearance consequent to the scale, massing and positioning of

the proposed buildings, which they consider to be contrary to Development Plan policy BHA9. The Planning Authority has not raised issue regarding the impact of the development on this conservation area. According to the first party, the proposed layout enhances the setting of the conservation area by replacing the existing buildings and introducing greater use of the immediate section of the canal.

8.5.10. Asides from the boundary wall works, the proposed development would feature three blocks onto the canal, the tallest of which, Block C, would be positioned on the approximate footprint of the extant silo tower structures, while the roof ridges of the lower blocks, A and B, are asserted by the first party to be comparable to the ridge height of the adjacent mill building. As with the interventions to the boundary wall, the provision of buildings with windows onto the canal would most certainly enhance surveillance of this area. The proposed building works would not be situated within the conservation area. The existing setting and character of the conservation area is generally defined along the southern side of the canal by a variety of buildings with varying heights and setbacks, with more open lands primarily in use for infrastructural purposes such as roads and rail lines situated along the northern side of the conservation area.

8.5.11. In replacing the existing buildings on site and generally improving the appearance of the site, I am satisfied that the proposed development would clearly have positive impacts on the setting of the conservation area. By introducing buildings with heights similar to those existing on site and immediately adjoining the site, the proposed buildings would not be out of character with the existing situation along the canal. Notwithstanding this, and the contemporary design of the proposals, block C would measure 17m higher than the existing silo tower structures and I have reservations that a building substantively higher than the existing buildings on site and adjacent to the site, would not be in harmony with the historical setting along the conservation area. In my opinion, a more harmonious approach would be for the height of proposed block C to be reduced to reflect the existing height of the silo tower structures, and with such a reduction in building height, I am satisfied that the proposed development overall would contribute positively to the character and setting of the Royal Canal conservation area, in compliance with policy BHA9 of the Development Plan. This reduction in building height would require omission of three

floors to block C, which I note to match the reduced building height requested by the Planning Authority.

Impact on Z2 residential conservation area

- 8.5.12. The terraced streets adjoining to the south of the appeal site are included within a Z2 residential neighbourhood conservation area. The Development Plan recognises that such areas do not have the same statutory basis as a Protected Structure or an ACA, however, they have conservation merit and importance, and warrant protection through zoning and policy application. The provisions of policy BHA9 of the Development Plan are also applicable with respect to Z2 residential conservation areas. Third parties have asserted that the proposed development would be detrimental to the character of the streets in the neighbouring Z2 residential conservation area consequent to the massing and positioning of the proposed buildings to the rear of the residential conservation area. The Planning Authority has raised concerns regarding the visual impact of the development where visible from this residential conservation area, requiring a reduction in the height of block C by three storeys. According to the first party, the impact of the proposed development on the residential conservation area should be considered acceptable on the basis of the previous acceptance of the building heights under the strategic housing development application (ABP ref. 309345-21).
- 8.5.13. The proposed buildings above ground-floor level would be located a minimum of 13m from the nearest part of the Z2 residential conservation area and approximately 30m from the nearest front street to this area. The conservation area is characterised by a rectilinear network of red-brick, two-storey, terraced houses. The various objections to the impacts of the development on the residential conservation area are primarily guided by the photomontages submitted with the application, noting the appearance of the buildings from front street locations, while asserting that potential views from private properties and other locations within the conservation area need to be considered.
- 8.5.14. The taller elements to blocks A, B and C would all be visible from locations within the residential conservation area, including stretches of Ulster Street and Leinster Street North, however, there would be extensive locations within the network of residential streets where these taller elements to the proposed buildings would not be visible,

due to the screening provided by existing buildings and the separation distances involved. In my opinion the removal of the existing buildings on site that are falling into various states of disrepair would have positive impacts for the setting of the conservation area. While elements of proposed block C would be higher than the existing silo tower structures, the extent and locations to which this and other elements of the proposed buildings would be visible from the conservation area would be limited, particularly from the front streets defining the character of this area. Furthermore, the design of the proposed buildings would be visibly different from the materials employed in the red brick housing and, as such, would read as a completely separate development outside of the residential conservation area. I am satisfied that the proposed development would not negatively impact on the character or setting of the neighbouring Z2 residential conservation area, in compliance with objective BHA9 of the Development Plan.

- 8.5.15. Third parties refer to the perforated screens to be mounted onto the three proposed buildings to address potential overlooking concerns, as dominating the appearance of the residential conservation area. I am satisfied that these screens would simply read as integrated features to the proposed façade treatments and, as such, would not dominate the appearance of the conservation area.

Impact on Phibsborough ACA

- 8.5.16. The Planning Authority and the third parties also refer to the potential for the proposed development to impact on Phibsborough ACA, the nearest point of which is located 370m from the appeal site. Policy BHA7 of the Development Plan aims to protect the special interest and character of ACAs. The existing silo tower structures are only visible from a stretch measuring approximately 60m in length along the Phibsborough Road within the ACA. As a result of the intervening buildings, the proposed development would not be visible from the vast majority of the ACA and it would only be a limited number of the upper-floor levels to block C that would be visible from a 60m stretch of the ACA north of Doyle's Corner. Given these separation distances and limited views of the proposed development from the ACA, I am satisfied that the proposed development would not impact on the special interest or character of Phibsborough ACA and, accordingly, I do not consider refusal of the development or a reduction in building height would be warranted based on the development impact on the ACA.

Impact on North City Flour Mill Building - Protected Structure

- 8.5.17. The third parties object to the development on the basis of its impact on the character and setting of the North City Flour Mills building, a Protected Structure (RPS ref. 6732) forming part of the Cross Guns Quays apartment complex. The third parties assert that the application Architectural Heritage Impact Assessment fails to adequately describe this structure, however, I note the detailed description provided, including historical mapping, chronological development and architectural features to this building referred to in the assessment submitted. The mill building is included in the NIAH (ref. 50060183), which also provides a detailed description of the history of the building and its key architectural features. Policy BHA2 of the Development Plan aims to conserve and enhance the special character and appearance of Protected Structures.
- 8.5.18. The third parties' concerns primarily relate to the height of the proposed blocks relative to the Protected Structure, which they assert to have a visually-intrusive, incongruous and over-dominant appearance relative to the heights of the mill building. According to the first party, the scale and massing of the proposed development has been considered with the intention of protecting the primary views of the mill building and in order to be sympathetic to this setting.
- 8.5.19. A separation distance of 22m would be provided between block C and the Protected Structure. The context for the relationship between the new blocks and the mill building is best visualised via photomontages 1 and 11. I accept that removal of the existing structures on site would provide some benefits for the setting of the mill building, opening up views towards its west side elevation. The separation distance between the existing mill building and proposed block C would be sufficient to ensure the form of the Protected Structure, including pitched-roof and stone gable to the western elevation, would remain visible from along the canalside approaching the building. The design of the proposed blocks would draw from several elements of the mill building, including proportions, scale and building breadth, and the contemporary palette of materials would differentiate the proposed buildings from the existing mill building. In this regard the proposed development would not substantially interfere with the setting or character of the Protected Structure.

8.5.20. Currently, the only building of a similar height in the vicinity comprises the silo tower structures on the appeal site, which block C would generally replace. As stated, proposed block C would feature a roof parapet 17m above that of the roof ridge height to the mill building. Given the separation distance of over 46m from blocks A and B to the mill building, as well as the 4m differentiation in building heights, with the exception of proposed block C I am satisfied that the proposed development would sit comfortably with the mill building and would not detrimentally impact on the setting and character of the mill building. In my opinion, proposed block C would undermine and overwhelm the setting and appearance of the mill building as a result of its height substantially exceeding the height of the mill building. In order for the proposed development to avoid a negative impact on the special character and appearance of the mill building, building heights comparable with the existing silo tower structure should only be provided for. In such circumstances, following the recommendations with respect to the impacts of the development on the Royal Canal conservation area, a reduction in building height for proposed block C by three storeys would be necessary.

8.5.21. Given the separation distances and the positive implications of replacing the existing buildings on site, I am satisfied that the potential for the development to negatively impact on the setting and appearance Cross Guns Quay bridge (RPS ref. 8807) and Shandon Mill (RPS ref. 6733) would not arise.

Architectural Heritage Impact Assessment

8.5.22. The third-party appellants assert that the first party has failed to provide an Architectural Heritage Impact Assessment meeting the requirements of the Architectural Heritage Protection Guidelines, as it does not adequately describe the significance of the adjacent mill building, the Royal Canal sixth-lock and the Royal Canal conservation area. In response, the first party asserts that the Architectural Heritage Impact Assessment submitted with the application is compliant with the minimum criteria set out in the relevant Architectural Heritage Protection Guidelines, while also addressing the details of relevant neighbouring Protected Structures and the Royal Canal conservation area.

8.5.23. Appendix B of the Architectural Heritage Protection Guidelines requires architectural heritage assessments to describe in detail the existing architectural heritage, the

impacts of the subject proposals, and the scope to mitigate any negative impacts of a proposal, in order to allow the Planning Authority to conclude on the appropriateness of a proposed development. The submitted Architectural Heritage Impact Assessment is stated to have been prepared by grade I and II conservation architects and the third-party appeal from LUMRA includes a report stated to have been prepared by a Grade II Conservation Architect.

- 8.5.24. The details submitted with the application and appeals refer to the various elements of the historical built environment, including canal infrastructures, boundary walls and mill buildings. I am satisfied that there is sufficient information included within the application and the Architectural Heritage Impact Assessment for conclusions to be arrived at with respect to the impacts of the proposed development on the built heritage of the area.
- 8.5.25. Where works are proposed to a Protected Structure, the Guidelines require a record to be taken of the existing fixtures or features that contribute to its special interest and which would be lost or altered as a result of the works. Core requirements of an architectural heritage impact assessment are also listed in the Guidelines. As noted above, while the precise status of the boundary wall is unclear, detailed scaled drawings of the boundary wall, as well as various photographs of this wall, are included as part of the application package and I am satisfied that sufficient recording of this structure has been undertaken.

Conclusion

- 8.5.26. I am satisfied that the requirements set out in condition 4(a) of the Planning Authority decision should remain, however, it would be necessary for the reason for this condition to reflect the above conclusions with respect to the impact of the development on the Royal Canal conservation area and the North City Flour Mills Protected Structure (ref. 6732).
- 8.5.27. Subject to conditions, I am satisfied that the overall layout, massing and design of the scheme would provide an appropriate response to the built heritage context, compliant with and not materially contravening the built heritage policies of the Development Plan, which seek to preserve the built heritage of the city and safeguard the special interest, character and setting of protected structures and conservation area.

8.6. Visual Impacts

- 8.6.1. The Development Plan (figure 4-1) does not identify any key views or landmarks directly effecting this site in the built envelope of the city, although the various elements of the built heritage of the immediate area are noted in section 8.5 above. The Planning Authority assert that the proposal features abrupt changes in building heights relative to the already fragmented appearance of the streetscape and that certain reductions in building heights would be necessary, as well as alterations to the elevation details.
- 8.6.2. A 'Townscape and Visual Impact Assessment' accompanied by a booklet containing photographs, CGIs and photomontages. The application was also accompanied by contextual elevations and sections. Third parties assert that a landscape visual impact assessment rather than a townscape visual impact assessment is required and that the viewpoints from various locations should have been reviewed. In response the first party states that the selection of viewpoints for the visual impact assessment accords with the relevant guidelines 'IEMA and Landscape Institute Guidelines for Landscape and Visual Assessment' (3rd edition, 2013). As a townscape is landscape in a built-up urban area, I am satisfied that as a means of attempting to portray and assess the proposed development in this context, the visual impact assessment provided as part of the application is appropriate and beneficial in interpreting the likely implications of the development on the visual amenities of the area.
- 8.6.3. A total of 14 short, medium and long-range viewpoints are assessed in the 'Townscape and Visual Impact Assessment'. Third parties assert that the visual impact assessment has failed to consider the impact of the development on the most sensitive receptors, including the red-bricked lines of housing, with no CGI viewpoints from private properties on Leinster Street North, Shandon Mills and Shandon Road. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontage viewpoints are taken from locations, contexts, distances and angles, which provide a comprehensive representation of the likely visual impacts of the development initially submitted to the Planning Authority from key reference points. The photomontages submitted provide visual representations, which I am satisfied would be likely to provide a reasonably

accurate portrayal of the completed development in sunny conditions and summer settings with the proposed landscaping in a mature and well-maintained condition. The following table 5 provides a summary assessment of the likely visual change from the first-party appellant’s 14 selected viewpoints arising from the completed development, as initially proposed.

Table 5. Viewpoint Changes

No.	Location	Description of Change
1	Royal Canal Fifth Lock – 50m west	The eastern corner and northeast elevation to Block C, as well as the northeast elevations to block B and C would be visible in their entirety. The altered boundary wall works would also be visible. The level of visual change would be substantive from this medium-range view with proposed block C projecting well above the adjacent mill building.
2	Royal Canal Sixth Lock – 50m northwest	The northeast elevations of blocks A, B and C, as well as the altered boundary wall would be visible in their entirety onto the canal, with the stepped upper-floor levels of the northwest elevation to block A facing towards Shandon Mills would also be visible. The level of visual change would be substantive from this medium-range view with proposed block C projecting well above the adjacent mill building.
3	Royal Canal Sixth Lock – 20m northwest	This close-up view illustrates the separation proposed between block A and Shandon Mills, with the upper-floor levels to the northeast and northwest elevations of block A visible and a section of the amended boundary wall. The level of visual change would be moderate from this short-range view, due to the separation distance and open outlook between the existing and proposed buildings.
4	Cross Guns Bridge – 120m west	The eastern corner and northeast elevation to Block C, as well as the northeast elevations to block B and C would be visible in their entirety. The altered boundary wall works would also be visible. The level of visual change would be substantive from this medium-range view with proposed block C projecting well above the adjacent mill building.

5	Junction of Phibsborough Road and Leinster Street North – 130m southeast	Five to six upper-floor levels to block C would be visible, with the remainder of the development largely screened from view by existing buildings. The level of visual change would be moderate from this medium-range view due to the separation distance and screening.
6	Phibsborough Road at the shopping centre – 360m south	Six to seven upper-floor levels to block C would be visible, with the remainder of the development largely screened from view by existing buildings. The level of visual change would be slight from this long-range view marginally outside the ACA area due to the separation distance and screening.
7	Ulster Street – 120m south	Six upper-floor levels to block C and two to three upper floors to block B would be visible, with the remainder of the development screened from view by existing buildings. The level of visual change would be moderate from this medium-range view due to the separation distance, screening and the differentiation between the established residential streets and contemporary proposed buildings.
8	Shandon Road – 65m south	Two to four upper-floor levels to block A would be visible, with the remainder of the development screened from view by existing buildings. The level of visual change would be moderate from this medium-range view due to the separation distance, screening and the differentiation between the established residential streets and contemporary proposed buildings.
9	Royal Canal Sixth Lock – 100m southwest	The northeast elevations of blocks A and B would be visible in their entirety onto the canal, with the stepped upper-floor levels of the northwest elevation to block A facing towards Shandon Mills also visible. The level of visual change would be moderate from this medium-range view due to the separation distances.
10	Whitworth Road – 250m east	The eastern corner to Block C would be visible in its entirety, while the northeast elevation of block B would also be visible. The level of visual change would be substantive from this medium-range view with proposed block C projecting well above the adjacent mill building.

11.	Royal Canal towpath – 30m north	This close-up view illustrates how the proposals would open up views of the northeast elevation to the mill building, with the northeast elevations of blocks B and C visible and the amended boundary wall. The image does not pick-up the entire height of block C. The level of visual change would be substantive from this short-range view, with proposed block C projecting well above the adjacent mill building.
12.	Royal Canal towpath – 25m north	This close-up view illustrates the separation proposed between block C and the North City Flour Mills / Cross Guns Quay apartment complex building, with the upper-floor levels to the northeast and southeast elevations of block C visible and a section of the amended wall, including the double gate opening into the public open space. This image does not pick up the entire height of block C relative to the apartment / mill building. The level of visual change would be substantive from this short-range view despite the separation distance and open outlook between the existing and proposed buildings.
13.	Prospect Road – 135m north	The scale of the development relative to the immediately surrounding buildings is evident from this view, with blocks B and C reading as being of similar heights to the mill building, while proposed block C would rise substantively above the heights of neighbouring buildings including the mill building. The upper-floor levels to all proposed blocks would be visible from this location with some screening of the lower floors and the altered boundary wall by trees and existing boundaries. The level of visual change would be substantive from this medium-range view with proposed block C projecting well above the adjacent mill / apartment building.
14.	Botanic Road – 210m northeast	Visibility of the subject development would be substantially restricted by existing trees and buildings along the street. Five to six upper-floor levels to block C and three to four upper-floor levels to block B would be visible from this location. I consider the magnitude of visual change from

		this long-range view to be slight given the screening and separation distance.
--	--	--

- 8.6.4. In the immediate area the development would be most visible from the approaches along Phibsborough Road, Prospect Road, Ulster Street and the Royal Canal, with only intermittent views of the higher building elements or partial views of the main building elements from local vantage points in the network of streets outside the immediate area. The upper levels to the blocks would be visible from neighbouring residences and open areas, such as the railway tracks, Glasnevin Cemetery and Na Fianna / St. Vincent's secondary school playing fields. The development would be viewed as a substantial insertion in this urban setting and a substantive new feature where visible from neighbouring properties. Notwithstanding, the existing silo tower structures on site and the six / seven-storey mill building adjacent to the site, proposed block C represents a substantial increase in height compared to the prevailing low-rise buildings characteristic of the area.
- 8.6.5. Landscaping would have limited influence on the appearance of the development from the closest of the selected viewpoints, as there would be very limited tree planting screening the development. I am satisfied that the visual change would be largely imperceptible or negligible from many of the wider areas to the appeal site, but moderate to substantive visual impacts would arise on the immediate approaches and fronting the site.
- 8.6.6. The impact on the outlook from neighbouring properties is considered separately in section 8.6 below. Where potentially discernible from long-range views, the proposed development would read as part of the wider townscape, with screening offered by existing buildings, boundaries, structures and trees, largely restricting the visual impact of the development from other areas beyond Phibsborough and Glasnevin. I acknowledge the positive impacts of this development in replacing buildings of limited quality with modern buildings of contemporary, well-articulated design and high-quality finishes.
- 8.6.7. I have addressed the visual impact of the development on aspects of the built heritage of the area, and the assessment undertaken in this section would also point to the proposed height of block C as being excessive with respect to the setting and character of the adjacent mill building, and, accordingly, a reduction in building

height for block C would be warranted. For the proposed development not to impact on the appearance of the area in a negative manner, I am satisfied that the height of block C should be similar to the height of the existing silo tower structure that it would generally replace. I do not consider this amendment to the development to result a squat form for the development, given the separation between the primary existing and proposed blocks along the canal, and as block C would remain taller than blocks A and B and the mill building, thereby providing a degree of variety and transition in the scale of these buildings.

Conclusions

- 8.6.8. The removal of existing buildings, alongside the introduction of a contemporary mixed-use development would enhance the appearance of the area, however, concerns arise with respect to the height of proposed block C and its visual impact from some locations, including where viewed alongside the mill building and fronting the canal. Accordingly, with the attachment of conditions, including those relating to the omission of three floors to block C, I am satisfied that the proposed development would not result in a negative impact on the visual amenity or the historical setting of the area, including the canal conservation area and the adjacent Protected Structures. With a reduced height to block C the proposed development can be absorbed at a local level and I am satisfied that the visual change arising from the proposed development would have positive implications for the appearance of the area.

8.7. Impacts on Neighbouring Amenities

- 8.7.1. The third-party appellants assert that the proposals would have negative long-term impacts on the amenities of neighbouring residents, as a result of loss of light, outlook, views and privacy, overlooking and overbearing impacts and increased disturbance and enclosure affects. Should permission be considered acceptable, various amendments to the scheme are suggested by third parties. The Planning Authority did not identify any particular concerns with respect to the impacts of the proposed development on neighbouring amenities, however, they concluded that the 12-storey element to block C may prove overbearing along the canal frontage. The first-party appellant considers the height, massing and built form of the development to have been carefully considered with respect to the site context, including existing

residences and the canal, and the reduced height to block C required by the Planning Authority would not result in a marked improvement in the amenities of neighbouring residential properties. Where potential impacts could arise for neighbouring residents, the first party refers to the proposed mitigation measures to address same.

- 8.7.2. The third parties assert that inaccurate drawings were submitted, primarily as the approximate locations of the silo tower structures were only provided, with implications for the lighting assessments used to consider impacts on neighbouring properties. Extensive survey details and photographs of the site have been included as part of the application and appeal documentation. The details provided, including the surveyed locations of the silo tower structures do not appear to be significantly different to the situation on site and I do not consider the identified locations would have a substantive material impact on the findings with respect to neighbouring residential amenities.

Context

- 8.7.3. The nearest existing residential properties comprise the apartment buildings within the Cross Guns Quays apartment complex to the east, the three-storey building at Shandon Mills to the east, the two-storey terraced houses along Leinster Street North and Shandon Road to the south.
- 8.7.4. The heights of neighbouring properties and the proposed buildings are listed in section 8.4 above. Variations in proposed building height profiles relative to the existing buildings, ground levels and neighbouring buildings are illustrated on the various site section and elevation drawings submitted with the application (see drawing nos.1723B-OMP-ZZ-ZZ-DR-A-2001-2004 and 3001-3002).
- 8.7.5. The application drawings include various distance dimensions and elevational contexts identifying the potential relationship of the proposed buildings with existing buildings. As stated, block C would be 22m from a side elevation to the mill building, as well as being a stated 25.7m from the rear of two-storey terraced houses along Leinster Street North, with block C approximately 31.8m higher than the roof ridge to these existing houses. Proposed block B would be 29m from the closest rear elevation of houses within Leinster Street North with a height increase of 18m between the existing roof ridges to the parapet of proposed block B. Proposed block

A would be approximately 43m from the rear of housing in Leinster Street North and the seven-storey element to this block would be just over 18m higher than the roof ridge to these houses. A separation distance of approximately 19.6m would be provided between proposed block A and the side elevation of no.40 Shandon Road, with a height difference of between 2m and 18m between the varying elements of block A and the roof ridge height to no.40. The three-storey element to block A would be 22m from the rear elevation of the townhouses / apartment building at nos.1-8 Shandon Mills with this section of block A approximately 1.25m higher than the roof ridge to nos.1-8. The seven-storey gable-end feature to block A would be approximately 28.3m from nos.1-8 and 14m higher than the roof ridge to nos.1-8.

Nuisance

- 8.7.6. The third-party appellants assert that the bin stores along the southern boundary should be relocated to address residential amenity issues, and cycle parking should only be provided in the main buildings, along with shower and locker facilities. From the outset I note that 16 cycle parking spaces and shower and locker facilities would be provided at basement level to blocks B and C. The primary cycle stores would be provided at surface level along the southern boundary. These stores would back directly onto a rear service lane to Leinster Street North, with numerous existing outbuildings positioned along the rear of the residences on Leinster Street North. An Operational Waste & Recycling Management Plan has been submitted with the application, which sets out measures to address the management of the bin store facilities, including ventilation measures to address foul odours. Section 15.9.13 of the Development Plan requires refuse storage to be accessible to all apartments in a scheme of this scale, which would be the case. Given the proposed location of the cycle and bin stores at surface level accessible from each of the proposed blocks across the communal open space and separated by a service lane from neighbouring residences featuring extensive ancillary outbuildings, I fail to see how these facilities could reasonably be considered to potentially have substantive impacts on the amenities of neighbouring properties. The management measures set out would also support in addressing the potential for nuisance to arise from the location of these stores. Potential for nuisance to arise from the use of the proposed communal roof terrace areas can be addressed by a condition restricting access to these terraces for residents of the scheme during daytime hours.

Overlooking and Loss of Privacy

- 8.7.7. The third-party appellants assert that the proposed development would result in a loss of privacy for neighbouring residents. In discussing standards for apartments, the Development Plan refers to the traditional standard separation distance requiring 22m between opposing first-floor windows and provision for greater separation distances in taller blocks and reduced separation distances in certain situations, dependent on orientation and location. This standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive direct overlooking between the upper levels to the proposed apartment blocks and existing housing. Direct excessive overlooking for neighbouring properties would not arise from the proposed ground-floor levels, due to the boundary treatments, the existing and proposed ancillary structure positions and the separation distances. The landscape layout for the proposed communal roof terraces to each block would limit access to areas along the edges of the terraces, thereby restricting the potential for excessive direct overlooking from these terraces to neighbouring properties.
- 8.7.8. Apartments in block C would face onto the side elevation of the mill building, which features windows serving apartments. This proposed block would also feature either private balconies or roof terraces on all levels. A separation distance of 22m between the proposed windows and the existing windows would be maintained, although separation distances of slightly less than 22m would arise from the proposed private balconies and the existing mill building windows. Notwithstanding this, views from block C towards the mill building would be across the intervening public open space and the associated activity in this area and this would be a typical scenario within a finely-developed urban grain. Consequently, I am satisfied that excessive direct overlooking for a context such as this would not arise between the proposed development and the existing apartment building to the east.
- 8.7.9. Notwithstanding the separation distances of greater than 25m between proposed block C and the rear elevation of two-storey houses to the south, the proposals would feature projecting-decorative, perforated, lightweight-metal screens to all habitable room windows from first floor and above on the southern elevation of block C. Screens would also be provided to the habitable-room, upper-floor windows on the south-projecting elevations to blocks A and B, where these windows would be 21m to 29m from the rear of existing houses to the south. The three-storey western

end to block A would feature windows facing south and within 22m of no.40 Shandon Road. Given this shortfall in separation distance between the existing and proposed windows, I am satisfied that mitigation would be necessary. The perforated screen feature would limit overlooking according to the first party and details of the screens are provided on drawing no.1723B-OMP-ZZ-ZZ-DR-A-7002, including reference to the screens being capable of being opened. I am satisfied that the building separation distances would generally be sufficient to ensure that excessive direct overlooking and loss of privacy would not arise between blocks A, B and C and the houses to the south, and the perforated screens would further mitigate any impacts arising, including the potential for excess direct overlooking into neighbouring rear garden and yard spaces.

- 8.7.10. As noted, a 22m to 28m separation distance would be provided between the west-facing elevation of block A and nos.1-8 Shandon Mills. I am satisfied that the separation distances would be sufficient in addressing potential for excessive direct overlooking between internal areas of proposed block A and nos.1-8. Any overlooking of the ground-floor apartment gardens serving nos.1, 3, 5 and 7 Shandon Mills from the apartments in block A would be no worse than that presently arising from the respective upper-floor townhouses (nos.2, 4, 6, and 8) to Shandon Mills.
- 8.7.11. The Planning Authority refer to the potential use of opaque glazing to balcony surrounds to further limit overlooking southwards, and I note the proposals already provide for same via the stated provision of obscure glass with gradient effect balustrades to balconies.

Outlook and Overbearing Impacts

- 8.7.12. The proposed development would be visible from neighbouring residences and commercial premises, including associated amenity areas. Third parties assert the development would change the outlook from neighbouring properties and restrict views from neighbouring properties. While I accept that the buildings would be taller than those presently on site and in the immediate area, a review of the information available and the existing relationship between Leinster Street North and Cross Guns Quays mill building, would suggest that the proposed development would not entirely restrict outlook from the adjacent houses. The arrangement and positioning

of the proposed blocks with separation distances of at least 19m from the existing houses and apartment buildings, would ensure that the proposed development would not excessively restrict outlook from residences adjacent to and adjoining the appeal site. Having visited the area and reviewed the application and appeal documentation, including the photomontages and CGIs, I consider that the extent of visual change that would arise from those areas with views of the development, would not be significant having regard to the design, layout and arrangement of the blocks, the separation distances from the proposed buildings to existing buildings, and the need to develop inner-suburban sites within easy and reasonable walking distance of services and public transport at sustainable densities. It is also noted that the proposed development would remove buildings of substantial scale and in various states of disrepair with contemporary buildings.

8.7.13. Another key consideration is whether the height, scale and mass of the proposed development and its proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. Third parties refer to the scale and positioning of the development as resulting in an excessive heightened sense of enclosure for residents, including for the residents of nos.1 to 8 Shandon Mills. Notwithstanding my acknowledgement that the proposed buildings heights would be taller than those presently on site and in the immediate area, I am satisfied that the intervening space between the existing residences and the proposed apartment blocks and the stepped and modulated design of the proposed apartment blocks, as well as their positioning, would ensure that where visible from neighbouring properties the proposed development would not be excessively overbearing or resulting in an excessive sense of enclosure.

8.7.14. The Planning Authority refer to a reduction in building height to proposed block C as addressing the potential for this building to have overbearing impacts. The third-party appellants also assert that the development would have undue excessive overbearing impacts along the canal. While the proposed development would provide a very different presence onto the canal than the current situation, the proposed removal of the security fencing and overgrown vegetation, and the lowering of the canalside boundary wall would reduce the overbearing impacts of these structures onto the canal towpath. The proposed buildings would be setback from the canal towpath, offering surveillance of this area. In conclusion, the

reduction in building height would not be necessary in addressing potential overbearing impacts and the proposed development would not result in excessive overbearing impacts onto the canal.

Impacts on Lighting - Sky and Sunlight

- 8.7.15. In assessing the impact of the development on light access to neighbouring properties where the occupants would have a reasonable expectation of daylight, two primary considerations apply, including the potential for excessive loss of daylight and light from the sky into existing buildings through the main windows to living rooms, kitchens and bedrooms, and the potential for excessive overshadowing of existing external amenity spaces, including parks and gardens.
- 8.7.16. The Development Plan requires Daylight and Sunlight Assessments for apartment developments with a best practice guide and methodology for such assessments set out in Appendix 16 to the Plan. The Development Plan refers to a lack of clarity in Ireland over the standards and guidance documents that are applicable to daylight and sunlight assessments and in concluding on the relevant guidance for daylight and sunlight assessments, the Plan states that a revised version of the BRE 209 second edition 'Site Layout Planning for Daylight and Sunlight: A guide to good practice' (2011) should be used if issued. A revised third edition of this BRE 209 Guide issued in 2022 and I am satisfied that this revised guide should be used in considering the daylight and sunlight assessment. As required in the Development Plan, the application included a Daylight and Sunlight Analysis report, which assesses the effect of the proposed development on the vertical sky component (VSC), the annual probable sunlight hours (APSH) and the winter probable sunlight hours (WPSH) to neighbouring residences, relying on the standards contained in the BRE 209 Guide 2022.
- 8.7.17. When considering the impact on daylight to existing living rooms, kitchens and bedrooms, the BRE 209 Guide 2022 sets out that:
- if any part of a new building, measured in a vertical section perpendicular to a main window wall of an existing building, from the centre of the lowest window, subtends an angle of more than 25° to the horizontal, then the diffuse daylighting of the existing building may be adversely affected;

- adverse effects would arise if the VSC measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value;
- adverse effects would arise if the area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value;
- if the VSC for existing windows is above 27% with the proposed development in place, the windows are considered to still receive good daylight availability and therefore not adversely affected.

8.7.18. The tests outlined above are a general guide only and the BRE 209 Guide 2022 states that the criteria need to be applied flexibly as natural lighting is only one of many factors in site layout design. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the BRE 209 Guide 2022 to assist me in identifying where potential impacts may arise and also to consider whether such potential impacts are reasonable for the development, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites, and the need to address impacts on existing residents, as much as is reasonable and practical.

8.7.19. The existing baseline VSC for neighbouring properties, including those located along nos.1-8 Shandon Mills, as well as the odd number houses between 25 to 59 Leinster Street North and 40-41 Shandon Road, was calculated by the first-party appellant, and the results were presented and compared with the proposed development in place. As window use was not known for houses on Leinster Street North, an individual 1sq.m window on the centre of the rear elevation to each house was used for testing purposes. Baseline values for all properties along Leinster Street North and no.41 Shandon Road are estimated to be below the recommended target 27% VSC. The results presented indicate that all of the tested properties would be within the BRE 209 Guide 2022 recommended VSC target standards, with one property only, no.7 Shandon Mill calculated as having a VSC value less than 0.8 times its former value with the proposed development in place. However, the VSC value for no.7 would remain at 27.1% according to the assessment submitted, resulting in all tested neighbouring windows complying with the VSC values in the BRE 209 Guide 2022.

8.7.20. Lighting impacts for the Cross Guns Quay apartment complex has not formed part of the testing undertaken by the first party, despite the positioning of existing windows in the west-side elevation of the mill building facing and 22m from the location of proposed block C. The side elevation windows serve rooms within the existing apartments. Only a very limited number of apartments in the building could be adversely affected and it is likely that some of these apartments are already subject of limited daylight access given the presence of buildings on the appeal site and the recessed form of the existing windows. While recognising the positioning and height of the existing silo tower structures, from a precautionary perspective in the interests of the amenities of residences along the western end of the mill building, it would be reasonable for the proposed height of block C to be reduced to a height similar to that of the existing silo tower structures on site. In such a situation, any likely impacts on VSC would be likely to be negligible. Furthermore, the proposed development would improve amenities in the area by redeveloping the site and providing new uses, as well as public space. Based on the provisions of the New Apartment Guidelines providing discretion where the full provisions of the requirements of the daylight provisions cannot be met and the need to balance this assessment against the desirability to achieve wider planning objectives, I am satisfied that any potential shortfalls for VSC values to neighbouring windows in the Cross Guns Quay complex would be acceptable having regard to the proposed development securing comprehensive urban regeneration of the site, as well as the need to provide an adequate level of residential density and efficient use of these inner-suburban zoned lands. Accordingly, subject to the condition to reduce block C to nine storeys, a refusal of permission for reasons relating to daylighting impacts to neighbouring properties would not be warranted.

Sunlight Provision

8.7.21. The BRE 209 Guide 2022 sets out that obstruction to sunlight may become an issue if:

- part of a new development is situated within 90° of due south of a main window wall of an existing building and if the new development subtends an angle greater than 25° to the horizontal measured from the centre of the lowest window to a main living room;

- if a window receives less than 25% of annual probable sunlight hours (APSH), or less than 5% of annual probable sunlight hours between 21 September and 21 March (winter);
- if a window receives less than 0.8 times its former sunlight hours during the annual or winter period;
- if the overall annual loss of APSH is 4% or less, the loss of sunlight would be small.

8.7.22. As part of their Daylight and Sunlight Analysis report the first-party appellant has calculated the expected levels of APSH and winter probable sunlight hours (WPSH) for 13 windows in residences adjacent to the appeal site in nos.1-8 Shandon Mills and no.41 Shandon Road. With the exception of one window point, the remainder of the window points tested would either meet the target recommended APSH values over the annual period and during the winter period when sunlight is most valuable. The window point in no.41 Shandon Road falling short of the 5% WPSH value with the development in place, already falls short in this regard, and the subject proposals would have no noticeable impact based on the calculations presented. Furthermore, when the difference between the probable sunlight hours, as existing and with the proposed development in place, the 0.8 ratio of change allowed for in the Guide would be met.

8.7.23. As noted above, testing of lighting impacts for Cross Guns Quay apartment complex has not been provided, despite there being apartment windows within 90° of due south of a main window wall and the new development subtending an angle greater than 25° to the horizontal measured from the centre of the lowest windows. The existing buildings on site would to an extent impact on sunlight to the side elevation windows, particularly those at a lower level. The separation distance (22m) and the positioning of proposed block C to the west and marginally within 90° of due south of the subject recessed windows, would limit the potential impact of the proposed development on sunlight to the respective apartment rooms. This is illustrated in the series of shadow study diagrams submitted in response to appeals and as part of the Daylight and Sunlight Analysis report. Sunlight to a very limited number of apartments could be impacted, as it is only the side elevation windows to the mill building that could potentially be impacted. Notwithstanding this, in the absence of

an assessment of sunlighting to the mill building, from a precautionary perspective and taking into consideration the positioning and height of the existing silo tower structures, it would be reasonable for the proposed height of block C to be reduced to a height similar to that of the existing silo tower structures on site, thereby limiting sunlight impacts on the mill building to an extent similar to the present situation.

- 8.7.24. I am satisfied that the levels of sunlight to the neighbouring properties following completion of the proposed development would allow for the recommended targets to be met for the vast majority of residences in the area. The potential for shortfalls in sunlight to a limited number of apartments in the Cross Guns Quay complex would be acceptable having regard to the existing scale, positioning and form of buildings on the appeal site and the intention to secure comprehensive regeneration of this urban site, as per the provisions of the New Apartment Guidelines.

Overshadowing

- 8.7.25. For a development to be acceptable with respect to overshadowing impacts, the BRE 209 Guide 2022 requires that greater than half of neighbouring garden areas receive at least two hours of sunlight on the Spring equinox, or a change in shadowing that would be no less than a ratio of 0.8 the existing situation. The first-party appellant's lighting report assesses the extent of overshadowing that would arise following completion of the proposed development for four rear gardens serving Shandon Mills based on sunpaths. The results of testing are presented in graphical and table format by the first party, highlighting that a reduction in lit areas of between 2.7% and 6.7% would arise and that the areas of the gardens that would remain lit would be greater than 0.8 times their former value.
- 8.7.26. Third-party appellants refer to the potential for excessive overshadowing of the Royal Canal as a result of the proposed development. In response to this, the first party calculated the extent to which the proposed development would impact on the canal infrastructure between locks five and six, including the adjoining towpath, the canal waterbody and the towpath along the northeastern side. The results of the calculations are presented in tabular and graphical form, identifying that based on the target receipt of at least two hours of sunlight on the Spring equinox, there would be no reduction in sunlight to the greenway, a 0.2% reduction in sunlight to the canal waterbody and a 8.5% reduction in sunlight to the towpath. Extensive areas along

the canal infrastructure would continue to receive sufficient levels of sunlight based on the BRE 209 Guide 2022 with the area impacted most located along the northwestern side of the site, close to a former railway crossing of the canal and with existing buildings and structures already impacting on sunlight to an extent along this stretch of the canal.

- 8.7.27. In conclusion, based on the information provided showing substantive compliance with the minimum requisite standards, I am satisfied that undue overshadowing of neighbouring amenity spaces would not arise as a result of the proposed development.

Construction Impacts

- 8.7.28. Third-party appellants refer to the need for further details of the proposed construction phase of the development to inform the environmental impacts of the development, including the potential for nuisance to arise for neighbouring residents from piling or stabilisation works. The third parties also refer to adverse visual impacts for the area during the construction phase.

- 8.7.29. The CEMP submitted with the application sets out the site setup measures and the intended measures to address traffic, noise, dust and vibration emissions during the construction phase. This CEMP also refers to the construction activities, the typical equipment and the construction working hours (07:00 hours to 19:00 hours Monday to Friday and 07:00 hours to 14:00 hours on Saturdays). Arising from the Environmental Noise Survey submitted with the application, various standard measures to address potential noise impacts during the construction phase of the project are set out, including erecting of hoarding, controlling and limiting use of machinery and equipment, audits, use of localised screening and compliance with BS 5228-2:2009+A1:2014 Code of practice for noise and vibration control on construction sites. An Outline Construction, Demolition and Environmental Waste Management Plan has also been submitted to address the initial stage of construction works comprising the demolition and removal of the existing structures on site. An Air Quality Assessment has been provided setting out specific measures to address potential air quality concerns during the project construction and operational phases, including dust monitoring.

- 8.7.30. The third-party appellants also refer to potential for impacts to arise from the basement level works, potentially via dewatering of the canal. A Planning Stage Structural Report and a Basement Impact Assessment has been submitted with the application, addressing the project risks, the results of site investigations and the construction methods, while a drawing (no.20-011-WMS-ZZ-ZZ-S-0099) was submitted in response to the third-party appeals, setting out the intended piling works entailed in the project. Measures have been set out in the Basement Impact Assessment to address any potential risks to the project and neighbouring vicinity, arising from the subterranean works and the context relative to the canal. The Planning Authority recommend the attachment of standard conditions with respect to construction hours, noise control and air quality control. The measures set out by the first party are well-proven in controlling emissions within satisfactory levels during the construction phase for projects of this nature and scale.
- 8.7.31. I am satisfied that the information provided with the application provides due recognition from a planning perspective of the site context, construction processes and the project scale and nature relative to the canal and neighbouring residences. A standard condition can be attached to restrict the construction hours and I am satisfied that construction phase impacts would only be of a temporary duration, would not have undue or significant impacts for neighbouring residents and would also be subject of a final project CEMP.

Conclusions

- 8.7.32. I am satisfied that the proposed development would not result in excessive overlooking of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring properties, as well as the public realm. Given the absence of details with respect to sunlight and daylight impacts for apartments in the Cross Guns Quay mill building and the existing scale of buildings on site, from a precautionary perspective, it would be reasonable to limit the height of proposed block C to a height similar to the existing silo tower structures. I am satisfied that the extent of affects would be typical for a brownfield development of this nature and in this inner-suburban context, and such affects do not prejudice the granting of planning permission for the proposed development based on the terms of the New Apartment Guidelines, as the development would secure comprehensive regeneration of the site.

8.7.33. In conclusion, subject to conditions, the proposed development should not be refused permission for reasons relating to the likely resultant impacts on neighbouring amenities. The third-party appellants assert that the proposed development would lead to a depreciation in the value of property in the vicinity. Following on from the assessment above, including the suggested conditions, sufficient substantive and objective evidence has not been provided to support claims that the proposed development, including the suggested amendments, would be likely to result in a depreciation of property values in the vicinity.

8.8. Residential Amenities and Development Standards

8.8.1. An assessment of the amenities of the proposed development relative to quantitative and qualitative standards raised by the third parties for residential development is undertaken below having regard to the guidance set out in the New Apartment Guidelines, as well as the provisions of the Development Plan, which refers to documents providing guidance for daylight and sunlight assessments within new developments. The third-party appellants refer to various concerns with respect to the proposed accommodation, including unit mix, aspect, lighting, floor areas, universal design, units per core and noise impacts.

Apartment Mix

8.8.2. The third parties consider the proposed mix of units to materially contravene the provisions of the Development Plan, while the Planning Authority do not raise issues with the overall mix of units concluding that it would provide for a novel mix of tenures. The mix between build-to-rent and built-to-sell units was discussed above in section 8.2 and considered to comply with Development Plan provisions in this respect. SPPR 8 of the New Apartment Guidelines provides that there shall be no restrictions on dwelling mix for build-to-rent developments and it is this provision that should be relied upon for the purposes of assessing the unit mix in the build-to-rent element of the appeal. Section 15.9.1 of the Development Plan sets out housing mix requirements with reference to appendix 1 of the Plan, which comprises the Council's Housing Strategy, incorporating an interim housing need demand assessment. The site is outside the north inner-city area that is subject of specific unit mix requirements set out in the Development Plan and, as such, the build-to-sell unit mix required in SPPR 1 of the New Apartment Guidelines would be applicable.

Under SPPR 1 up to 50% one-bedroom or studio-type units are allowed for in new developments and there shall be no minimum requirement for apartments with three or more bedrooms. In accordance with SPPR 1, the subject development includes 58 one-bedroom (49%) and 60 two-bedroom (51%) build-to-sell apartments, as stated in the Development Summary & Schedule details submitted. Two-bedroom apartments that would accommodate three persons only are not proposed. I am satisfied that the proposed development would provide a suitable mix and size of apartments, compliant with the relevant design standards provided for in the Development Plan and the New Apartment Guidelines. Accordingly, contrary to the assertion of the third parties it cannot reasonably be considered that the proposed unit mix would materially contravene the unit mix provisions in the Development Plan.

- 8.8.3. A reduction of three floors to block C would result in the omission of 12 two-bedroom units from the proposed development. In this regard, I note that the application does not specifically identify the built-to-rent or build-to-sell units. A condition would be necessary to address the omission of the 12 apartments, in order to clarify that the proportion of build-to-rent units would not exceed the 40% cap set in the Development Plan. A total of 52 two-bedroom apartments would remain following the reduced building height, which would continue to allow the unit mix requirements under SPPR 1 to be complied, and this should be addressed as a condition in the event of a permission for the proposed development.

Apartment Floor Areas

- 8.8.4. The third parties refer to the proposed apartments as featuring insufficient floor areas. Section 15.9.2 of the Development Plan addresses the requirement for internal floor area requirements serving apartment developments, referring to the minimum standards for same outlined in SPPR3 of the New Apartment Guidelines. Section 15.10 of the Development Plan addresses the standards for build-to-rent accommodation, referring to the need for such accommodation to comply with SPPRs 7 and 8 of the New Apartment Guidelines, as well as stipulations with regards to any derogations sought.
- 8.8.5. The New Apartment Guidelines require floor areas to measure a minimum of 37sq.m, 45sq.m and 73sq.m respectively for studio, one-bedroom and two-bedroom

apartments. According to the application Housing Quality Assessment, which I am satisfied correlates with details on the floor plan drawings, the proposed build-to-rent and build-to-sell apartments would comply with these provisions, with studio apartments measuring between 37.2sq.m and 44.8sq.m, one-bedroom apartments measuring 49.8sq.m and 50.4sq.m and two-bedroom apartments measuring between 77sq.m and 84.3sq.m. A total of 63 build-to-sell one or two-bedroom apartments (53%) would exceed the New Apartment Guidelines and the Development Plan floor space standards by more than 10%. Accordingly, I am satisfied that the floor areas proposed for each of the apartments, would meet or exceed the minimum floor area requirements set out in the New Apartment Guidelines and the Development Plan.

Universal Design

- 8.8.6. The third parties assert that the proposals fail to comply with objective QHSNO11 of the Development Plan, which requires at least half of apartments in excess of minimum sizes to be designed to be suitable for older people, mobility-impaired people, people living with dementia and people with disabilities. The first party has submitted a Universal Design Statement identifying 20 units within block A and 12 units in block B that are in excess of the minimum standard sizes and designed for universal access. As stated above, 63 units would exceed the minimum standards by 10% and by providing 32 universal design apartments, the first party asserts that this meets the requirement of objective QHSNO11. The Planning Authority accept this provision as being in accordance with the provisions of the objective. The wording for objective QHSNO11 is quite ambiguous and this universal design standard has been adopted into the Development Plan based on wording in a policy statement prepared by the Department of Health and the Department Housing, Planning and Local Government addressing 'Housing Options for Our Ageing Population' (2022). This policy statement does not offer any further insight into the means of calculating the proportion of universal design units. Notwithstanding this, based on the information available and the approach set out by the first party, the proposals would not contradict the requirements of Development Plan objective QHSNO11.

Lift and Stair Core Access

- 8.8.7. The third parties assert that the proposed development would not feature appropriate lift and stair core access based on the number of units that would be served by these cores and the relevant planning provisions. Section 15.9.5 of the Development Plan refers to SPPR 6 of the New Apartment Guidelines, which sets out that a maximum of 12 apartments per floor per core may be provided. SPPR 8(v) of the New Apartment Guidelines does not set a minimum requirement for lift and stair core access per apartment in build-to-rent schemes. Therefore, it is only the build-to-sell apartments that would need to comply with SPPR 6. As the proposed build-to-sell units are not confined to a single block, floor or section of the proposed development, the first party asserts that a proportion of the development units should only have to comply with the requirements of SPPR 6. The Development Plan states that flexibility needs to be applied on a case-by-case basis and I note that the New Apartment Guidelines do not specifically set out how to address lift and stair core access in a scenario such as the subject mixed-tenure proposals. I am satisfied that there is not a requirement for the entire development to comply with SPPR 6 and I note that the Planning Authority has accepted that as 60% of the apartments would be build-to-sell units, at least 60% of the floors within the development should comply with SPPR 6 provisions. This would appear a reasonable approach to take in these circumstances and as 68% of the floors in the development would feature a maximum of 12 apartments per core, the provisions with respect to SPPR 6 of the New Apartment Guidelines and the Development Plan would be complied with.

Dual Aspect

- 8.8.8. With regard to aspect, the Development Plan refers to standards contained in SPPR 4 of the New Apartment Guidelines, which requires 33% dual aspect apartments in central and / or accessible urban locations, such as the appeal site area. The Planning Authority refers to the Development Plan aim to encourage all developments to meet or exceed 50% dual aspect units unless specific site characteristics dictate that a lower percentage may be appropriate. The Development Plan leads on to state that in prime city-centre locations, adjoining or adjacent to high-quality, high-frequency public transport, 33% dual aspect may be accepted in locations where there are specific site constraints such as tight urban infill sites up to 0.25ha or where there is a need to maintain a strong street frontage.

As noted above the appeal site is in an inner-suburban location within the canal ring, and I would not consider it specifically a 'city centre' location based on Development Plan location categories. Notwithstanding this, I am satisfied that it is the dual aspect provisions of SPPR 4 of the New Apartment Guidelines that the proposals would need to comply with.

- 8.8.9. A total of 107 apartments are stated to form dual aspect units, which would equate to 55% of the apartments within the scheme, which the first party asserts to meet the 33% required dual aspect provision. The Planning Authority raise concerns regarding the inclusion of 13 block A and ten block B units as featuring dual aspect, due to use of opaque glazing and limited separation distances from neighbouring building elements. Having reviewed the drawings submitted and the example unit configurations referred to in the Development Plan, I concur with the opinion of the Planning Authority that 23 of the units considered by the first party to feature dual aspect, would be more appropriately categorised as featuring single aspect. Notwithstanding this, 84 apartments would feature dual aspect, amounting to 43% of the units in the scheme, which I am satisfied would comply with SPPR4 of the New Apartment Guidelines.
- 8.8.10. The third parties assert that an excessive proportion of north-facing, single-aspect units would be provided for and these units should be redesigned to provide additional lighting. I recognise that 62 north-facing, single-aspect apartments are proposed based on the drawings presented. The north-facing single-aspect apartments would be in blocks A and B overlooking the canal. The New Apartment Guidelines and the Development Plan allow for such apartments, where they would overlook a significant amenity, such as a water body or some other amenity feature, which could reasonably include a canal. I am satisfied that this feature of the project would not exceed a particular minimum standard as regards north-facing, single-aspect units and in providing these units as part of the scheme, this would be compliant with the stated provisions of the New Apartment Guidelines and the Development Plan.

Lighting to Apartments

- 8.8.11. The third parties assert that the lighting assessments reveal that not all units within the scheme would meet the minimum lighting standards and that there would be

merit in redesigning the units to address identified shortfalls in lighting, as the compensatory design solutions would not justify such shortfalls. While acknowledging the shortfalls with respect to lighting performance the Planning Authority accept that the shortfalls would be acceptable given the context of the site with north-facing orientation onto the canal.

- 8.8.12. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (Second Edition, 2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Section 6.6 of the New Apartment Guidelines states that Planning Authority's should have regard to this second edition of the BRE 209 Guide and BS 8206-2:2008 when assessing quantitative performance approaches to daylight in apartments. More recent updates of the Guidelines state that Planning Authority's should have regard to guides like a New European Standard for Daylighting in Buildings (IS EN17037:2018), UK National Annex BS EN17037:2019 and the associated BRE 209 Guide 2022. As stated above, the BRE 209 Guide 2022 is applicable based on the wording of the Development Plan.
- 8.8.13. The BRE 209 Guide 2022 sets target daylight illuminance values to be achieved over half the reference plane of internal rooms for at least half of daylight hours, with 100 lux required for bedrooms, 150 lux required for living rooms and 200 lux required for kitchens. Locational factors, as well as other criteria for the test model, would also apply according to the first party and the BRE 209 Guide 2022. The results and conclusions of the first party's report are drawn against the BRE 209 Guide 2022, including the use of a target 200 lux for living/kitchen/dining rooms and 100 lux for bedrooms. A total of 404 rooms were tested, calculating that 371 or 92% of the rooms in the development would meet or exceed the target median daylight factors required based on the BRE 209 Guide 2022. Shortfalls in median daylight factor were calculated to arise for four bedrooms in block A, 12 bedrooms, five living/kitchen/dining rooms and four studio suites in block B, and eight bedrooms in block C. The results of testing are illustrated in graphical format for each residential

floor area of the proposed development, revealing that the majority of rooms falling short of daylight target values feature east or west-facing aspect, which are primarily hindered by window position relative to structures in the development. According to the details submitted, the trees to be planted within the western communal space would not impact on the number of rooms falling short of daylight targets.

- 8.8.14. The first party also considered the level of sunlight exposure for the 196 apartments in the development. The BRE 209 Guide 2022 states that buildings where sunlight is a requirement will appear reasonably sunlit if at least one main window wall faces within 90° of due south, or if a habitable room, preferably a main living room, can receive a total of at least 1.5 hours of sunlight on the Spring Equinox. Four hours sunlight exposure would be considered high for a habitable room. The first party initially assessed the living/kitchen/dining rooms for compliance with this minimum sunlight exposure standard and where such rooms were found to be non-compliant with the standard, a further check of their respective bedrooms was undertaken. Shortfalls in sunlight exposure were calculated to arise for 28 apartments in block A, 33 apartments in block B and three apartments in block C, representing 33% of the overall units. The first party has provided floor plan layouts for the residential elements of the development to illustrate the apartments that would fall short of sunlight exposure targets. The first party notes that when considered without the north-facing apartments onto the canal, the development would achieve full compliance with sunlight exposure targets.
- 8.8.15. Where proposals would not fully comply with daylight provisions, the Building Height Guidelines and the New Apartment Guidelines outline that a rationale for any alternative, compensatory design solutions must be set out, in respect of which the Board should apply their discretion, having regard to local factors, including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.
- 8.8.16. The first party acknowledges that the daylight requirements would not be met for each room and apartment and in response they set out their rationale to overcome such shortfalls by setting out a range of alternative, compensatory design solutions, including where other rooms in the respective apartment would be compliant with

daylight standards, where sunlight standards for the apartment would be achieved, where dual aspect would be provided to the apartment and where direct aspect onto the open space would be provided from apartment kitchen/living/dining rooms.

- 8.8.17. I am satisfied that the solutions put forward would offer some compensation for the identified shortfalls in daylight to the relevant apartments. Further to this, the design constraints associated with this site are founded upon the setting overlooking the Royal Canal and the pattern of development in the immediate area. The subject proposals would clearly lead to comprehensive urban regeneration of this inner-suburban brownfield site and regeneration of the site needs to ensure an appropriate urban form and edge overlooking the canal to the north. The existing adjacent mill building creates a strong urban edge overlooking the canal, and it would be remiss to not continue this design approach and ensure an appropriate townscape along the canal. Substantive compliance with daylight targets would arise for the apartments, with a greater proportion of non-compliance with sunlight targets. The shortfalls with respect to sunlight exposure are clearly as a consequence of the need to ensure comprehensive redevelopment of the site, while addressing the canal to the north.
- 8.8.18. I note that the targets set in the BRE 209 Guide 2022 are not mandatory and lighting standards should be interpreted with flexibility. Furthermore, lighting is only one of a broad spectrum of interrelated requirements in the successful design of new apartments such as those proposed, with room sizes and layouts, window types and positions, and the orientation and context of a site interacting with the achievement of lighting targets. In this regard a reasonable balance needs to be achieved to ensure an appropriate standard of living accommodation and amenities for residents. I am satisfied that where shortfalls are identified to arise with respect to the level of lighting to the proposed apartments, the alternative, compensatory design solutions put forward by the first party, would be appropriate in ensuring a reasonable level of amenity for future residents of the respective apartments having regard to the noted site constraints and the achievement of wider planning objectives.

Noise

- 8.8.19. The third parties assert that the amenities of residents of the development would be impeded by noise arising from rail operations along the railway infrastructure and compound to the north of the canal. It is also asserted by third parties that the

upgrade and mitigation measures to address noise impacts have not been detailed in the proposals or included as a condition of the Planning Authority decision, and the necessary measures would require significant redesign of the façade that would not be possible under post-consent agreements. In response to this the first party provided details of typical features, such as windows with enhanced glazing and integrated openings for ventilation, to portray the likely measures to be employed in addressing noise during daytime and nighttime, which they do not consider necessitates material changes in the event of a permission. The first party refers to other existing residences in a similar context to the proposed development that are not affected unduly by this context.

8.8.20. Section 15.9.16.3 of the Development Plan addresses principles with respect to noise and residential development proposals, including reference to proposals close to noisy places, such as railway lines, potentially requiring a noise impact assessment and mitigation plan. An Environmental Noise Survey was included with the application, and this recognised the development's proximity to the operational railway and the need for residential units to address the potential impacts arising, including from maintenance works. Surveying also identified the noise levels associated with the neighbouring railway activity. A noise model was designed and the first party asserts that mitigation against noise from the railway formed part of the design process. The Planning Authority acknowledged the site context relative to the railway compound and infrastructure and stated that the windows and façade facing the railway should meet the specification outlined and recommended within the Environmental Noise Survey.

8.8.21. As mentioned above, from an urban design perspective there is a necessity for buildings to acknowledge the site context onto the canal in an appropriate manner. A strong edge onto the canal is necessary and beneficial for numerous reasons, however, this presents a constraint given that the potential primary noise source is located on the opposite side of the canal, which the development buildings would face. Notwithstanding this, the first party state that the measures to address noise would adhere to British Standards 'BS EN 12354-3: 2000: Building acoustics – Estimation of acoustic performance of buildings from the performance of elements – Part 3: Airborne sound insulation against outdoor sound' and 'BS8233 – Guidance on Sound Insulation and Noise Reduction for Buildings', in safeguarding the

amenities of residents from excessive noise levels internally within the proposed apartments. The details submitted by the first party acknowledge the site context relating to the railway and they have set out measures to address this context based on surveying and applicable standards. The specifications stated in the first party's Environmental Noise Survey for the respective façades and windows form part of the subject proposals and it would be standard practice for final windows in a context such as this to be provided as part of a compliance submission.

Residents' Support Facilities

- 8.8.22. Third parties refer to limited residents' support facilities being provided for in the development. Under the provisions of SPPR 7 of the New Apartment Guidelines, build-to-rent apartment schemes must provide residents' support facilities related to the operation of the development. Section 15.10.1 of the Development Plan sets out a general guideline of 3sq.m of residents' support facilities per person in build-to-rent schemes, albeit subject to assessment on a case-by-case basis. For standard apartment schemes featuring in excess of 100 units, internal communal facilities for use by residents are encouraged in the Development Plan with a range of example facilities outlined. Third parties assert that an operational management plan has not been submitted with respect to these facilities, however, I am satisfied that the detail of how such facilities would be operated would be a matter that can be addressed as part of a compliance condition, should permission be granted.
- 8.8.23. As part of the project, the Planning Authority note that when excluding basement facilities, it is proposed to provide 312sq.m of resident support services in the form of a residents' lounge, lobby, concierge and management office in block C, and a gym and media room in block B. The majority of the residents' support facilities would be centrally positioned in the development, at ground floor to block B and with access from the main entrance to the complex off the communal courtyard. There would also be a residents' lounge on the eleventh floor to block C with access via lifts and stairs. I am satisfied that the location of the facilities would be easily accessible for all residents of the proposed units.
- 8.8.24. The Planning Authority refer to the provision of 3.9sq.m of residents' support facilities per apartment as being compliant with the 3sq.m guideline set in the Development Plan. The build-to-rent accommodation would comprise 52 studio apartments, 22

one-bedroom apartments and four two-bedroom apartments, potentially providing bedspace for 86 to 172 persons. Depending on the occupancy levels of the build-to-rent accommodation, between 1.8sq.m and 3.6sq.m of residents' support facilities per person would be provided. I acknowledge that it is intended that all residents of the scheme would have access to these residents' support facilities, although the pro-rata requirement is not strictly necessary for the build-to-sell accommodation. In the absence of a definitive occupancy figures and given the guideline figure set out in the Development Plan, I am satisfied that a reasonable provision of residents' support facilities per build-to-rent resident has been provided for. I am satisfied that the proposed residents' support facilities would be comparable with the provision in similar size recently permitted apartments developments and would be suitable to serve residents of the development based on the relevant standards.

Childcare Provision

- 8.8.25. The third-party appellants refer to the exclusion of childcare facilities from the proposed development as not being justified. In response to this, the first party asserts that the development would not generate sufficient demand for a dedicated childcare facility on site, while noting the existing provision of childcare facilities in the area. Policy QHSN55 of the Development Plan looks to facilitate childcare facilities in certain settings and appendix 13 of the Development Plan provides guidelines for childcare facilities, stating that for new residential development proposals, a benchmark of one childcare facility for every 75 units is recommended. Deviation from this standard is provided for subject to demographic and locational justifications. The New Apartment Guidelines allow for the 132 studio and one-bedroom units proposed in the development to be omitted from the calculations.
- 8.8.26. The application Social and Community Infrastructure Audit addresses the standards within the 'Childcare Facilities - Guidelines for Planning Authorities' (2001), including the requirement for a childcare facility with space for 20 children for every development comprising 75 dwellings. Based on a demographic profile of the area and the Quarterly National Household Statistics, the first-party appellant asserts that the development would generate a requirement for 24 childcare spaces. The first-party appellant refers to an audit of childcare facilities within the Phibsborough area carried out by Dublin City Childcare Committee, which identified that there were six childcare spaces available in January 2023, although the availability of spaces was

not provided for some facilities. The proposed development would not feature a childcare facility. The first party asserts that it would not be economically viable for a childcare facility of the size required to specifically serve the development to be provided.

- 8.8.27. Based on planning provisions and the evidence set out by the first party, the Planning Authority accept that there would not be a necessity for a childcare facility to be provided as part of the proposed development. While recognising the limited recorded availability of childcare spaces in formal facilities within the area, as well as the absence of information relating to a number of facilities, I am satisfied that based on the information presented and available, there would not be sufficient demand to justify providing a childcare facility as part of the proposed development. In conclusion, the proposed development would comply with policy QHSN55 of the Development Plan, as well as the provisions of the New Apartment Guidelines and the Childcare Facilities - Guidelines for Planning Authorities.

Conclusion

- 8.8.28. Specific concerns with respect to internal storage, private amenity space areas and floor to ceiling heights have not been expressed in the appeals and I am satisfied that the proposals would generally comply with the necessary requirements as regards these standards.
- 8.8.29. In conclusion, subject to conditions, I am satisfied that the proposed development would provide a suitable mix and standard of apartments, meeting the relevant design standards and providing a suitable level of amenity for future residents.

8.9. Vehicular Access and Parking

- 8.9.1. The Road Planning Division of the Planning Authority did not object to the proposed development, recommending standard conditions with respect to management plans, works to the public realm and electric-vehicle charging. A condition was also recommended with respect to liaising with the NTA regarding BusConnects and Metrolink projects.

Vehicular Access

- 8.9.2. Third parties raise concerns with respect to access to the site, as well as servicing arrangements. As noted in section 8.3 above, based on the information available I am satisfied that the future occupants of the proposed development would be served by high-frequency and high-capacity public bus transport within easy walking distance of the site and high-capacity Luas services within reasonable walking distance of the site. Technical information to the contrary of this has not been provided by parties to the appeal.
- 8.9.3. The sole vehicular access to serve the proposed development would be from the existing vehicular access to the site from Phibsborough Road; an arterial road that accommodates high traffic volumes. The access arrangements are stated by the first party to follow the approach set out in a previous application (ABP ref. PL29N.243444 / DCC ref.2402/14). A 4.8m-wide carriageway surface would extend from the public road to the proposed entrance to the basement car park, with a verge provided along the southern boundary featuring widths of up to 1.5m. To conform with the DMURS, sightline visibility distances of 24m in length are illustrated by the first party on drawing no.20-011 P1130. The first party's DMURS Compliance Statement refers to the layout being designed for a 20km/hr speed limit restriction. At present there is a bus lane fronting the site access and on-street parking is not available. Visibility may be slightly impeded by the existing street trees and street furniture. The NTA is satisfied that the proposed left-in, left-out junction onto Phibsborough Road would align with the BusConnects project and the Planning Authority has not objected to the proposed access arrangements.
- 8.9.4. Access into the main development area of the site would be restricted to service vehicles and four accessible parking spaces via retractable bollards, which would allow for limited vehicular movements within the site. The third parties assert that the accessible parking spaces should be relocated within the development. The ramped access to the basement would only allow for single-vehicle movements simultaneously in any one direction. A Quality Audit, including stage 1 road safety audit was included by the first party in response to the Planning Authority opinion. This refers to four minor problems with respect to vehicular movements, including the need to avoid lengthy reversing manoeuvres for refuse collection trucks accessing the proposed bins stores. The first party has provided details of swept-

path analysis for four vehicle types entering and exiting the development from Phibsborough Road, including a refuse collection truck (drawing no.20-011 - P1151) and this did not indicate any substantive difficulties for such vehicles turning within the site. Substantive difficulties were not identified with respect to access and use of the accessible parking bays, which I am satisfied would appear to be in a reasonable location relative to the proposed facilities and apartments, and these spaces would only necessitate limited access and movement through the development communal space. A delivery and service access management plan included as part of the Traffic and Transportation Assessment submitted by the first party, sets out the location for a loading bay / turning area upon entering the site adjacent to the basement access. Access would be managed by a management company. I am satisfied that the vehicular access and servicing arrangements would have limited potential to impact on the landscaping proposals and would serve the proposed development in a safe and convenient manner and there would not be a necessity to omit or reposition the four accessible spaces.

- 8.9.5. The Planning Authority and TII has requested the attachment of a supplementary development contribution condition under section 49 of the Act of 2000, which would appear appropriate to apply based on the terms of the Section 49 Levy Scheme for the Luas Cross City (St. Stephen's Green to Broombridge Line).
- 8.9.6. The Traffic and Transportation Assessment included as part of the application provides details of the number of vehicular trips anticipated for the development based on the quantum and typology of units proposed. As the development would be served by limited car parking, the first party asserts that 24 to 26 car trips would be generated during peak hours. The estimated additional traffic equates to traffic flows at the junction onto Phibsborough Road increasing by approximately 2.8% and 2.7% for the respective morning and evening peak traffic hours. The additional traffic arising on the local road network would not be likely to exceed 5% of the background levels and based on the Traffic and Transport Assessment Guidelines (TII, 2014), further assessment of traffic impacts on neighbouring junctions would not be necessary.
- 8.9.7. The site is located on zoned lands with reasonable access to an array of services. The proposed development would provide for a substantive scale of development, replacing existing former commercial buildings. The proportional change in vehicular

traffic during operational peak hours would not be likely to increase substantively on the neighbouring road network as a result of the proposed development based on the nature of the existing and proposed uses and the proposed provision of car parking, as discussed below.

Parking

- 8.9.8. The neighbouring third-party appellants refer to concerns in relation to the proposed parking arrangements and the potential for the development to result in overspill car parking in the immediate area. The subject proposals feature a total of 26 car parking spaces on site, which would comprise four surface-level, accessible, parking spaces and two car-club, parallel-parking spaces on the entrance road leading into the site, as well as an accessible space and 19 standard spaces at basement level. The allocation of car parking spaces would be managed by a management company. As mentioned above, there would be a loading bay along the entrance to the basement car park. The first-party appellant states that electric-vehicle charging points would be provided for each basement space. Five motorcycle parking spaces are also proposed in the basement area.
- 8.9.9. The first-party appellant considers the provision of car parking to serve the development to be appropriate given the site context close to the city centre and with reference to the maximum Development Plan standards and the provisions of the New Apartment Guidelines seeking to minimise car parking provision in large-scale, high-density apartment developments that are in locations well served by public transport. The Planning Authority accept the approach and proposed quantum of car parking relative to Development Plan standards, although they require the first party to address the potential for informal parking in and around the development, and how this would be managed. The NTA recommend that a greater proportion of car-share parking spaces should be provided, and the Planning Authority assert that the provision of car-share spaces should increase to five in total.
- 8.9.10. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in high-density residential developments with a net density of greater than 45 units per hectare. A Mobility Management Plan and car parking management details have been provided with the application, including the various

measures to influence use of more sustainable modes of transport and control car parking for residents only as part of the development. The proposed ratio of parking per apartment amounting to 0.12 spaces would be relatively low. I acknowledge that the potential proposed temporary provision of 54 cycle parking spaces to the basement level to facilitate MetroLink works could potentially temporarily impact further on car parking spaces.

- 8.9.11. I am satisfied that car parking standards below the maximum Development Plan standards for the proposed development would be reasonable, given its location relative to public transport services and to encourage use of sustainable transport modes. Based on the information submitted with the application, I am satisfied that with the implementation of the mobility management plan and a car parking management strategy, including measures to control informal parking and the increased provision to five car-share spaces as part of the development, sufficient car parking would be provided to serve the proposed development.
- 8.9.12. The third-party appellants assert that the proposed development would feature unattractive, inaccessible and insecure cycle parking spaces. A total of 359 cycle parking spaces are proposed, including 208 spaces within a store on the southern boundary and 53 spaces at basement level, which would solely serve residents of the scheme. A further 98 spaces would be provided as short-term visitor spaces in surface-level locations throughout the development. The cycle store would include four cargo cycle spaces. A cycle workshop / equipment cleaning area is proposed at basement level. Based on the quantum of development, the Planning Authority assert that a further 17 spaces would be required to account for the non-residential uses proposed based on Development Plan standards. The NTA recommend a reduction in stacked cycle parking spaces to facilitate access for non-standard cycle spaces. The Planning Authority also require a revised design for the cycle parking stores to provide a minimum aisle width of 2.5m.
- 8.9.13. I am satisfied that the cycle parking facilities proposed would be secure and accessible, while minor alterations would be required with respect to the detail of cycle parking facilities, including racking, aisle widths and the need for 17 additional spaces. The suggested reduction of three floors to the development would negate the necessity for the additional cycle spaces. I am satisfied that the revised and additional cycle parking facilities can be addressed as a condition to a permission

without materially impacting on the overall quantum of cycle parking relative to the scale of the development.

Conclusion

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

8.10. Design and Layout

- 8.10.1. The following section addresses the general urban design and layout characteristics of the proposed development by assessing the proposals against the performance criteria set out in table 3 of appendix 3 to the Development Plan. Compliance with these criteria would be necessary based on the conclusions in sections 8.3 and 8.4 with respect to proposed densities and building heights.

Sense of Place and Character

- 8.10.2. With regard to the contribution of the development to the promotion of a sense of place and character, from the outset I note that the development would demolish and remove buildings that are of limited aesthetic architectural value and noted to contain hazardous materials (asbestos), and their removal would be a substantive planning gain for the area. The development would deliver a pocket park plaza onto the northeast corner of the site with an access gate off the canalside towpath. As concluded in section 8.3 above, I am satisfied that the site is highly accessible and connections available through more active modes of walking/cycling, and with an array of services and amenities within walking and cycling distance of the site. The site is in an appropriate serviced location to facilitate high-density development.
- 8.10.3. The third-party appellants assert that block B should be omitted from the development to create sufficient spacing between the blocks and allow filtration of light onto the canal and provision of views through the site. There would be a 7m gap between blocks A and B at surface level and a 5.8m gap between blocks B and C at first-floor level and above. Blocks A and B and the mill building would have similar breadths along the canal measuring 44m, with the proposed blocks providing for a distinct and defined urban edge to be continued along the canal. As stated

above a 22m gap would be provided between block C and the mill building. I am satisfied that the massing approach undertaken in setting out the site would aid in creating a sense of place with buildings aligned to the canal with undue overshadowing not arising, and as a consequence, Block B would not need to be omitted from the proposed development.

- 8.10.4. A strong edge is proposed onto the canal, generally following the building alignment set within the adjoining Cross Guns Quays apartment complex, albeit with a slightly reduced setback from the canalside. Third parties assert that the building line should be setback further from the canal to strictly align with the adjacent mill building. I am satisfied that a rigid building line would not need to be adhered to with other developments along the neighbouring stretch of the Royal Canal, including the Dakota Court apartment complex to the southeast, featuring a similar setback distance from the canal, while other developments such as Shandon Mills are more extensive distances setback from the canal.
- 8.10.5. The heights of the proposed buildings provide transition and an element of variety in the development, as required in SPPR 4 of the Building Heights Guidelines. These heights appear to be considerate of the immediate context, with the lowest building heights provided for closest to neighbouring residential properties to the south and the northwest. The appropriateness of these heights relative to the residential amenities of the area was considered in section 8.7 above, although this highlighted a need to restrict the height of block C to heights similar to the existing silo tower structures on site. In my opinion the appearance and layout of the development relative to neighbouring buildings has been reasonably well considered, avoiding monolithic structures and incorporating blocks with sufficient separation and continuing the established pattern of development along the canal. Notwithstanding this, concerns were highlighted in section 8.5 above with respect to the potential impact of the development on the adjacent Protected Structure and the canal conservation area.
- 8.10.6. The proposals also feature a limited provision of car parking compliant with Development Plan standards, which I consider a measure that would contribute towards encouraging a more sustainable and healthy community. With the suggested amendments to block C, I am satisfied that the subject proposals would contribute towards creating a sense of place and character in this area.

Legibility

- 8.10.7. By continuing the defined urban edge overlooking the canal, as formed by the Cross Guns Quay complex, the proposals would reinforce the primacy of the canal as a route running through this area. Third parties refer to the need to provide a new pedestrian route along the upgraded vehicular access from Phibsborough Road. This route features limited width and a safer approach would be to separate pedestrian and vehicular traffic as much as possible to avoid potential conflicts. I am satisfied that the provision of two pedestrians access points onto the canal would serve as an attractive alternative daytime pedestrian access into the development.

Continuity & Enclosure of Streets and Spaces

- 8.10.8. The canal corridor measured from the front of the proposed buildings to the wall adjoining the railway infrastructure to the northeast would measure approximately 28m in width along the entire frontage of the appeal site. Although not directly applicable, based on the street width to building height ratios stated in the Development Plan (1:1.5 – 1:3), I am satisfied that this context provides greater scope for increased building heights, while the subject proposals, with the exception of block C, would generally continue the canal and building height ratio presented by the mill building. The proposed buildings would introduce a number of non-residential uses onto the canalside, all of which would animate this frontage, while the café and community uses would activate this frontage and provide for surveillance of the main pedestrian routes into the apartment blocks.

Connected Spaces

- 8.10.9. The proposals tie directly into the existing road and pedestrian infrastructures available in the area, with convenient routes to public transport provided via the accesses onto the canal towpath.
- 8.10.10. Concerns have been raised by third parties that the construction of buildings along the canal may deter use of the canal space as an amenity and recreation area. I am satisfied that the provision of new buildings overlooking the canal, would enhance surveillance of this area, thereby encouraging greater use of the canalside paths and the canal itself. The concerns listed in this regard refer to the potential for overshadowing, a matter addressed above, and I note that there is no evidence that the presence of the existing Cross Guns Quay apartment complex, albeit of slightly

less scale than the subject proposals, has deterred use of the canal for recreational and amenity purposes.

8.10.11. The third-party appellants assert that the open spaces would provide a poor level of amenity for future residents. Section 15.8.6 of the Development Plan states that there is a requirement for 10% of Z1-zoned lands to be provided as meaningful public open space in development proposals, and this would amount to 723sq.m for the subject development. The first-party appellant states that 774sq.m of public open space would be provided within the development in a northwest corner plaza. The proposed plaza would primarily provide passive amenity benefits given its layout, positioning and orientation, and I am satisfied that its area and function would generally accord with the Development Plan provisions. This confirms that there would not be a necessity to increase the public open space provision as requested by third parties, including via widening of the canal towpath.

8.10.12. The external communal space area is required to comply with the standards in the New Apartment Guidelines, which would necessitate 1,056sq.m based on the unit mix proposed. This would be readily achieved via the provision of communal spaces at surface level (2,019sq.m) and at roof terrace levels (440sq.m) totalling a stated 2,459sq.m. Development details submitted identify an alternative site layout arrangement in the west of the site for a temporary period to accommodate a ancillary Metrolink proposals alongside the new apartment development, should the Railway Order be granted permission (ABP ref. 314724-22). A 1.1m-high railing would separate the public open space and the courtyard communal space at surface level, which would feature play, exercise, lawn and seating areas. The Planning Authority require the boundary between the communal and public space to be increased to 1.5m for security reasons and for additional play areas to be provided in the communal areas, which would appear reasonable to request in a condition should permission be granted. The external roof terrace area to proposed block C would be secondary to the surface level provision and would be situated on the 11th-floor to proposed block C alongside the residents' lounge facility and with additional terraces at sixth-floor level to blocks A and B. Notwithstanding the potential for part of the communal space to be required temporarily for a Metrolink project and other amendments, such as the revised cycle stores, impacting on this space, the extent of

communal space would be sufficient based on the provisions of the Development Plan, including section 15.9.9 allowing for roof terraces.

- 8.10.13. The application Daylight and Sunlight Analysis report illustrates that 98% of the communal and public open space would receive the minimum standard of two hours of sunlight on the Spring equinox, exceeding the 50% area requirement recommended in the BRE 209 Guide 2022.
- 8.10.14. The existing site features limited biodiversity, and the subject proposals would feature various enhancement measures to address same, as outlined in the Biodiversity Enhancement Plan submitted with the application. These measures would include bat boxes, bird boxes, swift bricks/boxes, planting of native and pollinator-friendly species and the management of vegetation and enhancement measures. Other potential impacts on flora and fauna are addressed in section 8.11 and in section 10 below.
- 8.10.15. The Planning Authority require the public open space to be gated and closed from 20:00 hours to 07:00 hours daily, in line with the standard opening hours for such amenities and in order to ensure use of the space would not impact on others. This would be a reasonable condition to attach in the event of a grant of planning permission, and it would also be necessary for this condition to state that the gates shall be open between 07:00 and 20:00 hours to ensure access for the public. Third parties also assert that the gates serving the development should be removed, however, I do not consider this warranted given the need to address security and amenity issues for future residents.
- 8.10.16. A Microclimatic Wind Analysis and Pedestrian Comfort Report was submitted with the application. The proposed landscaping measures are asserted by the first party to complement the sheltered outdoor amenity spaces at surface level, ensuring that they are comfortable for pedestrian use. It is asserted that the provision of 2m-high glazed screens enclosing the roof terraces would be a necessary mitigation measure to ensure these spaces are suitable for sitting. Information contrary to that submitted has not been submitted and I am satisfied that based on proposals of a similar scale and context, the potential negative microclimatic effects would be avoided, including through mitigation.

8.10.17. The first party has submitted a Universal Design Statement noting the gradients across the connected open spaces at surface level and convenient access to the roof terrace levels via circulation cores in the respective blocks. A surplus of well-lit, overlooked and accessible open spaces at surface level are provided, with additional roof-level terraces, in compliance with the Development Plan requirements.

Private Spaces

8.10.18. Section 15.9.7 of the Development Plan addresses the provision of private amenity space in new developments, referring to the New Apartment Guidelines for such standards. The New Apartment Guidelines require a minimum individual private open space provision of 5sq.m for one-bedroom apartments and 7sq.m for four-person, two-bedroom apartments, and all balconies should be at least 1.5m in depth. The application Housing Quality Assessment, as well as the associated drawings, indicate that the above private amenity space provisions are achieved for each of the apartments.

8.10.19. The private amenity spaces would benefit from direct or indirect outlook onto the canal or the communal courtyard spaces, and the positioning of the balconies and terraces would generally not facilitate the potential for undue loss of privacy between units and from external areas. The Planning Authority refers to the proposed provision of screening that would address the potential for undue overlooking between winter gardens serving as private amenity spaces. There would also be a need for defensible space to be provided fronting ground-floor terrace spaces and windows onto communal areas, and, as per the Planning Authority decision, this could be addressed by a condition in the event of a grant of planning permission. I accept that the open terraces adjoining the canalside boundary wall are additional to the winter gardens serving the ground-floor apartments to the northeast side of proposed block A, and these terraces would maintain a sufficient level of privacy and security for future residents of these apartments.

8.10.20. In various situations between the proposed blocks, a standard 22m separation distances would not be achieved, however, drawing no.1723B-OMP-ZZ-01-DR-A-7001 indicates mitigation measures to address the potential for excessive direct overlooking, including window positions and translucent glazing.

8.10.21. The application Microclimatic Wind Analysis and Pedestrian Comfort noted that balconies across the proposed development were determined to be predominantly suitable for dining and sitting and, therefore, suited to their intended use as private amenity spaces.

8.10.22. I am satisfied that the information presented with respect to the private amenity space for each of the apartments, indicates that these spaces would meet or exceed the minimum requirements set out in the New Apartment Guidelines and the Development Plan. Furthermore, I am satisfied that excessive loss of privacy would not arise for future residents, with scope for mitigation to address any issues arising.

Mix of use and diversity of activities

8.10.23. By redeveloping the site for a mix of uses, including uses that would be open to the public and the local community, the proposals would make a positive contribution to place-making in the area. There would be substantive scope for interaction between the proposed cultural / artistic, café, community and residential uses on site, as well as the recreational amenity space along the canal, which would contribute towards creation of a sustainable neighbourhood. The mix of uses conforms to Development Plan provisions, would not conflict with neighbouring uses and given the mix of family-size housing and apartment complexes, as well as the increased demand for apartments in Dublin, further provision of apartments would add to the mix of housing in this area. As noted above, there would not be a proliferation of built-to-rent units permitted in this area and the subject proposals would add variety to the existing housing typologies.

High-quality Sustainable Buildings

8.10.24. The quality of the proposed accommodation and the impacts of the proposed development on neighbouring properties was undertaken in sections 8.7 and 8.8 above. This does not highlight any specific concerns that cannot be reasonably addressed via conditions with respect to the quality of the accommodation or the impacts on neighbouring properties. The application refers to 32 build-to-sell apartments that are designed for universal access, supporting use by varying groups and with adaptability overtime. Roof level to the buildings proposed are dominated by screened communal areas, green roofs and photovoltaic panels, with very limited

plant at this level and a condition can be attached to restrict further plant and other equipment at roof level.

- 8.10.25. A high-quality palette of durable materials for the buildings and landscaping is proposed, including an off-white / light-grey-coloured brick, zinc cladding and framed winter garden / balcony features with extensive glazing. A darker multi-toned / buff brick is proposed for the southeast corner of block C. The variation in materials and the grid pattern for the balcony / winter garden features would break-up the appearance of the buildings and provide articulation for the blocks. Further discussion regarding the visual impacts of the development is undertaken in the proceeding section of my report.
- 8.10.26. In relation to ensuring the proposals feature high-quality and environmentally-sustainable buildings, I note the information submitted with the application addressing energy efficiency and sustainability, as well as services and other supporting infrastructures, which indicate that the proposals would be satisfactory subject to standard conditions.
- 8.10.27. The third parties refer to an absence of surface water management plan with the application. A surface water management strategy for the site has been set out in the application Engineering Assessment Report with the new network to be installed to limit the stormwater discharge to greenfield runoff rates. The attenuation volume has been sized to cater for 1 in 100-year storm events and a 20% freeboard for climate change effects. Green roofs and permeable paving would be incorporated into the proposals as part of the interception storage measures forming part of the surface water drainage proposals. The SUDS measures have been designed to ensure runoff is designed in accordance with the standards outlined in the Greater Dublin Strategic Drainage Study – Regional Drainage Policies Technical Document - Volume 2 New Development and other documents. A Stormwater Audit can be requested via condition to ensure the satisfactory undertaking and operation of the installed system.
- 8.10.28. As part of the application a Flood Risk Assessment was submitted and this identifies the nearest potential sources of flooding to the subject site based on the available data, including reference to historical flood events and Office of Public Works maps. Following the approach set out within 'The Planning System and Flood Risk

Management – Guidelines for Planning Authorities’ the first-party considers the site to be within flood zone C and the proposed development features ‘less vulnerable’ and ‘highly vulnerable’ land uses, therefore a justification test is not necessary for the proposed development. Potential flood risk from tidal or fluvial sources is not anticipated to arise. In relation to flood risk the basement impact assessment is noted, including measures to prevent ground and surface water ingress to the basement. Potential pluvial flood risk is considered, including the potential for drainage systems to surcharge. Potential for groundwater flooding of the basement level would be addressed as part of an appropriate dewatering scheme at construction phase and sealing the ingress points during the construction phase to prevent leaks. Overland flood routes would address the potential for human / mechanical error in the surface water management system. The proposed development would feature uses compliant with the site zoning in the Development Plan and the Flood Risk Assessment demonstrates that the development would not increase the risk of flooding to other lands and would reduce the overall flood risk by providing attenuation on site and creating overland flow routes. The potential residual flood risk would be extremely low or low.

High Accessibility

8.10.29. As concluded in section 8.3 above, I am satisfied that the site is highly accessible and as addressed in section 8.9, the upgraded vehicular access and suitable pedestrian and cycle access have been provided for, as well as servicing arrangements.

Historic Environments

8.10.30. The impact of the proposals on the historical environment, including relevant features associated with same, was undertaken in section 8.5 above, as well as a visual impact assessment of the proposals in section 8.6. While these sections concluded that the location is suitable for an element of the proposed building heights and densities, some concerns are raised with respect to the capacity of the existing historical environment to absorb the proposed height of block C, with recommendations for reduction of the height of this block.

Management & Maintenance

8.10.31. Third parties refer to an absence of an operational management plan for the development. As required within the New Apartment Guidelines, a Building Life Cycle Report assessing the long-term running and maintenance costs and demonstrating the measures that have been considered by the first party to manage and reduce costs for the benefit of residents of the proposed apartments, has been included with the planning application. Prior to the lease of individual apartments, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific Owners' Management Company. Various energy efficiency measures are listed, as are proposals with respect to the management and maintenance of the development. To identify measures reducing energy usage and carbon emissions, a Climate Action Energy Statement has also been submitted with the application considerate of the EU Energy Performance of Buildings Directive, the Building Regulations Technical Guidance Document Part L (nearly-zero energy buildings) and Development Plan policies relating to sustainable mechanical and electrical design. I am satisfied that the proposals demonstrate sufficient regard for management and maintenance costs, relative energy cost and the expected embodied carbon emissions over the lifetime of the development. Further operational and management details can be requested as conditions in the event of a grant of planning permission.

Conclusion

8.10.32. In conclusion, when considered against the performance criteria in the Development Plan and with scope for amendments to the development, I am satisfied that the design and layout of the proposed development would be acceptable and the development would not materially contravene the building height and density provisions of the Development Plan. With amendments the proposed development would make a positive contribution to the area and would respond well to the built environment in visual terms with sufficient capacity to absorb buildings at the height proposed.

8.11. Natural Environment

Local Ecology

- 8.11.1. This site lies within an urban area and current land uses in the vicinity are detailed in section 2 above. The third parties refer to the need to address the impact of the development on flora and fauna, including along the canal. An Ecological Impact Assessment report dated February 2023 was submitted with this application referring to various surveys undertaken and the habitats and species identified, as well as referring to designated sites for nature conservation in the vicinity, including the Royal Canal proposed Natural Heritage Area (pNHA) adjoining the appeal site. The ecological value of the canal lies in the diversity of species along its linear habitats, many of which are further protected under European and National Legislation.
- 8.11.2. The habitats recorded on site, as listed in the application Ecological Impact Assessment, are stated to comprise buildings and artificial surfaces (BL3) and ornamental scrub (WS3). During the habitat surveys no Annex I habitats were recorded within the subject site and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded habituating the site. Flocks of swifts were observed at the site, although no evidence of breeding or roosting swifts was recorded. Swift boxes are to be provided in the development. Opposite-leaved pondweed, a protected plant, has been identified in nine neighbouring locations along the Royal Canal east of Cross Guns Bridge. Several bird species, including Light-bellied Brent Geese (groups of 75 to 592), Curlew (groups of 17 to 70) and Black-headed Gull (groups of 12 to 39), were recorded feeding or resting on the neighbouring Na Fianna / St. Vincent's school playing pitches on the opposite side of the canal and railway corridors. Mallard and Tufted Duck were recorded in low numbers on the canal. The first party response to the third-party appeals notes that during the winter bird surveys only one flight of a Light-bellied Brent Goose occurred over the appeal site. Buddleia (butterfly bush), a medium-impact invasive species was recorded within the appeal site during surveys for the submitted Ecological Impact Assessment.
- 8.11.3. The site is of negligible to low ecological value based on the information presented. To address potential impacts of the project on local ecology, the first party refers to the biodiversity enhancement measures, including swift boxes and standard

necessary measures to control surface water runoff. The shadow studies reveal some additional overshadowing by the proposed buildings onto the canal, in a manner comparable to the shadow effect by the existing mill building. Consideration with respect to flight-collision risk / obstruction is undertaken below in section 10 of this report. Based on the information submitted and available, I am satisfied that there would be not significant residual impacts from the project on local ecology. Specific impacts on bats and otters are examined under separate subheadings below.

Bats

- 8.11.4. Third parties assert that impacts on bats need to be considered cognisant of the location of the site along the canal. Preliminary bat roost surveys were carried out in March 2022, with follow-up transect surveys in August and September 2022. A total of 17 potential roosts features were identified and subject of emergence / re-entry surveys. Three static surveys were undertaken during periods between July and early October 2022. An additional survey was undertaken along a 1km stretch of the Royal Canal, to identify any Daubenton bat species. During the emergence / re-entry surveys a total of 288 bat passes were recorded, including Common Pipistrelle, Soprano Pipistrelle and Leisler's bat species. Bats were not recorded emerging from the buildings on site. During the transect surveys 104 passes by Common Pipistrelle and Soprano Pipistrelle bats were recorded with no evidence of roosting in the buildings on site. Bats were noted to be commuting across the site, most likely as part of using the canal as a foraging route. In addition to the bat species listed above, the static detector survey also recorded Daubenton bat species, although this was not recorded in the follow-up Daubenton bat survey.
- 8.11.5. As part of their Ecological Impact Assessment the first party considered foraging bats as a key ecological receptor that would be impacted by the construction phase impacts and disturbed during the operational phase of the project. The development would not result in the loss of roosting habitat based on survey findings, although the buildings could potentially be used for roosting prior to the proposed demolition works. The CEMP outlines specific requirements for further bat roost surveys to be carried out by qualified persons in each phase of the proposed development, including prior to demolition works. Other potential measures to address impacts on

bats included sensitive lighting, in particular along the canal, native planting as part of landscaping and the provision of bat boxes.

- 8.11.6. Having regard to the foregoing, including measures to mitigate the potential impacts on bats and the ecological value of habitat on site for bats, with recordings primarily indicating commuting and foraging of bats through the site and along the canal in an existing built-up urban area, I am satisfied that it is not likely that the proposed development would have significant effects on bat species.

Otters

- 8.11.7. Third parties also raise concerns with respect to the potential impacts of the development on otters, including the canal habitat adjoining the site. The first party undertook an otter survey for a 1km stretch upstream and downstream of the appeal site in July 2022, noting that otter is designated as a qualifying feature of the Royal Canal pNHA. The area was surveyed for signs of otter including spraint, feeding signs, prints, resting sites and slides. In addition, a camera trap was deployed on the south bank of the Royal Canal for three nights between in October 2022.
- 8.11.8. Evidence of otters was not recorded during the survey along the banks of the Royal Canal or during camera trap surveys. In response to the third-party appeal the first party also provided details of further otter field surveys undertaken in July and September 2023. These follow-up surveys identified a possible otter holt located close to Broombridge Luas stop approximately 1.8km from the appeal site and evidence of otter spraint along the canal at Croke Park and at the seventh lock over 1km from the appeal site. Recordings of otters using the stretch of canal between Croke Park and Coke Oven Cottages, including between the fifth and sixth locks, were not noted. The first party asserts that the potential impacts of the development for otters could only arise via disturbance to infrequently migrating otter and that impacts on the distribution of otters would be unlikely as no holts sufficiently close to the appeal site were identified. Notwithstanding this, the first party proposed the avoidance of direct lighting onto the canal, to allow for otters to move along the canal. To address impacts on otters arising from people congregating in the public open space, the Planning Authority suggest closing the proposed gates to this space during nighttime hours. The towpath is already accessible by the general public, and I am satisfied that closing gates would not have any material benefit to address

potential impacts on otters. For security and amenity reasons the gates to the public open space are intended to be closed during nighttime hours.

- 8.11.9. I am satisfied that based on the information provided and available, the proposed development in an existing built-up urban area, would not be likely to significantly impact on otters potentially using the canal, as the evidence suggests very limited use of the immediate stretch of the canal by otters and potential for only infrequent otter movements. In conclusion, the proposed development would not have significant effects on otters.

9.0 Environmental Impact Assessment Screening

- 9.1.1. The application addresses the issue of EIA within an EIA Screening Report that contains information to be provided in line with Schedule 7A of the Planning and Development Regulations 2001, as revised (hereinafter 'the Planning Regulations'). I have had regard to same in this screening assessment. Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination, therefore, it cannot screen out the need for EIA at preliminary examination.
- 9.1.2. Third parties assert that the EIAR and application documentation has failed to sufficiently address the project description, the cumulative impacts, the impact on the Royal Canal pNHA, the demolition and piling works, soil stabilisation or remediation requirements, noise impacts, heritage impacts and impacts on otters, and that the EIA Screening Report includes inadequate information and it is not compliant with legislative requirements.
- 9.1.3. This proposed development is of a class of development included in Schedule 5 to the Planning Regulations. Schedule 5 to Part 2 of the Planning Regulations provides that mandatory EIA is required for various classes of development, including the following:
- Class 10(b)(i) construction of more than 500 dwelling units,
 - Class 10(b)(iv) urban development, which would involve an area greater than 2 ha in the case of a business district*, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

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

- 9.1.4. Class 14 of Part 2 to Schedule 5 of the Planning Regulations provides that mandatory EIA is required for:
- works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.
- 9.1.5. The development is described in section 3 above and would provide for the demolition of various buildings and structures amounting to a gross floor area of 3,372sq.m, the construction of 196 apartments, six artists' studios and associated workshops and staff facilities, a café unit, community space and residents' support services, all within three blocks of between seven and 12 storeys in height, on a gross site area measuring 0.73ha. Taking into consideration the scale and nature of development proposed and the site area, having regard to classes 10(b)(i) and 10(b)(iv) of Schedule 5 to Part 2 of the Planning Regulations, the nature and the size of the proposed development is below the applicable class 10(b) mandatory thresholds requiring submission of an EIAR and the undertaking of an EIA. Further consideration with respect to 'class 14' demolition works is undertaken below.
- 9.1.6. The criteria within Schedule 7 to the Planning Regulations are relevant in considering whether this proposed development would be likely to have significant effects on the environment that could and should be the subject of EIA. The residential and non-residential uses proposed would be similar to the surrounding land uses in the area, including the apartment complex to the east. The site had previously provided for a bakery, and the artists' studios, café and community uses would be increasingly typical complementary uses accompanying a residential development of the nature and scale proposed. As highlighted above, the proposed development would not increase the risk of flooding with measures incorporated into the development to address potential flood risks. Furthermore, it would not give rise to significant use of natural resources, the production of waste, pollution, nuisance or a risk of accidents. Site investigation results are included as part of the application, with significant constraints in developing the site at the scale proposed not identified arising from these results. An Outline Construction, Demolition and Environmental

Waste Management Plan highlighted the expected materials and means of safely removing them from the site, including asbestos. An Engineering Assessment Report has also been submitted with the application setting out that the development would be served by municipal foul wastewater drainage and water supplies, which Uisce Éireann agree to.

9.1.7. The site does not support habitats or species of conservation significance, as highlighted in the Ecological Impact Assessment submitted with the application and significant effects on the Royal Canal pNHA or species such as otters and bats have not been identified. Connectivity of the site with protected areas and their associated qualifying interest species is considered further below in section 10 of this report. Within the submitted Archaeological Assessment no features of archaeological potential were identified during the site visit and the nearest known neighbouring archaeological site is located a substantive distance of approximately 700m from the site, and this relates to a holy well (RMP ref. DU018-010). The Architectural Heritage Impact Assessment identifies other features of cultural heritage in the vicinity, including neighbouring Protected Structures, a Z2 residential conservation area and the Royal Canal conservation area. The character or setting of neighbouring cultural heritage sites would not be significantly impacted upon in a negative manner by the proposed development with measures suggested to reduce the impact of the development on the adjacent mill building (RPS ref. 6732). The development would activate an existing redundant stretch of the towpath along the canal, providing improved surveillance along this corridor.

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

- EIA Screening Report;

- NIS;
- Ecological Impact Assessment;
- Biodiversity Enhancement Plan;
- Planning Report;
- Architectural Heritage Impact Assessment;
- Townscape and Visual Impact Assessment;
- Design Statement;
- Engineering Assessment Report;
- CEMP;
- Basement Impact Assessment;
- Outline Construction, Demolition and Environmental Waste Management Plan;
- Flood Risk Assessment;
- Archaeological Assessment;
- Traffic and Transportation Assessment.

9.1.9. In addition, noting the requirements of Article 103(1A)(a) of the Planning Regulations, the first party has provided information as part of the various reports submitted indicating how the available results of other relevant assessments have been taken into account on the effects of the project on the environment carried out pursuant to European Union legislation other than the EIA Directive. In this regard I note the following EU Directives are addressed by the first party in their application documentation:

- Directive 92/43/EEC – Habitats Directive;
- Directive 2009/147/EC - Birds Directive;
- Directive 2010/31/EU – Energy Performance of Buildings;
- Directive 2000/60/EC - Water Framework Directive;
- Directive 2008/50/EC – CAFÉ Directive;

- Directive 98/15/EC - Urban Wastewater Treatment Directive;
- Directive 2008/98/EC - Waste Framework Directive;
- Directive 2008/50/EC - Ambient Air Quality / Clean Air for Europe Directive;
- Directive 2010/75/EU - Industrial Emissions Directive;
- Directive 2002/49/EC - Environment Noise Directive;
- Directive 2000/14/EC – Outdoor Noise Directive;
- Directive 2018/850/EU - Landfill of Waste;
- Directive 2019/904/EU - Single-Use Plastics Directive;
- Directive 2016/2284/EU - National Emissions Reductions Commitments.

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

9.1.11. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix A to this report. I am satisfied that the location of the project and the environmental sensitivity of the geographical area would not justify a conclusion that the proposed development would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects that would be rendered significant by their extent, magnitude, complexity, probability, duration, frequency or reversibility, and this opinion extends to my conclusion that the proposed development is subthreshold in terms of the mandatory submission of an EIA based

on class 14 of Part 2 to Schedule 5 of the Planning Regulations. In these circumstances, the application of the criteria in Schedule 7 of the Planning Regulations to the proposed subthreshold development demonstrates that it would not be likely to have significant effects on the environment and that an EIA is not required should a decision to grant planning permission for the project be arrived at. This conclusion is consistent with the EIA screening information submitted with the subject application and the opinion of the Planning Authority. Any of the suggested conditions, including those reducing the scale of the proposed development, would not have a material impact on the conclusions of this screening. A Screening Determination can be issued confirming that there is no requirement for an EIA Report to be prepared for the project based on the above considerations.

10.0 Appropriate Assessment

10.1. Stage 1 AA Screening

- 10.1.1. 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) of the Habitats Directive, relating to screening the need for AA of a project. European sites comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs).
- 10.1.2. An AA screening statement is included as part of the application NIS dating from March 2023 and prepared by RSK Ireland. This statement provides a description of the proposed development and identifies European sites within the possible zone of influence of the development.

Site Location

- 10.1.3. A description of the site is provided in section 2 and throughout the assessments above. As stated, the buildings on site were most recently used as a bakery premises with associated yard area for parking and servicing and the Royal Canal is situated adjacent to the site. The River Tolka is located approximately 930m to the northeast of the subject site and this is the closest substantial natural waterbody to the appeal site, flowing southeast towards Dublin Bay. According to the EPA, the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' based on categorisation for the purposes of the Water Framework Directive.

The first-party appellant's Flood Risk Assessment indicates that the subject site is not within fluvial or coastal flood risk zones associated with natural waterbodies. Habitats and species recorded on site and in the vicinity are detailed in section 8.11 above.

Proposed Development

- 10.1.4. A detailed description of the proposed development is provided in section 3 above and expanded upon below where necessary. Details of the construction phase of the development are provided throughout the subject application documentation, including the CEMP, the Basement Impact Assessment, the Outline Construction, Demolition and Environmental Waste Management Plan and the Planning Stage Structural Report. Foul wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Ringsend Wastewater Treatment Plant (WWTP). Following various standard practice construction site environmental management measures, as well as SUDS measures, surface waters would be discharged into the network running along Phibsborough Road. Ultimately the resultant treated wastewaters and surface waters from the proposed development would discharge to Dublin Bay.
- 10.1.5. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:
- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
 - Operation Phase – disturbance, surface water runoff and emissions to water.

Submissions and Observations

- 10.1.6. The submissions and observations from the appellants, observers, the Planning Authority and prescribed bodies are summarised in sections 5 and 7 of this Report. Third parties assert that the information submitted by the first party contains lacunae and is not based on appropriate scientific expertise, the AA Screening Report does not have sufficient or adequate information for a complete AA screening to be carried out, the zone of influence for the proposed development arrived at lacks clarity, the

AA should have considered the entire project and insufficient surveys have been carried out to assess bird collision / flight risk impacts and the impacts on otters.

10.1.7. In response to the third parties, the first party asserted that they had provided a sufficient level of objective information to allow an informed decision on this matter and that the zone of influence for the screening exercise was determined using the source-pathway-receptor model. The first party response also refers to the AA as having considered the entire project and revisits the results of bird collision / flight risk surveys.

10.1.8. Notwithstanding the submission of an NIS, having regard to the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites, and the hydrological pathway considerations, the Planning Authority concluded that on the basis of the information submitted, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

European Sites

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

Table 6. European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA <ul style="list-style-type: none"> • Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] • Oystercatcher <i>Haematopus ostralegus</i> [A130] • Ringed plover <i>Charadrius hiaticula</i> [A137] • Grey plover <i>Pluvialis squatarola</i> [A141] • Knot <i>Calidris canutus</i> [A143] • Sanderling <i>Calidris alba</i> [A149] • Dunlin <i>Calidris alpina</i> [A149] • Bar-tailed godwit <i>Limosa lapponica</i> [A157] • Redshank <i>Tringa totanus</i> [A162] 	3.0km	east

	<ul style="list-style-type: none"> • Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] • Roseate tern [A193] • Arctic tern [A194] • Wetland and waterbirds [A999] 		
000210	<p>South Dublin Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Embryonic shifting dunes [2110] 	5.2km	southeast
000206	<p>North Dublin Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows [1330] • Mediterranean salt meadows [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • Petalwort <i>Petalophyllum ralfsii</i> [1395] 	6.1km	east
004006	<p>North Bull Island SPA</p> <ul style="list-style-type: none"> • Light-bellied brent goose [A046] • Shelduck <i>Tadorna</i> [A048] • Teal <i>Anas crecca</i> [A054] • Pintail <i>Anas acuta</i> [A054] • Shoveler <i>Anas clypeata</i> [A056] • Oystercatcher [A130] • Golden plover <i>Pluvialis apricaria</i> [A140] • Grey plover [A141] • Knot [A143] • Sanderling [A144] 	6.1km	east

	<ul style="list-style-type: none"> • Dunlin [A149] • Black-tailed godwit <i>Limosa</i> [A156] • Bar-tailed godwit [A157] • Curlew <i>Numenius arquata</i> [A160] • Redshank [A162] • Turnstone <i>Arenaria totanus</i> [A169] • Black-headed gull [A179] • Wetland and waterbirds [A999] 		
000199	<p>Baldoye Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] 	9.9km	northeast
004016	<p>Baldoye Bay SPA</p> <ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Wetland and Waterbirds [A999] 	10.4km	northeast
004113	<p>Howth Head Coast SAC</p> <ul style="list-style-type: none"> • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • European dry heaths [4030] 	11.8km	northeast
000205	<p>Malahide Estuary SAC</p> <ul style="list-style-type: none"> • 1140 Mudflats and sandflats not covered by seawater at low tide • 1310 Salicornia and other annuals colonising mud and sand • 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) • 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) 	11.8km	northeast

	<ul style="list-style-type: none"> • 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) • 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)* 		
004025	<p>Malahide Estuary SPA</p> <ul style="list-style-type: none"> • A130 Oystercatcher (<i>Haematopus ostralegus</i>) • A005 Great Crested Grebe (<i>Podiceps cristatus</i>) • A162 Redshank (<i>Tringa totanus</i>) • A067 Goldeneye (<i>Bucephala clangula</i>) • A141 Grey Plover (<i>Pluvialis squatarola</i>) • A149 Dunlin (<i>Calidris alpina</i>) • A046 Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) • A054 Pintail (<i>Anas acuta</i>) • A048 Shelduck (<i>Tadorna tadorna</i>) • A069 Red-breasted Merganser (<i>Mergus serrator</i>) • A143 Knot (<i>Calidris canutus</i>) • A156 Black-tailed Godwit (<i>Limosa limosa</i>) • A140 Golden Plover (<i>Pluvialis apricaria</i>) • A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) <p>Habitats</p> <ul style="list-style-type: none"> • Wetlands 	11.8km	northeast
003000	<p>Rockabill to Dalkey Islands SAC</p> <ul style="list-style-type: none"> • Harbour porpoise [1351] • Reefs [1170] 	12.3km	east
001209	<p>Glenasmole Valley SAC</p> <ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Petrifying springs with tufa formation (Cratoneurion) [7220] 	13.3km	south
002122	<p>Wicklow Mountains SAC</p>	14.0km	south

	<ul style="list-style-type: none"> • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Natural dystrophic lakes and ponds [3160] • Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] • European dry heaths [4030] • Alpine and Boreal heaths [4060] • Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] • Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] • Blanket bogs (* if active bog) [7130] • Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] • Calcareous rocky slopes with chasmophytic vegetation [8210] • Siliceous rocky slopes with chasmophytic vegetation [8220] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • <i>Lutra lutra</i> (Otter) [1355] 		
004040	<p>Wicklow Mountains SPA</p> <ul style="list-style-type: none"> • Merlin (<i>Falco columbarius</i>) [A098] • Peregrine (<i>Falco peregrinus</i>) [A103] 	14.1km	south
004117	<p>Ireland's Eye SPA</p> <ul style="list-style-type: none"> • A017 Cormorant (<i>Phalacrocorax carbo</i>) • A184 Herring Gull (<i>Larus argentatus</i>) • A188 Kittiwake (<i>Rissa tridactyla</i>) • A199 Guillemot (<i>Uria aalge</i>) • A200 Razorbill (<i>Alca torda</i>) 	14.2km	east
002191	<p>Rye Water Valley / Carton SAC</p> <ul style="list-style-type: none"> • 7220 Petrifying springs with tufa formation (<i>Cratoneurion</i>) • 1014 Narrow-mouthed Whorl Snail (<i>Vertigo angustior</i>) • 1016 Desmoulin's Whorl Snail (<i>Vertigo moulinsiana</i>) 	14.3km	west
002193	<p>Ireland's Eye SAC</p> <ul style="list-style-type: none"> • 1220 Perennial vegetation of stony banks 	14.4km	east

	<ul style="list-style-type: none"> • 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 		
004113	Howth Head Coast SPA <ul style="list-style-type: none"> • A188 Kittiwake (<i>Rissa tridactyla</i>) 	14.5km	northeast
004172	Dalkey Islands SPA <ul style="list-style-type: none"> • A192 Roseate Tern (<i>Sterna dougallii</i>) • A194 Arctic Tern (<i>Sterna paradisaea</i>) • A193 Common Tern (<i>Sterna hirundo</i>) 	15.2km	southeast

10.1.10. In determining the zone of influence for the proposed development I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist between the development site and a European Site. Table 1 of the NIS submitted identifies the potential links from European sites to the appeal site. Otters are a qualifying interest species for the Wicklow Mountains SAC, which is a substantive distance from the appeal site across open countryside and urban areas. I do not consider that any other European Sites other than those identified in table 7 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the results of the submitted ecological surveys, the distance from the appeal site to European sites, and the lack of an obvious pathway between the appeal site and European sites.

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

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf	Weak hydrological connections exist through surface water ultimately discharging to Dublin Bay and wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.	Yes
North Bull Island SPA 004006	QIs – 18 bird species To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a	Potential collision risk/obstruction by proposed	

	<p>resource for the regularly occurring migratory waterbirds that utilise it</p> <p>To maintain the favourable conservation condition of the qualifying species</p>	<p>buildings of flight paths involving certain waterfowl species, associated with SPA sites, for example, Light-bellied Brent Geese, Black-headed Gull and Curlew.</p>	
<p>North Dublin Bay SAC</p> <p>000206</p>	<p>QIs – ten coastal habitats and species</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf</p>	<p>Weak hydrological connections exist through surface water ultimately discharging to Dublin Bay and wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.</p>	<p>Yes</p>
<p>South Dublin Bay SAC</p> <p>000210</p>	<p>QIs - Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf</p>		
<p>Baldoyle Bay SPA</p> <p>004016</p>	<p>QIs – 7 bird species</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004016.pdf</p>	<p>Potential collision risk/obstruction by proposed buildings of flight paths involving certain waterfowl species for example, Light-bellied Brent Geese.</p>	<p>Yes</p>
<p>Malahide Estuary SPA</p> <p>004025</p>	<p>QIs – 14 bird species and wetland habitats</p> <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004025.pdf</p>		

10.2. Potential Effects

10.2.1. Habitat loss and fragmentation would not arise given the location and nature of the site. Taking account of the characteristics of the proposed development in terms of

its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

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

Construction Phase

10.2.2. In their AA screening statement the first party states that while significant effects are unlikely, given the proximity of the development site to the Royal Canal further assessment is required. The appeal site is separated from the canal by a towpath and the proposed surface water drainage proposals do not facilitate surface water runoff to the canal waterbody. While the first party is accurate in stating that water from the Royal Canal enters the estuarial element of the River Liffey at Spencer Docks, for the following reasons I do not consider the appeal site to feature a direct functional hydrological link with any European sites. The appeal site is a minimum distance of 6.7km via the Royal Canal and estuarial Liffey channels to designated European sites in Dublin Bay, which the Royal Canal does not directly discharge into. The nature and scale of the development and the distance and volume of water separating the appeal site from European sites in the Dublin Bay area (dilution factor) could not reasonably be considered to have likely significant effects on the water quality (or quantity) entering Dublin Bay, particularly when considering that the Royal Canal is a managed, artificial, purpose-built waterway that does now flow in a manner akin to a natural watercourse. I am satisfied that the surface water management measures and basement construction measures have not been designed or intended specifically to mitigate any potential effect on a European site or species associated with such sites and it is unlikely that the development would

lead to any impacts to water quality in Dublin Bay that would have significant likely effects on the conservation objectives of European sites in Dublin Bay.

10.2.3. Survey details provided with the first-party appellant's Ecological Impact Assessment do not highlight qualifying interest species or other species associated with the conservation objectives of European sites habituating the site. The development would not increase disturbance effects to birds in Dublin Bay and surrounding coastal areas, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area. As the survey details identified use of neighbouring playing pitches by wintering waterbirds potentially associated with European sites along the closest neighbouring coastal areas, the first party asserted that significant effects need to be considered further. While, I accept that the wintering birds using the neighbouring playing pitches could potentially be associated with neighbouring coastal European sites given their respective core-foraging ranges, the construction of the subject development would not increase disturbance effects to these birds, including during construction (and operational) phases, as the playing pitches are already enveloped by a built-up urban area and separated from the appeal site by active railway and canal corridor lands, and birds using this area are clearly already habituated to this active urban context.

10.2.4. Butterfly bush (*Buddleia*) has been recorded on site and standard management measures typically necessary for its removal and disposal would be put in place as part of the project CEMP to prevent further growth or spread of the species. Such management measures would be necessary for development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. I am satisfied that the management of this medium-impact invasive species would not be designed or intended specifically to mitigate any potential effect on a European site.

Operational Phase

10.2.5. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through fuel interceptors and various other SUDS. In the event that the pollution control and

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

- 10.2.6. Wastewater would ultimately be treated at Ringsend WWTP and the proposed development would result in a loading equivalent to approximately 529 persons based on details provided in the Engineering Assessment Report submitted with the application. Having regard to the scale of the development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Uisce Éireann consent, which would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached.
- 10.2.7. Given the results of ecological surveys and the tall building elements proposed as part of the development, the first-party appellant considers the potential collision risk/obstruction of flight paths involving Light-bellied Brent Geese associated with South Dublin Bay and River Tolka Estuary SPA, North Bull Island SPA and Baldoyle Bay SPA. I also recognise the identified use of neighbouring playing pitches by Black-headed Gull and Curlew and the fact that Light-bellied Brent Geese are qualifying interest species for Malahide Estuary SPA. As the proposed buildings would not wholly comprise of reflective materials and given the flight paths recorded, including record of a single flight by one Light-bellied Brent Goose over the appeal site and the agility of birds to avoid buildings, the development is not considered to pose a significant risk of collision for birds, including Light-bellied Brent Geese, Black-headed Gull and Curlew. Bird species would adapt to the changing nature of the site and the risk of bird collision with proposed buildings between 90m and 300m from the subject playing fields is negligible.
- 10.2.8. On the basis of the foregoing, I conclude that the operation of the proposed development would not impact the overall water quality status of Dublin Bay, would not impact bird populations in Baldoyle Bay, Malahide Estuary or Dublin Bay and that there is no possibility of the operational of the proposed development undermining

the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay, Malahide Estuary or Baldoyle Bay via surface water runoff, emissions to water, disturbance to birds, spread of invasive species and collision risk / obstruction to birds.

In-combination Impacts

- 10.2.9. This project is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased wastewater volumes to the Ringsend WWTP. The Railway Order for the MetroLink project (ABP ref. 314724-22) is the subject of a separate application to the Board, including screening for AA and could potentially use part of the appeal site for a temporary period, as part of the ancillary works. The first party also refers to the Royal Canal Greenway Phase 4 project subject of separate AA screening.
- 10.2.10. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan 2022-2028. The Development Plan has been subject to AA by the Planning Authority, who concluded that its implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Phased upgrade works to the Ringsend WWTP extension have commenced and the facility is currently operating under the EPA licencing regime that is subject to separate AA Screening.
- 10.2.11. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects that can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

AA Screening Conclusion

- 10.2.12. The distance between the proposed development site and any European sites, and the very weak ecological pathways are such that the proposal would not result in any

likely changes to the European sites that comprise part of the Natura 2000 network. Any of the suggested conditions, including those reducing the scale of the proposed development, would not have a material impact on the conclusions of this screening.

- 10.2.13. The proposed development was considered in light of the requirements of section 177U of the Act of 2000. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not be likely to have a significant effect on European sites, including European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC), European Site No. 000210 (South Dublin Bay SAC), European Site No. 004016 (Baldoyle Bay SPA) and European Site No. 004025 (Malahide Estuary SPA) in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.
- 10.2.14. I recognise that the first-party appellant has considered that there would be potential for the proposed development to result in likely or uncertain effects on European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC), European Site No. 000210 (South Dublin Bay SAC) and European Site No. 004016 (Baldoyle Bay SPA), and, as a consequence they concluded that an AA would be necessary, thus prompting the submission of a NIS for the proposed development with the application. Based on my assessment above, it appears that this approach was taken primarily out of an abundance of caution and a Stage 2 AA of the proposed development would not be necessary.
- 10.2.15. The possibility of significant effects on European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects on European sites have not been relied upon in my reaching of a conclusion in this screening process.

11.0 Conclusion and Recommendation

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

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

12.0 Recommended Order

Planning and Development Acts 2000 to 2020 as amended

Planning Authority: Dublin City Council

Planning Register Reference Number: LRD6025/23-S3

Appeals by Bindford Limited care of McGill Planning Limited, 22 Wicklow Street, Dublin 2, LUMRA care of BPS Planning Consultants Ltd, Ballintone, Greenan, County Wicklow and Others against the decision made on the 27th day of July, 2023, by Dublin City Council to grant subject to conditions a permission to Bindford Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development:

The development will consist of:

- a large-scale residential development including demolition of all existing buildings on site and the construction of a new residential development providing 196 no. apartments which will include 118 no. Build to Sell apartments (58 no. 1 beds and 60 no. 2 beds) and 78 no. Build to Rent apartments (52 no. studios, 22 no. 1 beds and 4 no. 2 beds) within 3 no. blocks ranging in height from 3 to 12 storeys. Block A will range in height from 3 to 7 storeys and will provide 76 no. apartments. Block B will range in height from 6 to 7 storeys over basement and will provide 80 no. apartments. Block C will be 12 storeys over basement and will provide 40 no. apartments. All residential units will be provided with associated private balconies/ terraces to the north/ south/ east/ west;
- the proposal also includes a community, cultural and arts space (c.588sqm) including artists' studios, gallery café, retail/ workshop area and associated facilities, resident amenity space (c.463.2sqm), roof terraces (c.440 sqm),

plaza/public open space (c.774 sqm) and communal garden areas (c.2,019 sqm);

- vehicular/cyclist/pedestrian access will be from the existing Phibsborough Road access (east of the site) with two additional pedestrian accesses provided to the Royal Canal Way to the north (necessitating alterations to/removal of portions of the existing boundary wall);
- the proposed development will also include car, cycle and motorcycle parking at surface and basement level, all associated site development works, landscaping, boundary treatments, plant areas, waste management areas, and services provision (including ESB substations and telecommunications);

at the Old Bakery Site, no.113 Phibsborough Road, Cross Guns Bridge, Phibsborough, Dublin 7

Decision

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

Reasons and Considerations

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

- a) The location of the site within the established urban area of Dublin city with a land-use zoning objective for 'Z1 – Sustainable Residential Neighbourhoods' under the Dublin City Development Plan 2022-2028;
- b) the policies and objectives of that Development Plan;
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;

- e) the provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- f) the provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- g) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- h) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- i) the provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;
- j) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- k) the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in October 2011;
- l) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- m) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- n) the submissions and observations received; and
- o) the report of the Planning Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the subject application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

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

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended;
- the location of the proposed apartments, artists' studios with workshop and staff facilities, café and community facility on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective 'to protect, provide and improve residential amenities' and the results of the Strategic Environmental Assessment of that Development Plan;

- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as amended;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Outline Construction, Demolition and Environmental Waste Management Plan, the Ecological Impact Assessment Report, the Construction and Environmental Management Plan, the Flood Risk Assessment, the Basement Impact Assessment and the Engineering Assessment Report.

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

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this zoned and serviced brownfield location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would not detrimentally impact on the built heritage of the area, would be acceptable

in terms of impacts on traffic, would provide an acceptable form of residential amenity for future occupants, would be acceptable in terms of flood risk to this site and other lands, and would be capable of being adequately served by wastewater and water supply networks.

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

13.0 Conditions

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

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) proposed block C shall have a maximum height of nine storeys. This shall be achieved by omission of the eighth, ninth and tenth floors to proposed block C, comprising apartment numbers 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195 and 196;
 - (b) the proposed telecommunications antenna and equipment shall be omitted from the development;
 - (c) all private terraces and ground-floor windows serving residential units adjacent to circulation areas, entrance locations or communal space, shall be provided with defensible space in the form of landscaped buffers measuring minimum depths of 1.5m;

- (d) provision of a 1.5m-high boundary between the proposed communal and public open space on site;
- (e) provision of a total of five car-share club parking spaces within the proposed development;
- (f) provision of additional play units within the proposed surface-level communal open space area;
- (g) confirmation of a minimum 60% build-to-sell apartments within the development and at least 50% of the build-to-sell apartments to comprise two-bedroom units.

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

Reason: In the interests of visual and residential amenities of the area, the amenities of future occupants of the proposed development, to safeguard the built heritage of the area and to ensure the development accords with the provisions of the Dublin City Development Plan 2022-2028 and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2020.

3. Planning permission shall expire five years from the date of this Order.

Reason: To ensure the satisfactory completion of the overall development.

4. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment, the Construction Environmental Management Plan and Basement Impact Assessment submitted with the application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

5. The proposed café / gallery shall be operated as a standard café and the proposed workshop / retail facility at ground floor to block B shall be provided for community use.

Prior to the first occupation of the residential units hereby approved, the artists' studios, community-use facility and the residents' support facilities hereby approved, shall be fully-fitted out and shall be suitable for immediate occupation and operation.

Reason: To ensure the orderly development of the site and to comply with the provisions of the Dublin City Development Plan 2022-2028.

6. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the management company established to manage the operation of the development together with detailed and comprehensive build-to-rent, community and artist facilities management plans that demonstrate clearly how the proposed build-to-rent apartments and the community and artist facilities within the scheme will operate.

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

7. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the build-to-rent element of the residential development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual build-to-rent residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first build-to-rent residential unit within the scheme.

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

8. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the permitted build-to-rent element of the development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity

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

Reason: In the interest of visual amenity.

10. The developer shall submit full details of all proposed changes to the site boundary wall along the Royal Canal, including removal and lowering of the boundary wall onto the canal towpath. Such details should be subject of consultation with Waterways Ireland and agreed in writing with the Planning Authority prior to the commencement of development. Use of the proposed accesses onto the canal by the public, as well as residents and patrons of the development, shall be limited to the daytime hours 07:00 to 22:00 only.

Reason: To safeguard the amenities and heritage of the adjoining conservation area.

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

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

12. An extraction and ventilation plan for the café shall be submitted for the written agreement of the Planning Authority prior to the occupation of the café. All emissions to air associated with the development must be free from offensive odour and shall not result in an impairment of or an interference with amenities or the environment.

Reason: In order to safeguard the amenities of the adjoining premises and residences.

13. Access to the proposed communal roof terraces shall be restricted to residents of the scheme between the hours of 07:00 and 22:00 only. The opening hours for all non-residential units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any operations in each respective unit.

Reason: In the interests of residential amenity and orderly development.

14. a) Music associated with the use of the proposed residents' gym must be inaudible at the nearest noise-sensitive premises.

b) Any classes in the residents' gym shall only be held between the hours of 07:00 and 21:00 daily. All music played within the residents' gym shall be controlled through a limiter system.

c) A floating floor or an equivalent flooring system shall be installed in all areas of the residents' gym where weights and treadmills are to be used.

The final floor system must provide an adequate level of isolation at frequencies below 50Hz for weights up to 200kg.

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

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

Reason: In the interest of urban legibility.

16. The road works along Phibsborough Road, including the vehicular access serving the proposed development, and layout of the proposed development, including interfaces with public transport projects, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

17. A Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and a Walking Audit) shall be carried out at Stage 2 for the detailed design stage and at Stage 3 for the post-construction stage. All audits shall be carried out at the developer's expense in accordance with the Design Manual for Urban Roads and Streets guidance and Transport Infrastructure Ireland standards. The independent audit team(s) shall be approved in writing by the planning authority and all measures

recommended by the Auditor(s) shall be implemented unless the planning authority approves a departure in writing. The Stage 2 Audit reports shall be submitted to and agreed with the planning authority prior to the commencement of development.

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

18. (a) The car parking facilities hereby permitted shall be reserved solely to serve the development on the subject site. Car parking spaces shall not be utilised for any other purpose than those stated in the application unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential and non-residential parking spaces and shall indicate how these spaces within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car-share club parking, shall be continually managed.
- (c) Details of all cycle parking, including the final racking system and the provision of 2.5m-wide aisle widths, shall be submitted to and agreed in writing with the planning authority prior to the occupation of development.

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

19. Prior to the occupation of the development, a finalised Mobility Management Plan shall be submitted to and agreed in writing with the planning authority. This plan shall include modal shift targets and shall provide for incentives to encourage the use of public transport, cycling,

walking and carpooling by residents of the development and to reduce and regulate the extent of parking. The mobility management strategy shall be prepared and implemented by the management company for all residential and non-residential units within the development.

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

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

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

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

Reason: To protect the visual amenities of the area.

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

Reason: In the interest of public health.

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

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

24. Public lighting shall be provided in accordance with a final scheme, which shall include lighting for the public open spaces, communal spaces and parking / servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit. Any bat-sensitive lighting for the proposed development shall accord with the updated guidance contained in 'Bats and Artificial Lighting in the UK

Guidance Note GN 08 23'. External lighting shall not be installed on the canal side of the proposed development.

Reason: In the interests of amenity and public safety and to prevent illumination of the Royal Canal corridor and not to inhibit usage of the corridor by otter and bat species.

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

Reason: In the interests of visual and residential amenity.

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

Further details of the play spaces and associated features assigned for children of all ages shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 27.** The proposed public open space on site shall be reserved for such use and shall be landscaped in accordance with the scheme submitted to the Planning Authority with the application (drawing no. 22D08-DR-200), unless otherwise agreed in writing with the Planning Authority. This work shall be completed before any of the apartments are made available for occupation and the area shall be maintained as public open space by the developer until taken in charge by the local authority.

The pedestrian access to the Royal Canal and the public open space plaza at the eastern end of the site shall be opened during the hours of 07:00 and 22:00 only and closed outside of these hours.

Reason: In the interests of residential amenities and in order to ensure the satisfactory completion and operation of the public open space, and its continued use for this purpose.

28. (a) The communal open spaces, including hard and soft landscaping, car parking areas, access ways, cycle stores, communal waste/recycling bin storage and all areas not intended to be taken in charge by the Local Authority, shall be maintained by a legally-constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the Planning Authority before any of the proposed apartments are made available for occupation.

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

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

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

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

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

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

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

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

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

- 31.** Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects', published by the Environmental Protection Agency in 2021.

Reason: In the interest of sustainable waste management.

- 32.** The construction of the development shall be managed in accordance with a final project Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the construction practice for the development, including:
- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
 - b) Location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
 - c) Details of on-site car parking facilities for site workers during the course of construction;
 - d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - e) Measures to obviate queuing of construction traffic on the adjoining road network;
 - f) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
 - g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - i) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels;

- j) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers, watercourses or the canal;
- n) A record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority;
- o) Invasive species management plan.

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

- 33.** Site development and building works shall be carried out only between the hours of 07:00 to 19:00 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

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

- 34.** Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering

the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

- 36.** The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable

indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

37. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Colm McLoughlin
Senior Planning Inspector

15th November 2023

Appendices

Appendix A: EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-317840-23
Development Summary		Demolish buildings and construct 196 apartments, artists' studios with workshop, a café unit, community space and residents' support facilities in three blocks of seven to 12 storeys and associated development at the Old Mill Bakery Site, 113 Phibsborough Road, Cross Guns Bridge, Phibsborough, Dublin 7, D07 XP46
	Yes/No/N/A	
1. Has an AA screening report or NIS been submitted?	Yes	A Natura Impact Statement containing an AA screening statement was submitted with the application. An Ecological Impact Assessment was also submitted with the application.
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The surrounding area is characterised by residential neighbourhoods including an apartment complex to the east and housing areas to the south and west, as well as operational canal and rail infrastructures to the north. The proposed development would provide for infill development on a brownfield site in an inner-suburban location that is not regarded as being of a scale or character significantly at odds with the surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed residential development has been designed to address the existing topography and to incorporate flood defence measures, along with standard measures to address potential impacts on surface water and groundwaters in the locality. The development would provide for revised use of these lands, as generally envisaged in the Development Plan.	No

<p>1.3 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?</p>	<p>Yes</p>	<p>Construction materials will be typical for an urban development of this nature and scale.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Asbestos has been identified on the site and measures are outlined in the Outline Construction, Demolition and Environmental Waste Management Plan (OCDEWMP) submitted with the application, which outlines that measures will be put in place to address removal of this and other potentially harmful materials. Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites of the nature proposed. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures, as outlined in the CEMP, would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Air Quality Assessment, the Environmental Noise Survey and the CEMP, the project would satisfactorily mitigate the potential impacts.</p> <p>Operational waste would be managed through a waste management plan to obviate potential environmental impacts. Other</p>	<p>No</p>

		operational impacts in this regard are not anticipated to be significant.	
1.6 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>Operation of the standard measures listed in the OCDEWMP and CEMP will satisfactorily mitigate emissions from spillages during demolition and construction phases.</p> <p>The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site.</p>	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Yes	<p>There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Air Quality Assessment, the Environmental Noise Survey and the CEMP.</p>	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	<p>The OCDEWMP sets out measures to control potentially harmful materials identified on site. Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Air Quality Assessment and CEMP would satisfactorily address potential risks on human health.</p> <p>No significant operational impacts are anticipated for the piped water supplies in the area.</p>	No

<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be managed as per measures in the OCDEWMP, the Basement Impact Assessment and CEMP and would be localised and temporary in nature. The development proposals mitigate the risk of flooding, including measures in the Flood Risk Assessment and the Basement Impact Assessment. The site is outside the consultation / public safety zones for the nearest Seveso / COMAH sites.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Development of this site would result in an increase in population in this area. The development would provide housing that would serve towards meeting an anticipated demand in the area.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The development would potentially occur alongside the Metrolink project. A Railway Order application is also before the Board for this rail project (ABP ref. 314724-22) with temporary use of the western end of the appeal site. Significant cumulative effects on the environment would not be expected to arise.</p>	<p>No</p>
<p>2. Location of proposed development</p>			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p>	<p>Yes</p>	<p>The nearest European sites are listed in table 6 of this report and in the application NIS. The site is adjoining the Royal Canal pNHA</p>	<p>No</p>

<ol style="list-style-type: none"> 1. European site (SAC/ SPA/ cSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 		<p>which discharges towards the river Liffey, although not in a manner akin to a natural watercourse. Protected habitats or habitats suitable for substantive habituating by protected species were not found on site during ecological surveys and measures to address potential impacts to bats and birds are included in the Ecological Impact Assessment.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>The proposed development would not result in significant impacts to protected, important or sensitive species. Risk of collision for birds would not be significant given the nature and scale of the development, as well as the bird flight survey results provided with the application and appeal. Lighting proposals sensitive to the context onto the canal would be employed to avoid impacts on otters and bats commuting or foraging along this corridor.</p>	<p>No</p>

<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>Yes</p>	<p>The closest known archaeological feature is almost 700m from the appeal site and the Architectural Heritage Impact Assessment identifies features of cultural heritage significance within the immediate area, including Protected Structures, NIAH-listed sites, the Royal Canal Conservation Area and a Z2 residential conservation area. There is potential for archaeology on site and measures are outlined in the application to address archaeological potential.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>Yes</p>	<p>The Royal Canal is situated adjoining to the north and the proposals feature basement works proximate to the canal. The Basement Impact Assessment addresses measures to be employed to address potential impacts for the canal waterbody.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The development will implement SUDS measures to control surface water run-off. The development would not increase risk of flooding to downstream areas with surface water to discharge at greenfield runoff rates and flood mitigation measures proposed. Surface waters will discharge into the local piped network.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is very limited change in ground levels across the site. Site investigations were undertaken as part of the project. Only shallow excavation works for basement, services and SUDS are proposed and construction measures, including piling works.</p>	<p>No</p>

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

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	Yes	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION			
No real likelihood of significant effects on the environment.	<input checked="" type="checkbox"/>	EIAR Not Required	
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	Refuse to deal with the application pursuant to section 8(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended)	

D. MAIN REASONS AND CONSIDERATIONS
<p>Having regard to -</p> <ul style="list-style-type: none"> the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as revised; the location of the proposed apartments, artists' studios with workshop and staff facilities, café and community facility on lands zoned within the Dublin City Development Plan 2022-2028 as 'Z1 - Sustainable Residential Neighbourhoods' with a stated objective

'to protect, provide and improve residential amenities' and the results of the Strategic Environmental Assessment of the Development Plan;

- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development;
- the location of the development outside of any sensitive location specified in Article 299(C)(1)(a)(v) of the Planning and Development Regulations 2001, as revised;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Outline Construction, Demolition and Environmental Waste Management Plan, the Ecological Impact Assessment, the Construction and Environmental Management Plan, the Flood Risk Assessment, the Basement Impact Assessment and the Engineering Assessment Report.

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

Inspector: _____ **Colm McLoughlin**

Date: **15th November 2023**