



An
Bord
Pleanála

Inspector's Report

ABP-318993-24

Development	Demolition of industrial building for construction of six storey apartment building with 28 residential units and all associated site works (reduced to 23 apartments after further information)
Location	17-23 Church Street East, Dublin 3
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3859/23
Applicant(s)	Raymond O'Malley
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	James K Glynn & Others
Observer(s)	Ger Philpott Donna Mulhall Niamh Dooley & Others
Date of Site Inspection	5 th of February 2025 27 th of March 2025
Inspector	Joe Bonner

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1.0 Site Location and Description

- 1.1. The application site is located on the corner of and has frontage onto both Church Street East and Abercorn Street, at the southern end of the East Wall area of Dublin's Docklands. It is an amalgamation of two sites that have previously been the subject of a number of grants of permission for development. It has a stated site area of 0.0587ha (587sqm). The western half is cleared on foot of a previous grant of permission and is fenced off, while the eastern part is entirely covered by an existing but vacant 2-storey industrial/office building. The site is relatively flat but slopes downhill gently from west to east by c350mm.
- 1.2. The rear private gardens associated with 2-storey terraced properties along Abercorn Road are located to the immediate south, with the 7 storey part of the Saudi Arabian Cultural Bureau (SACB) located between 24m and 43m south of the site. No. 16A Church Street East, a brick-faced 2-storey house with extension and garden to the rear is located to the immediate east of the site and abuts the existing building on the site.
- 1.3. Further to the east is a 4-storey element (including basement and setback 3rd floor) of the larger 11-storey Canon Hall apartment complex which wraps around Church Street East, East Road and onto Sheriff Street Upper forms a large part of the urban block in which the site is located. A terrace of 2-storey dwellings is located directly opposite the site on the northeastern side of Church Street East with a separation distance of c12.8m between the site frontage and the front of the closest of the existing houses, while single storey properties make up the eastern half of the street.
- 1.4. In the wider context, the East Wall area (to the north of the site) is a long-established residential neighbourhood consisting of 1 and 2-storey dwellings and various commercial and community facilities. However, the area immediately surrounding the appeal site is largely cut-off from the wider East Wall neighbourhood by railway lines. The Royal Canal and the Docklands Railway Station are located further west of the appeal site.
- 1.5. The wider area to the east and south of the site has undergone and continues to experience significant transformation. Development is well progressed on the construction of 702 apartments on a site c100m to the east, on the eastern side of 'East Road' (ABP Ref. 308827-20) and a 554 apartment development, also on the

eastern side of 'East Road' and north of the rail bridge, c185m to the northeast of the site (ABP Ref. 308827-20).

- 1.6. Lands on the southern side of Sheriff Street Upper are located within the North Lotts and Grand Canal Dock Strategic Development Zone (SDZ). The SDZ lands have been substantially developed in the recent past, with limited vacant land left to be developed.
- 1.7. The site is within walking distance of Dublin City centre and is also within c280m of both the Spencer Dock Luas Red Line stop and the Docklands Rail Station. The 24 hours Point Village to Blanchardstown Orbital 'BusConnects' Route, the N4, operates along East Road to the east of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development, as originally applied, for consists of permission for:
 - Demolition of the two storey industrial/office building (331sqm).
 - Construction of 28 no. apartments (with balconies) in a part five part six storey building (gross floor area 2,123 sq. m.) comprising 3 no. studio apartments (39-40 sqm), 15 no. one bedroom apartments (48-59 sqm) and 10 no. two bedroom apartments (65-88sqm).
 - 52 no. secure bicycle spaces, bin store and plant room, a landscaped communal roof terrace at fifth floor level.
 - Building accesses at Church Street East and Abercorn Road.
- 2.1.1. The maximum height of the originally proposed building would be the 6th storey residential element at 19.025m. A 5-storey element would rise to 15.875m along the eastern side of the building with a roof terrace above at a height of 16.975m. External wall finishes would consist of a contrast of red and buff colour brick and zinc, together with a powder coated aluminium brise soleil.
- 2.1.2. The floor to ceiling height at each of the five floor levels would be 2.7m.
- 2.1.3. The application was accompanied by the following documentation:
 - Planning Report

- Architectural Design Statement
- Housing Quality Assessment
- Daylight Analysis and Overshadowing
- Engineering Report
- Landscape Rationale
- Appropriate Assessment Stage 1 Screening Report
- Owners Letter of Consent
- Letter from Cluid Housing (expressing potential interest in delivering the development subject to a grant of permission)

2.1.4. Following a request for further information the planning authority required the applicant to re-advertise the proposed development. The key changes to the proposal are:

- The number of apartments was reduced from 28 to 23, the top floor was removed other than to provide for the lift overrun and access to the rooftop communal open space, while the new top floor, the 5th floor was set back from the building edge.

2.1.5. The response was accompanied by the following documentation:

- Response Cover Letter
- Revised Architectural Plans and Landscape Architecture Drawings
- Architectural Design Statement
- Housing Quality Assessment
- Schedule of Accommodation
- Daylight Analysis and Overshadowing
- Response to RFI item 6(a)
- Site Specific Flood Risk Assessment
- Construction and Environmental Management Plan
- Residential Travel Plan

- 2.1.6. The maximum height of the revised building would still be 6 storey with the lift overrun remaining at a height of 19.025m. However, the main body of the building has been reduced to 5-storey which rises to 15.875m, while the roof terrace above would have a height of 16.975m and would be set back 3.1m from the boundaries. The originally proposed buff colour brick would be replaced by a highly reflective painted finish, while the rest of the finished would be as originally proposed.
- 2.1.7. The surface water drainage system would use SUDS techniques including a rooftop blue roof with a capacity of 17,700 litres, whereas the minimum storage volume required over the entire site would be 2700 litres. It is also proposed to install a series of perforated pipes at the rear of the building and to install an infiltration bed from which water would be released by hydrobrake to the combined sewer at a manhole within the site, before entering the combined sewer on Abercorn Road.
- 2.1.8. The floor to ceiling height at each of the five floor levels would still be 2.7m.
- 2.1.9. The key figures for the proposed development can be summarised as follows:

Table 1 – Housing Mix

Apartment Type	Original Application	Further Information
	No. of Units (%)	No. of Units (%)
Studio	3 (10.71%)	0
1-bed	15 (53.57%)	13 (56.52%)
2-bed (3-person)	3 (10.72%)	2 (8.70%)
2-bed (4-person)	7 (25%)	8 (34.78%)
Total Units	28 (100)	23 (100)

- 2.1.10. The key figures relating to the proposed development are summarised in the Table 2 below.

Table 2 - Key Figures for the Proposed Development

	Original Application	Further Information
Site Area	0.0587 ha (587sqm)	No change
No. of apartments	28 apartments	23
Gross Floor Area	331sqm (existing building) 2,123sqm (proposed)	No change 1,794sqm (proposed) (a 329sqm or 15.5% reduction)
Residential Density	28 / 0.0587ha = 477units per hectare	23 / 0.0587ha = 391.82 units per hectare
Plot Ratio	2,123sqm / 587sqm = 3.62	1,794sqm / 587sqm = 3.05
Site Coverage	96% (stated in Housing Quality assessment) Gross Floor Area of largest floor is First Floor at 404sqm = 68.82%	58.6% (stated in Housing Quality assessment) referring to extent of ground floor. This figure does not include the bike shed which raised it to 88.57%.
Height	The 5 storey elements are 15.5m and 15.875m high and the 6 storey element is 19.025m to the flat roof top	The 4 storey element is 13.5m and the 5 storey is 15.875m, setback from the northern edge by 1.85m compared to the original proposal. The 6 storey lift overrun and access to the rooftop communal open space is 19.025m
Dual Aspect	39%	65%
Car Parking	0	0
Bicycle parking	52 cycle parking spaces in ground floor courtyard	48 no. secure cycle parking spaces (36 for residents and 12 for visitors)
Communal Amenity Space	136.7sqm proposed at 5 th Floor (142sqm required). Shortfall of 5.3sqm	170.3sqm proposed (133sqm required). Exceeds requirement by 37.3sqm or 28.04%
Public Open Space	None	None
Part V	Certificate of Exemption issued	No change

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 8th of January 2024, Dublin City Council issued a decision to grant permission, subject to the attachment of 13 No. Conditions, including:

- Condition No 1 – the development will be carried out in accordance with the original plans as revised in response to the request for further information.
- Condition No 3 – requires a development contribution be paid in respect of the Luas C1 scheme.
- Condition No 5 – Implement measures set out in Residential Travel Plan and ensure tenants comply with it. Submit a Construction Management Plan
- Condition No 6 – Attenuate surface water discharge to 2l/s. Incorporate a green roof with the proposed blue roof. Submit an emergency plan for flooding.
- Condition No 7 – Real time noise, vibration and air pollution monitoring to be carried out during construction.
- Condition No 8 – Panel with external finishes to be placed on site and agreed.
- Condition No 9 – Working hours and deviations therefrom.

3.2. Planning Authority Reports

3.2.1. Planning Officer's First Report - 25th of July 2023

- The planning officer's assessment addressed 1) zoning; 2) a detailed description of the proposed development; 3) density, plot ratio and site coverage; 4) design; 5) apartment standards; 6) daylight and sunlight; 7) overlooking and overbearance; 8) noise, odour and ventilation; 9) drainage; 10) access, parking and transport; 11) AA; and 12) EIA.

3.2.2. The planning officer's report is the basis for the request for further information, which can be summarised as:

- 1) Concerns regarding densities above 300 units per hectare in the absence of a compelling architectural and urban design rationale. Reduce the density and increase proportion of high quality dual aspect units.
- 2) Scale, height and design would affect surrounding dwellings and streetscape. Revise the form, structure and design and omit the 6th floor which is considered excessive and submit revised drawings.
- 3) Revise the internal layout to reduce the number of single aspect north facing units.
- 4) Increase internal storage, so units exceed the minimum requirement.
- 5) Insufficient justification in Daylight Analysis for levels of overshadowing of neighbouring properties. Omit the 6th floor and provide additional setback from building edges, particularly at 4th and 5th floor levels along all elevations.
- 6) Drainage Division issues – a) clarify the exact method used to determine peak flood levels in the Site Specific Flood Risk Assessment (SSFRA); b) update SSFRA to reflect 2022-2028 Development Plan guidance.
- 7) Transportation Planning had recommended conditions but the planning authority turned them into further information issues being a) submit revised drawings with bicycle parking fully enclosed and weather protected; b) submit a Construction Management Plan addressing noise, traffic, waste management and pollution; c) submit a Mobility Management Plan as zero parking proposed and limited on street parking available.

3.2.3. Other Technical Reports on initial application

- EHO – 28th of June 2023 – No objection subject to conditions.
- Drainage Division – 21st of July 2023 – Requested further information.
- Transportation Planning – 13th of July 2023 – No objection subject to conditions.

3.2.4. Planning Officer's Report on Response to Further Information

- The planning authority decided to grant permission in accordance with the planning officer's recommendation. The assessment summarised the third party

observations, before addressing each of the items of further information as they are outlined in 3.2.2 above. The key issues raised therein can be summarised as:

- 1) The applicant has reduced the height, scale and massing and the number of units from 28 to 23. Density is now 391 units per hectare, down from 477 originally proposed. While acknowledging the density is still above that recommended in the development plan, the applicant argues that it is appropriate to the surrounding context. The planning authority acknowledges the amendments made, and the third party observations that still maintain the revised proposal is excessive. While sympathetic to the third party comments, the revised proposal, while still above the suggested density range, is more appropriate to the surrounding area, while still divergent therefrom. The planning authority is aware of the two extant permissions on the site and accepts that the amalgamated site provides for a better development than the individual sites and accepts the applicants rationale for maintaining a density above the range outlined in the development plan.
- 2) The applicant argues the height of the revised proposal with the fifth floor removed and the fourth set back 1.5m, aligns with the extant permissions. New material finishes are also proposed in the form of red brick and white render. Whilst noting third party concerns, the planning authority recognise the extant permissions. Layout changes have also resulted in changes to the elevations. Overall it is a more attractive, visually appealing and appropriate scheme. The reduced height addresses overbearance issues.
- 3) 15 of the 23 units are now dual aspect, with only 2 units entirely north facing. All rooms exceed the target Lux levels. The proportion of 2 bed units has increased as the numbers decreased. While the planning authority still holds some concerns, the revisions provide for a more liveable and attractive development for future tenants.
- 4) 5 of the units now provide the minimum storage requirement, compared to 9 in the original application. The planning authority acknowledge that the site is constrained and the revised storage areas are considered acceptable.
- 5) The revised Daylight and Overshadowing Report states that the VSC pass rate in the revised scheme is 40.5%, whereas it was 28.6% in the original

application and 45.2% in the extant permissions. The APSH pass rate is 69% compared to 76.2% in the extant permissions. The applicant argues that the reduction in pass rates is minimal and should be acceptable, while the increase in overshadowing is within acceptable ranges. The planning authority shares the concerns of the third parties regarding overshadowing of properties, as demonstrated in the RFI, but the site represents a major opportunity for much needed higher density residential units in a city centre location, close to public transport and employment. The need for higher density residential development will have inevitable impacts on surrounding properties, particularly from overshadowing. The applicant has sufficiently altered the scheme to allow the stated levels of overshadowing to be considered acceptable.

- 6) An updated Site Specific Flood Risk Assessment clarifies the peak water levels predicted on site for a suggested climate change event and includes references to the SFRA from the 2022-2028 City Development Plan. Like the drainage division, planning has no objection subject to conditions.
- 7) A revised bicycle parking layout has been submitted along with a Residential Travel Plan and Construction and Environmental Management Plan. While transportation planning did not request further information, they are happy with the response and recommend a grant subject to conditions.

3.2.5. Other Technical Reports on Response to Further Information

- Drainage Division – 5th of January 2024 – No objection subject to conditions.
- Transportation Planning – 12th of December 2023 – No objection subject to conditions.

3.3. Conditions

3.3.1. EHO – 28th of June 2023

- Real time air, noise, and vibration monitoring during construction.

3.3.2. Drainage Division – 5th of January 2024

- Separate foul and surface water systems with a final combined connection to the combined sewer.
- Surface water discharge attenuated to 2l/s.
- SUDS measures to be incorporated.
- An emergency plan for flooding to be submitted as the site is in a defended high risk flood zone.
- Surface water manhole and pipe to be constructed in accordance with Greater Dublin Regional Code of Practice.
- All private drainage to be located within the site.

3.3.3. Transportation Planning – 13th of July 2023

- Residential Travel Plan and appoint a Mobility Manager.
- Construction Management Plan addressing traffic, noise, dust, waste, working hours.
- Cycle parking.
- All costs incurred to DCC to be at the developer's expense.
- Comply with requirements of DCC's code of practice.

3.4. **Prescribed Bodies**

3.4.1. Initial application

- Transport Infrastructure Ireland (TII) – 27th of June 2023 – A Section 49 Light Rail development contribution should be attached, if exemptions do not apply.
- Submissions were invited but not received from 1) Irish Rail and 2) Irish Water.

3.4.2. Response to Further Information

- Transport Infrastructure Ireland – 11th of December 2023 – Position remains as set out in submission of 27th of June 2023.

3.5. **Third Party Observations on initial application**

- 3.5.1. A significant number of observations were received by the planning authority in respect of the initial application. The majority of the issues raised therein are comprehensively addressed in the grounds of appeal (see section 7.1) and in the

third party observations on the appeal (see section 7.5) so are not repeated here.

The observations address the following broad headings:

- 1) Validity of application; 2) Inadequate and inaccurate Daylight Analysis and Overshadowing Report and significant effects on neighbours by reduced VSC (Vertical Sky Component), APSH (Annual Probable Sunlight Hours) and overshadowing; 3) Overbearance and overlooking; 4) Flooding and drainage; 5) Excessive Height relative to 1 and 2 storey neighbours. Canon Hall dropped down from 11 to 3 storey along this street, to fit in; impacts from Saudi Arabian Cultural Bureau are different as it is not residential; 6) Loss of privacy and noise impact from rooftop communal area; 7) Excessive plot ratio, site coverage and density - overdevelopment; 8) Traffic and Parking - underground carpark required; 9) Architectural and Design Statement contains incorrect and misleading information; 10) Building Materials; 11) Incompatibility with Development Plan Policy - Material contravention; 12) Damage to adjacent properties and services - Building Surveys needed to ensure structural integrity; 13) Lack of consultation with neighbours; 14) No public realm improvements; 15) Economic viability of previous permissions not relevant; 16) Unit mix; 17) Suggested conditions.

3.5.2. The observations also cover a number of issues that were not addressed in the grounds of appeal or in the observations thereon, and can be summarised as:

- Piled foundations would be necessary due to the nature of the made ground, but no details provided and no ground or site assessment provided. The site is not suitable to build on top of the previous foundations along with stripping back the ground to remove soft spots.
- Cultural links to Sean O'Casey, who lived in No 2 Abercorn Road.

3.5.3. I also refer the board to the planning officer's report, which sets out a summary of the issues raised in the observations.

3.6. Third Party Observations on response to further information

Many of the persons who submitted observations on the initial application also made observations on the response to further information, which is the development of 23

apartments that was subject to the decision to grant permission and is the subject of this appeal. The submissions addressed the same matters that are listed in 3.5.1 above and the issues raised therein are comprehensively addressed in the grounds of appeal (see section 7.1) and in the third party observations on the appeal (see section 7.5) so are not repeated in detail here. The observations can be summarised as:

- Failed to address RFI and did not adequately set the building back at 4th and 5th floors to reduce impacts of overlooking and overshadowing.
- Density at 391 units per ha is still in excess of maximum of 300 in the development plan.
- Raised floor levels could affect flooding at neighbouring properties
- Matching the height of the part of the Canon Hall development that is located to the east, would be reasonable.
- Residential travel plan fails to address parking and a car free covenant is unrealistic for future residents. A 1 hour mid-afternoon parking survey is inadequate to address parking issues.
- Unverified simulator print outs, loss of constant sunshine, angle of obstruction ignored, daylight and overshadowing analysis should be independently verified as there is ambiguity. VSC impacts still unacceptable.
- Waste management collection location will impact on road users.
- Roof garden and balconies will cause overlooking.
- Aerial views distort the scale of development relative to the adjacent cottages.
- Existing buildings may contain asbestos.
- Contrary to infill development policy and other policies.
- Too many issues remain to be resolved.

4.0 Planning History

4.1. Application Site

- **P.A. Reg. Ref. 3152/17** – Permission granted on the 10th of November 2017 for the demolition of existing office, warehouse and 2 vacant cottages and construction of 14 apartments in a 3-4 storey building at 17-23 Church Street.
- **P.A. Reg. Ref. 4084/18** – Permission granted on the 15th of January 2019 for the demolition of existing office, warehouse and 2 vacant cottages and construction of 9 apartments in a 4 storey building at 22-23 and part of 21 Church Street.
- **P.A. Reg. Ref. 2493/19** – Permission granted on the 17th of June 2019 for the demolition of existing office, warehouse and 2 vacant cottages and construction of 7 apartments in a 4 storey building at 22-23 and part of 21 Church Street.
- **P.A. Reg. Ref. 3362/19** – Permission granted on the 27th of September 2019 for demolition of existing office, warehouse and 2 vacant cottages and construction of 9 apartments in a 5 storey building at 22-23 and part of 21 Church Street. (Permission expired January 2025).
- **PL29N.309748 (P.A. Reg. Ref. 3409/20)** - Permission Granted by the board on 12th of October 2021, for demolition of an industrial/office building and construction of a 4 and 5 storey block of apartments consisting of 9 apartments, at 17-21, Church Street East. The grant of permission remains live until the 26th of November 2026.

4.2. Nearby Sites (all inside the SDRA - Strategic Development Regeneration Area)

Site c185m northeast

- **ABP-308827-20** – Permission granted on the 31st of March 2021 for a SHD development of 702 apartments at a density of 377 units per hectare in buildings up to 18 storey in height. The mix of units is 101 x studio (14.39%), 407 x 1 bed (57.98%), 179 x 2 bed (25.5%) and 15 x 3 bed (2.14%) (under construction).

Site c100m east

- **ABP-304710-19** – Permission granted on the 1st of October 2019 for a SHD development of 554 apartments at a density of 262 units per hectare in buildings ranging 3-15 storeys. The mix of units is 72 x studio (13%), 202 x 1 bed (36.4%), 232 x 2 bed (41.8%) and 48 x 3 bed (8.6%) (under construction).

Site c63m south

- **ABP-305219-19** – Permission granted on the 3rd of April 2020 for a SHD development of 548 units (464 no. apartments and 84 no. shared accommodation) at a density of 368 units per hectare in buildings ranging 3-13 storeys.(completed). The 464 apartments consist of 229 x 1 bed (49.35%) and 235 x 2 bed (50.65%), while the 200 bedspaces in shared accommodation consist of 2 x 1 bedspace, 46 x 2 bedspace and 36 x 3 bedspace (completed).

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on the 14th of December 2022. The site is zoned Z1 'Sustainable Residential Neighbourhoods', where 'Residential' is a permissible use and the objective is 'to protect, provide and improve residential amenities'.
- 5.1.2. The houses to the immediate south and east are also zoned Z1, while the Canon Hall building and SACB building to the south that make up the urban block, are zoned Z10 'Inner Suburban and Inner City Sustainable Mixed-Uses' the objective for which is 'to consolidate and facilitate the development of inner city and inner suburban sites for mixed-uses'. The houses to the north-east, on the opposite side of Church Street East and on the western side of Abercorn Road are zoned Z2 'Residential Neighbourhoods (Conservation Areas)', the objective for which is 'to protect and/or improve the amenities of residential conservation areas'.

Core Strategy

- 5.1.3. The overarching approach of the plan is to develop a low carbon, sustainable, climate resilient city. The development plan is required to provide for approximately 40,000 new housing units between 2022 and 2028.
- 5.1.1. Compact growth will be promoted on appropriate infill and brownfield sites with targeted growth along key transport corridors including the Luas corridor and commuter rail corridor.

Climate

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

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

City Shape & Structure

5.1.3. Chapter 4 sets out the framework and strategy to guide the future sustainable development of the city with the objective of achieving a high quality, sustainable urban environment, which is attractive to residents, workers and visitors. In summary, relevant policies and objectives include:

- SC8 - ...fully maximise opportunities for intensification of infill, brownfield and underutilised land.
- SC10 – Ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof (i.e. The Compact Settlement Guidelines).
- SC11 – Promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area...
- SC12 – Promote a variety of housing and apartment types and sizes to create a distinctive sense of place.

5.2.3 SC14 and SC15 of Section 4.5.4 contain policies relating to 'Building Height Strategy', and 'Building Height Use', which should be consistent with SPPR's 1 to 4 of the 'Urban Development and Building Height Guidelines for Planning Authorities (2018), while SC16 'Building Height Locations' recognising the potential and need for

increased height in appropriate locations, which are identified in Appendix 3 to the development plan. (see 5.1.11 below)

Housing

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

- Policy QHSN6 'Urban Consolidation' seeks 'to promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development,..., subject to the provision of good quality accommodation.
- Policy QHSN10 'Urban Density' seeks 'To promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area'.
- Policy QHSN12 'Neighbourhood Development' refers to 'development which protects and enhances the quality of our built environment and supports public health and community wellbeing'.
- Policies QHSN36-39 address residential amenity, housing mix, and social/community infrastructure.

Transport

5.1.5. Chapter 8 'Sustainable Movement and Transport' supports and prioritises the use of sustainable modes of transport and promotes active travel and a pro-active and collaborative approach to influencing travel behaviour. Objective SMT01 aims to achieve mode shares of 26% walking/cycling/micro mobility; 57% public transport (bus/rail/LUAS); and 17% private (car/ van/HGV/motorcycle). The Plan aims towards the effective integration of land use and transportation and encourages higher-density development along public transport routes.

- 5.1.6. Section 8.5.7 emphasises that a strong car-parking policy in the city has been instrumental in changing travel behaviour and promoting sustainable development, while policies to discourage commuter car parking are further strengthened in the plan. Section 8.5.9 highlights the need to keep all road users interacting safely and efficiently, as is supported in policies SMT 33, SMT 34, and SMT 35.

Sustainable Environmental Infrastructure and Flood Risk

- 5.1.7. Chapter 9 includes the following relevant policy objectives, regarding flood risk and surface water management:

SI14 – ‘Strategic Flood Risk Assessment’ seeks ‘To implement and comply fully with the recommendations of the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028, including all measures to mitigate identified climate change and flood risks...’.

SI15 and SI16 – ‘Site-Specific Flood Risk Assessment’ require the carrying out, to an appropriate level of detail, a Site-Specific Flood Risk Assessment, depending on the nature and a scale of the proposed development.

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

Land-use Zoning

- 5.1.8. Chapter 14.6 addressed ‘Transitional Zone Areas’ and states that ‘The land-use zoning objectives and control standards show the boundaries between zones. While zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties (see also Appendix 3: Achieving Sustainable Compact Growth Policy for Density and

Building Height in the City, Chapter 4: Shape and Structure of the City, and Chapter 15: Development Standards for guiding principles regarding criteria such as height, density, urban design).’

Development Management

- 5.1.9. Chapter 15 sets out the standards and criteria to be considered in the development management process, as well as guidance on the information to be submitted for various applications. Relevant aspects include the following:
- Table 15-1 of Section 15.2.3 Planning Application Documentation – set ‘Planning Thresholds’ above which different types of reports are required to be submitted with applications and for apartment development include 1) Housing Quality Assessment; 2) Daylight and Sunlight Assessment; 3) Lifecycle Report; 4) Mobility Management Plan / Travel Plan; 5) Surface Water Management Plan.
 - 15.4 – Key Design Principles aim for high quality sustainable and inclusive urban design and architecture befitting the city’s environment and heritage and its diverse range of locally distinctive neighbourhoods.
 - 15.5.2 – ‘Infill Development’ should respect and enhance its context and be well integrated with its surroundings, ensuring a more coherent cityscape.
 - 15.5.5 – Higher density will be supported subject to suitable context and design. New development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future amenity. All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods.
 - 15.7.1 - Encourages the reuse of existing buildings where possible.
- 5.1.10. Section 15.9.18 ‘Overlooking and Overbearance’ states ‘overbearance’ in a planning context is the extent to which a development impacts upon the outlook of the main habitable room in a home or the garden, yard or private open space.

Appendices

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

- Appendix 3 'Achieving Sustainable Compact Growth' outlines policy and criteria in relation to building height, density, plot ratio, and site coverage.

Appendix 3 states that 'In general, and in accordance with the Guidelines, a default position of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific characteristics,... Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities'.

- Appendix 5 'Transport and Mobility' expands on the Sustainable Movement and Transport framework and sets out technical development standards which are applicable to all developments, including bicycle and car parking standards.
- Appendix 16 - Guidance and standards in relation to 'Sunlight and Daylight'.

5.2. Section 28 Guidelines

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

- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). (Compact Settlement Guidelines).
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (Apartment Guidelines).
- Urban Development and Building Heights, Guidelines for Planning Authorities, December (2018) (Building Height Guidelines).
- Climate Action Plan (2024).

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

5.3. Natural Heritage Designations

5.3.1. The nearest Natura 2000 site (European Sites) to the proposed development, is the South Dublin Bay and River Tolka Estuary SPA (site code 004024), which is located north of Dublin Port and c1km to the north of the site.

6.0 EIA Screening

- 6.1.1. See completed Forms 1 and 2.
- 6.1.2. Having regard to the nature and scale of the proposed apartment development, located in a serviced urban area and the absence of any connectivity to any sensitive locations, I have concluded that there is no real likelihood for significant effects on the environmental factors set out in Section 171A of the Planning and Development Act 2000 (as amended) having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended). The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.2. An appeal was submitted by the occupant of one of the houses to the immediate south of the site on Abercorn Road, on behalf of himself and several other named persons. The grounds of appeal are summarised at the start of the appeal, are expanded upon in a series of appendices, and state, in summary:
- The decision to grant permission is a material contravention of the development plan (Appendix 1).
 - Simulator outputs (Daylight/Sunlight/Overshadowing) have not been verified by DCC planners. This part of the objection is vital, was ignored and a misinformed grant followed (Appendix 2).
 - The Daylight Analysis and Overshadowing Reports contain impossible simulator results (Appendix 3).
 - Appendix 4 addresses 'contents and insinuations of the planner's report'.
 - The development contravenes Climate Change initiatives.
 - DCC planners are failing to maintain the existing streetscape (Appendix 6).
 - Objectors were not given an opportunity to address a Construction Management Plan prior to issuing of a grant of permission.

- The comprehensively changed proposal should have been a new application and the objectors appeal on the basis of unfair procedures.

The above matters are now addressed in more detail.

7.2.1. Appendix 1

- The development contravenes 1) Appendix 3 of the Development Plan; 2) Streetscape; 3) Surrounds not assessed; 4) Section 4.5.3 Policy SC11; 5) Section 5.5.2 QHSN10 integration with character of area; 6) 15.5.2 in respect of scale, mass and architectural design; 7) 15.9.18 Overlooking and Overbearance; 8) Z1 zoning 'to protect and improve residential amenity'.

7.2.2. Appendix 2

- DCC planners erred by not having commissioned an independent verification of the simulator outputs by way of due diligence. This was raised in respect of the both the original and revised applications and DCC should be aware of the angle of obstruction in Appendix 16.6.1. Appendix 16 also provides for independent verification where there is ambiguity in the submitted information and appellants observations stated that the VSC results were impossible. Both the building and local residents are compromised and the appellant considers that the grant is based on an incorrect Daylight Analysis and Overshadowing report.

7.2.3. Appendix 3

- The appellant strongly disagrees with the daylight results provided from the simulator and consider that the planning authority erred by not recognising the daylight obstruction angle greater than 45 degrees, while a reduction from 57.4 to 53.7 degrees at FI was hardly considered a substantial improvement.
- The appellant offers the theoretical framework as an alternative method and criteria to assess output of a simulator, while an alternative method of how to calculate the angle of obstruction, which is referred to in Section 6.1 of Appendix 16 to the development plan, is also provided.
- Canon Hall and the SACB building cast significant shadows and there is little chance of the proposed ground and first floors achieving compliance with APSH targets, while the planner's report does not refer to overshadowing.

- The appellant questions how 100% of Kitchen/Living Room /Dining rooms (KLD) pass (page 12 of the Daylight Analysis report) while they consider that the angle of obstruction means that the VSC output from the simulator is not possible.
- They also disagree with the APSH conclusion that 100% of the 56 bedrooms and K/D/L meet the 100 and 200 Lux targets and consider that they are not possible based on their Diagrams APSH 1, 2 and 3 and Diagram 3 VSC.
- The appellant's diagrams show APSH at equinox. Apartments 2 and 5 would have less than 5% VSC and 0% WPSH.
- The appellant's diagram 3 shows the proposed building would be in shadow from September equinox to March, except for a top floor apartment.
- There would be no Light Reflective Value (LRV) as Church Street East's walls and ground would be in shadow most of the year.
- The Solstice shadows are close to London values with an input elevation of 71 degrees rather than Dublin values.
- The lowering of the angle of obstruction by 4 degrees would have a negligible effect on VSC.
- Relying on extant permissions is wrong as they are all substandard in the same way when exposed to the applicant's Diagram 3.

7.2.4. Appendix 4

- The original sixth floor was removed and the fifth-floor set-back. The planning officer's report refers to these proposals but then incorrectly states that the fifth floor has been removed and the fourth-floor set-back. The decision is based on incorrect assumptions about floor removal.

7.2.5. Appendix 6 (no appendix 5)

- Fails to maintain the existing streetscape by allowing a 5-storey building where 1 and 2 storeys prevail.
- Fails to adhere to QHSN12 by not building on local character, housing types or landscape.

- Houses are in demand and there are plenty of apartments with 1,250 rental apartments under construction nearby.
- By permitting 23 apartments the unique character of the area is being destroyed not protected.

7.2.6. Appendix 10 (no appendix 7, 8 or 9 included)

- The loss of light at 5 Church Street East affects mental health and will require constant electric lighting incurring cost and having negative impact on quality of life.

7.3. Applicant Response

7.3.1. The response to the appeal includes an introduction followed by eight points that generally follow the headings in the appeal:

- The principle of no on-site parking has been established by extant permissions P.A. Reg. Ref's. 3362/19 and 3409/20, which would yield 18 apartments. The amalgamation of the two sites facilitated efficiencies, like fewer stairs and following the RFI, a modest increase of 5 units to 23 is now proposed.
- The development is appropriately scaled to respect residential amenity and privacy and is consistent with national, regional and local policy and the emerging nature and scale of residential development in the environs.

7.3.2. Appendix 10 (of appeal)

- The appeal of Emma Grimes does not have a receipt of submission from DCC and while it does contain a letter dated 5th December 2023, Emma Grimes should be struck out as an appellant.
- Appendix 10 contains a single page from Ger Philpott, stating that he wishes to appeal the grant of permission. However, no receipt of submission is included and this appeal is inadmissible as part of the Board's considerations of the appeal.

Appendix 1

- The applicant alleges the development would be a material contravention, but in Appendix 1 claims it is a contravention rather than a material contravention. The applicant responds under a series of sub-headings as follows:
- Contravenes Appendix 3 - The applicant disagrees. Items 1-5 of the RFI all addressed Appendix 3 issues being density, design, scale, height, dual aspect and compliance with internal standards, and the response comprehensively addressed them, including reduced height, reduced density and more dual aspect units. The amendments were acceptable to the planning authority, who concluded that the amalgamation of the 2 permitted schemes would be more attractive and appropriate.
- Streetscape - The appellants do not reference any policy, objective or development management standard regarding 'streetscape' and using that single word is not a reason for refusal. The revised scheme provides an appropriate streetscape.
- Section 4.5.3 Policy SC11 - The proposal is the essence of what SC11 is trying to achieve. The additional yield (23 up from 18 units) as a result of amalgamating two sites, is achieved without detracting from the residential or visual amenity. It would promote compact sustainable densities, of infill brownfield sites close to public transport within walking distance of Luas, Dart, Connolly Station and Amiens Street bus corridor.
- Chapter 5 Quality Housing - The proposed development with a modest increase in density over that previously permitted, would be consistent with and would not contravene Section 5.5.2 - QHSN10 15.5.2 which seeks to respect and complement the prevailing scale.
- The existing permissions on site confirm 4 and 5 storey buildings respect and complement the prevailing scale of development. In response to the RFI, the top floor was removed and the 5th floor was set back as requested by the P.A.
- 15.9 Overlooking and Overbearing - The appellants do not identify a single instance of overlooking or overbearing as none would arise.
- Zoning Objective - The development would neither contravene nor materially contravene the Z1 zoning objective.

7.3.3. Appendix 2

- The appellant's claims about the content of the Daylight Analysis and Overshadowing assessment upon which previously grants of permission were based, is not supported by any alternative evidence.
- The methodology of the daylight and sunlight analysis is clearly set out and uses industry standard modelling software. The files can be provided to the board to be independently verified, if required.
- Further unsupported claims are made on page 4. The development was assessed as passing for daylight, but fails for many windows for VSC. The appellants ignore or misunderstand the computer modelling.

7.3.4. Appendix 3

- The response to this element of the appeal was prepared by H3D, (who prepared the Daylight Analysis and Overshadowing report).
- Page 5 – Issue – Use of theoretical framework.

Response – The theoretical framework is too simple and while there may be an obstruction height, obstructions are not uniform and using a single building height as the uniform obstruction height is not accurate and creates misleading results. The modelling software takes the entire site into account and the VSC results are in the H3D report, submitted as further information.

- Page 6 – Issue – DCC planners made a serious error in not recognising the daylight obstruction angle was much greater than 45 degrees.

Response – The obstruction angle is not uniform and software takes the whole context into account.

- Page 7 – Issue – Diagram showing Angle of Obstruction (AOO).

Response – A uniform AOO cannot be used. While there is a high level of failing for VSC on Church Street East, the windows on some houses at the end of the street pass.

- Page 11 – Issue – At Equinox, all ground and most 1st floor windows would not pass APSH Standards.

Response – This claim has not been substantiated. It is based on an incorrect assumption of a uniform AOO.

- Page 12 – Issue – Extreme level of light obstruction means Church Street East houses would be plunged into near complete darkness.

Response – This claim misrepresents the requirement for VSC. VSC is based on access to sky, not sun.

- Page 12 – Issue – The VSC is nonsense.

Response – References to Annual and Winter VSC make it clear that the appellant does not understand the VSC analysis.

- Page 14-19 – Issue – APSH Analysis

Response – The appellant misunderstands the reports, as APSH was completed for the neighbouring properties and not the proposed development.

- Pages 16 & 17 – Issue – Proposed Apartment 2 would have less than 10 minutes of sunlight and Apartment 5 less than 20 minutes.

Response – The model shows that the sun would be higher in the sky than the SACB building and ESB power station. The appeal incorrectly focusses on one time of day and assumes that the buildings referred to are much taller than they are in reality.

- Page 18 – Issue – The building would be in shadow from September equinox to March Equinox based on a 33m high SACB building.

Response – The SACB building is 29.8m high, not 33m and only blocks light from the lowest apartments for a short period in the middle of the day. There is good sun access to all apartments before and after it passed the SACB building.

- Page 20 & 21 – Issue – Incorrect inputs used throughout the daylight analysis. Church Street East ground and walls would be in shadow for most of the year. The proposed south façade is close to a boundary wall and the rest of the ground to the south is seriously shadowed giving little LRV due to AOO.

Response – The appellant has misunderstood the LRV (light reflective value) inputs. These values are consistent for any site and are input when light shines on a surface. If light does not shine on a surface, LRV is irrelevant.

- Page 22 – Issue – Based on diagrams, it is considered that no level of 200 lux is possible in apartments 2 and 5 and they should read ‘fail’.

Response – The unsupported claim is not consistent with the computer model, which demonstrates the apartments would have good access to light.

- Page 23 & 24 – Issue – Claims referencing the extant permissions.

Response – Any change is within acceptable limits and all buildings overshadow each other to some extent. The VSC at the appellant’s residence, is compliant with BRE Guidelines. The proposed communal open space complies with the requirement for at least 50% of the area to received 2 hours of sunlight on March 21st.

- Summary and Conclusion –

The appellants have misunderstood, and mis-applied the BRE Guidelines. Their single assessment approach is a fundamental error and does not factor in sun path movements. A holistic analysis and assessment can only be obtained with computer modelling, as is demonstrated, and the model can be made available to the board, if required.

The planning authority has undertaken a thorough assessment, including of the BRE Guidelines, which are only guidelines, and decided to grant permission. The board is invited to reject the appellant’s misapplication of the BRE guidelines in Appendix 3.

7.3.5. Appendix 4

- It is for the DCC planner to defend their report, but it is considered that the confusion arises relating to terminology.

7.3.6. Point 5 / Appendix 5

- This accusation (regarding angle of obstruction) is very general and fails to have regard to extant permissions for like buildings on the site. They do not prevent nearby homeowners from carrying out home improvements to reduce energy consumption.

7.3.7. Appendix 6

- Many of the complaints refer to other permitted developments. Dublin City is changing and the proposed 4 and 5 storey building is consistent with extant permissions. Neither the factory/commercial building nor the cleared site are sympathetic to the amenity and character of the area.

7.3.8. Point 8 / Appendix 8

- This statement is incorrect. All parties that made initial submissions were notified that further information had been provided (which included the Construction Management Plan).

7.3.9. Point 10

- Alleging unfair DCC procedures is not a ground of appeal. DCC simply complied with the timeframes set out in the planning legislation.

7.4. Planning Authority Response

- 7.4.1. Requested that the board uphold its decision to refuse permission, but if permission is granted, that the following conditions be applied 1) Section 48 development contribution; 2) S49 Luas C1 development contribution; 3) a bond; 4) contribution in lieu of public open space; 5) naming and numbering; 6) management company.

7.5. Observations

- 7.5.1. Three observations were received on the appeal, from persons or groups of persons who has previously made submissions on both the original application and the response to further information. The submission are set out separately below as they are immediately adjacent neighbours in 3 different directions from the site.

7.5.2. **Niamh Dooley and others (17,18 & 19 Abercorn Road to the immediate south)**

- No Communication – or consultation has occurred with neighbours regarding a construction management plan and the impacts of demolishing the factory that forms the observer's boundary wall.

Services for the adjacent house to the north run along the boundary wall and the gas boiler and air intake of the adjacent house have vents on the gable, so care needs to be taken that these services and vents are not impacted.

- Non provision for parking – is going to lead to additional pressures on the immediate area. Canon Hall had to provide parking, so why not this site.

Pg 37 of the Architectural and Design Statement states that appropriate on street parking is within easy reach of the development, so, how can it be ensured that no resident owns a vehicle and parking is not made worse.

- Flood Risk – Neighbours cannot get flood insurance due to flood risk in the area, due to a history of flooding.

As the proposed floor level has been raised relative to adjoining houses, to address flooding, it could lead to flooding from stored water in the infiltration system.

- Shadow Analysis – Figures 6 and 9 of the shadow analysis appear to have incorrectly depicted No's 17 and 18 Abercorn Road.
- Pre-Planning Consultation – Only 1 meeting was undertaken with the council.
- Site Density and Plot Ratio – The proposed density and plot ratio are well in excess of development plan ranges, and permission was granted despite being in contravention of the density. It will act as a precedent.
- Infill – Not enough consideration has been given to the site being an infill site.
- Height – While a floor has been removed, the floor level has risen, meaning the height reduction would be insignificant.
- Architectural & Design Statement – Contains many incorrect, contradictory and misleading statements. The scheme detracts from the public realm in the immediate area.
- Noise Impact – No reference made to the change of use from business use and hours to residential use. The roof garden will add to the noise level generated by the nearby Canon Hall apartments.

No noise impact of bicycle parking.

- Policy – Is the development consistent with QHSN12.
- Independent Survey of adjacent properties & disruption during construction –

The adjacent houses do not have solid foundations and the ground has been weakened by past flooding events.

A method statement should be included detailing the form and method of foundation construction.

Requests a condition to have independent engineering surveys carried out at the developers cost, as well as the steps to be taken to secure the neighbouring houses and all damage to be repaired at the developers cost.

7.5.3. Donna Mulhall (16A Church Street East to the immediate south east)

- Site notices are inaccurate in that they relate to 17-21 Church Street only, but the address is actually 17-23 Church Street. Case law dictates that permission can only be granted for the information in the site and newspaper notices. The application should be invalidated, and a grant of permission would not stand up to legal scrutiny.

- Balconies – proposed on Church Street East elevation were not permitted in the previous application P.A. Reg. Ref. 3409/20 and were referenced in the board inspectors report at 7.5.1 of ABP-309748-21 in respect of overlooking.

The rear balcony will overlook the private open space to the north and should be reverted to the design of ABP-309748-21 to prevent overlooking.

The drawings do not show the adjacent shed to the north or how it will be impacted by the proposed development.

- Height and Scale - The sheer scale of the building would dominate the enjoyment of the appellant's back yard. It is not clear from the drawings if it is proposed to have a walkway around the edge of the property overlooking the neighbouring house to the east.

Height creep cannot be permitted and the applicant is simply seeking to get another floor on the site. No consideration has been given to the Z2 Residential Neighbourhoods (Conservation Areas) zoning of Church Street East or Abercorn Road.

- Daylight analysis and overshadowing report - made no comment on the impact of the development on No 16A Church Street East, whereas the previous application P.A. Reg. Ref. 3409/20 did.
- Unit Mix - The high density is brought about by the provision of 1 and 2 bed apartments, which are not suitable for families. Appendix 1 to the plan requires applications for more than 15 units in this area to provide 3 bed units.
- Cluid Housing has expressed an interest in purchasing / funding the scheme. Housing in that regard should be mixed within an wider housing development as per Part V rules.
- Car Parking – The 23 units could house up to 64 people. The 46 page Residential Travel Plan avoids answering the FI query as to how on street parking will be regulated, while its analysis indicates that up to 14 spaces could be needed based on local car ownership trends. The provision of bicycle parking is not an adequate response.
- Other comments
- Security concerns when shed wall, which is their boundary wall is knocked, if the site is left vacant, and ask that this is addressed by a condition.
- Construction management plan and pre-commencement survey of adjacent properties.
- Potential overlooking from the rooftop amenity space. It should not be used after 8pm and the screen around it should be 2m in height.
- The claim that the previously permitted schemes were unviable is not supported by evidence.

7.5.4. Ger Philpott (directly north of the site on opposite side of Church Street East)

- This observation should be read together with the two previous submissions on 1) the application and 2) response to further information.
- Not opposed to development but consider the height, scale and design have had insufficient regard to the existing character and scale of development. and would adversely affect residential amenity.

- Would overshadow/reduce daylight, sunlight and skylight at the front and in the rear garden.
- Inadequate amendments made on foot of the RFI and permission should have been refused.
- Density – Failed to reduce the density to 300 units per ha. Would materially contravene the development plan in respect to density as per Holland J in Ballyboden Tidy Towns Group v An Bord Pleanála (2022) IEHC 7 and Humphreys J in Four Districts Woodland Habitat Group v An Bord Pleanála (2023) IEHC 335.

While the council did not refuse for material contravention reasons, no compelling architectural and urban design rationale was provided for the breach of density and the board must address this matter.

The test of appropriate density is not against the original proposal, but against the development plan. This approach would incentivise applicants to exceed standards by a significant amount initially so that the revised exceedance would not look so bad.

- Height and Overshadowing – Items 2 and 5 of the FI refer. While the sixth floor was omitted and the fifth set back, the fourth floor was not set back and the Architects Design statement incorrectly refers to the fifth and sixth floors as the fourth and fifth floors.
- Daylight – There will be a significant reduction in VSC at the front windows at both ground and first floor levels of almost all houses on Church Street East. The applicant does not try to justify the significant level of proposed overshadowing, but refers to what was previously permitted on the site. While the planning authority shares the neighbours' concerns they rely on the applicant's willingness to alter the proposal to mitigate some of the original concerns. The test should not be against a grossly excessive original proposal, but against development plan standards, building height guidelines and BRE Guidance.
- Sunlight – The revised scheme continues to fail BRE standards for APSH with a pass rate of 69%. The daylight and sunlight report fails to show the

percentage reduction in sunlight from the existing position, so cannot form the basis of a comprehensive assessment.

- Conclusion – The need for housing cannot be met by permitting inappropriate development that contravenes the development plan and significantly affects existing residential amenity.

7.6. Further Responses

- None

8.0 Assessment

8.1. Introduction

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

- Validity of Appeal
- Site and Newspaper Notices
- Unfair Procedures
- Principle of Development
- Reference to 4th, 5th and 6th floors (Appendix 4 of appeal)
- Height
- Standard of residential development – compliance with Apartment Guidelines
- Public Open Space
- Density, Plot Ratio and Site Coverage
- Impact on Surrounding Properties
- Daylight and Sunlight
- Traffic, Parking and Access

- Flooding
- Other Matters
- Appropriate Assessment (Section 9.0)

8.1.2. In the interest of clarity, this assessment is based on the revised proposed scheme of 23 apartments that was submitted in response to the request for further informant, although some reference will be made to the original proposal for 28 apartments, throughout the assessment.

8.1.3. Before addressing the planning merits of the proposed development, I will address a number of technical issues pertaining to the application and appeal.

8.2. Validity of Appeal

8.2.1. The applicant has responded to the grounds of appeal stating that the appeals of Emma Grimes and Ger Philpott should be dismissed.

8.2.2. I note the first page of the appeal is stamped and dated the 6th of February 2024 and is a copy of the receipt for James K Glynn. This is followed by an official acknowledgement of receipt of an observation from Liz Corrigan.

8.2.3. The first page of the grounds of appeal names Emma Grimes, Liz Corrigan and James K Glynn, with James K Glynn stated as the person to whom replies are to be sent to and his full address is included. I am satisfied that Mr Glynn is the appellant and that a valid appeal has been made. The board has issued correspondence in respect of the appeal in the name of James K Glynn and Others.

8.2.4. I note that an official receipt of submission has not been submitted on behalf of Emma Grimes, but the DCC letter addressed to her and John Grimes does refer to her previous submission. The grounds of appeal are indivisible from Emma Grimes and she is not referred to in the correspondence issued by the board, and while I would agree that she has not met the requirement for being a named appellant, which would not have any bearing on the ground of appeal that are to be considered in the appeal.

8.2.5. Likewise, I note that a single page is included as Appendix 10 to the appeal, in the name of Ger Philpott, who is not a named appellant. I am satisfied that Mr Philpott has made submissions on both the application and in response to the request for

further information and the matters he raised in appendix 10 have already been addressed by him in earlier submissions and in the observation on the appeal. I do not consider that the board is precluded from considering the matters he has raised in Appendix 10 to the appeal and I do not agree with the applicant that his comments are inadmissible.

8.3. Site and Newspaper Notices

- 8.3.1. An observer on the appeal states that the site and newspaper notices are incorrect, as they incorrectly refer to 17-21 Church Street, when the development relates to 17-23 Church Street, and as a result the application should be deemed invalid.
- 8.3.2. I have reviewed the notices, and I am satisfied that there are no discrepancies in the notices for the reasons set out below.
- 8.3.3. The site notice is headed No's 17-23 Church Street East and refers to the entire proposal to construct a replacement building. The reference to 17-21 Church Street East refers specifically to the proposed demolition of the two-storey industrial/office building at 17-21 Church Street East. I am satisfied that description of the development location in the site notice is correct.
- 8.3.4. The same applies to the newspaper notice which provides an accurate and correct description of where the separate demolition and development elements would occur.

8.4. Unfair Procedures

- 8.4.1. The appellants are of the opinion that unfair procedures were implemented wherein the applicant made significant changes to the proposed development in responding to the request for further information and a new application should have been submitted.
- 8.4.2. I note that the changes made to the application at further information stage, including reducing the height by one floor and setting back the footprint of the upper floor, followed on from the substantial number of submissions made by third parties on the initial application. Following receipt of the response to further information, the planning authority wrote to the applicant to inform them that they were required to readvertise the fact that significant further information has been received and the advertisement should invite submissions in respect of the revised proposal not later

than 2 weeks after the receipt of the newspaper notice and site notice by the planning authority. This requirement was complied with by the applicant and is consistent with the requirements of Article 35 (1)(v) of the Planning and Development Regulations 2001 (as amended). I note that the planning authority also received a significant number of observations in respect of the revised proposal and those submissions are comprehensively summarised in the planning officer's two reports. I also note that the planning officer's assessment on the revised proposal makes multiple references to the third party concerns.

8.4.3. Many of the parties who made observations on both the initial application and the revised proposal submitted by way of further information have also appealed the decision or made observations on the appeal.

8.4.4. I am satisfied that the timeframes for the making of submissions or observation on the application, further information and the appeal, are consistent with the timeframes set out in planning legislation for the making of submissions or observations in respect of each step in the process, and I am further satisfied that that there has been no unfair procedures in this application.

8.5. Principle of Development

The proposed development includes elements of demolition and construction, which will be considered separately below.

Demolition

8.5.1. The western half of the site has previously been cleared of two derelict cottages on foot of a grant of permission. Permission has been granted on four occasions for their demolition, while permission has been granted five times for the demolition of the existing office/warehouse building (see section 4.1 above). The most recent grant of permission, PL29N.309748, was issued on the 12th of October 2021 and remains live until 26th of November 2026, and includes for the construction of 9 apartments in a 4 and 5 storey block in place of the existing building. The principle of the demolition of the existing structure has been established and can be carried out under the above grant of permission.

8.5.2. I note that none of the planning authority, the appellant or the observers have raised any concerns about the principle of the demolition of the existing building. However,

concerns have been raised by the observers about the potential impact of the demolition on the structural integrity and safety of the immediately abutting house at 16a Church Street East, to the immediate south east and on the boundary wall of No 17 Abercorn Road to the south, including potential for asbestos to fall into the adjoining properties during demolition and potential damage to underground services running along or close to the boundaries.

- 8.5.3. The existing building is of relatively modern construction, is not a protected structure, and is not located in a conservation area, while the development plan does not contain any protected landscapes or views in the vicinity of the site. Policy CA6 of the Development Plan 'Retrofitting and Reuse of Existing Buildings' seeks to promote and support the retrofitting and reuse of existing buildings rather than their demolition and reconstruction, where possible, while Section 15.7.1 encourages the reuse and repurposing of buildings for integration within a scheme.
- 8.5.4. I am satisfied that the building has no features that are worthy of retaining and I am further satisfied that it would not be possible or feasible to incorporate the existing building into the proposed development. I have no objection to the demolition of the existing building and I am satisfied that the concerns of the observers could be adequately addressed by way of appropriate conditions including the submission of a detailed demolition and construction management plan and a construction and demolition waste management plan.

Zoning and Policy

- 8.5.5. The site is zoned 'Z1 – Sustainable Residential Neighbourhoods', the objective for which is 'to protect, provide and improve residential amenities'. 'Residential', is a 'Permissible' use in Z1 zoned areas. The proposal to add 23 apartments over 5 floors would bring added vitality to the site.
- 8.5.6. The applicant has stated that the development is consistent with national, regional and local policies and I am satisfied that the development of 23 apartments would be consistent with the broad principles and objective of such plans and would help to deliver new housing in a compact manner and make an more appropriate and efficient use of this underutilised brownfield site. However, in order to determine whether or not the proposed development is consistent with the Z1 zoning objective, I will examine specific aspects of the development including height, density,

overlooking, parking and residential amenity, against relevant policies, in later sections of my assessment.

- 8.5.7. I also note that the site lies immediately south of two storey housing that is zoned Z2 Residential Neighbourhoods (Conservation Areas) and Section 14.6 of the development plan referring to transitional zones states that it is important to avoid abrupt transitions in scale and land-use between contiguous transitional zones and it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. I will consider this in more detail below.

8.6. Reference to 4th, 5th and 6th floors (Appendix 4 of appeal)

- 8.6.1. The appellant considers that the planning authority report contains errors and the decision is therefore flawed. The basis for their consideration is that item 5 of the further information required the removal of the sixth floor, and additional setbacks particularly at the fourth and fifth floor. The appellant continues by stating that that the planning officer's report on the response to further information on item 2 (which also requested that the sixth floor be removed) states that the fifth floor has been removed and the fourth floor has been set-back. Therefore it is their opinion that that this statement is incorrect and that the decision may have been made based on a wrong or inaccurate statement or possibly an error by the planning officer.
- 8.6.2. I have reviewed the original plans and elevations and the revised proposal submitted by way of further information. The original application for 28 apartments over 6 floor levels being 1) ground floor; 2) first floor; 3) second floor; 4) third floor; 5) fourth floor; and 6) fifth floor. The revised application for 23 apartments proposed accommodation over 5 floors being 1) ground floor; 2) first floor; 3) second floor; 4) third floor; and 5) fourth floor.
- 8.6.3. While the appellant has referenced what was asked of the applicant in Item 5 of the request for further information, they have referenced the planning officer's comments on the response to item 2 in the grounds of appeal. I note that in commenting on the response to item 5 of the request for further information, the planning officer stated that the revised scheme has removed the fifth floor entirely, in terms of units, and set-back the fourth floor in an attempt to reduce overshadowing and continued that the planning authority considers the submitted response as sufficiently addressing item 5, which was referring to effects of overshadowing, which I will address later.

- 8.6.4. I am satisfied that the issue highlighted by the appellant is a discrepancy, but is one by reference to the language used to describe floors, rather than being a fundamental misunderstanding or misread of the submitted plans and elevations. In that respect, there was no 'sixth floor' labelled on the plans, even though the RFI sought the removal of the sixth floor. The reference referred to the top floor and this was complied with, whether it is described as the fifth floor (above ground level) or the sixth floor. Following from the above, the rest of the item 5 of the request for further information referred to setbacks in the fourth and fifth floor, which are in fact labelled as the third and fourth floor on the plans and elevations.
- 8.6.5. The applicant did set back the fourth (fifth) floor but did not set back the third (fourth) floor, so did not fully comply with the request in item no 5. An applicant is entitled to respond to a request for further information in any manner they chose to and in this instance they decide not to set back the third (fourth) floor as requested by the planning authority. The planning authority accepted the revised proposal, which is a matter of judgement, and I am satisfied that there is no flaw in the decision. I will assess the impact of not setting the third (fourth) floor back from the street edge on the amenities of neighbouring properties later in this assessment.
- 8.6.6. I am satisfied that the planning officer has not made an error and the planning authorities decision is not flawed on the basis of the appellants claims in Appendix 4 of the appeal.

8.7. Height

- 8.7.1. The appellant states that the proposed development contravenes 1) Appendix 3 of the Development Plan; 2) Streetscape; 3) Section 4.5.3 Policy SC11; 4) Section 5.5.2 QHSN10 integration with character of area; 5) Section 15.5.2 scale, mass and architectural design; 6) 15.9.18 Overlooking and Overbearance; and is therefore contrary to the Z1 zoning objective 'to protect and improve residential amenity.
- 8.7.2. The appeal and observations places significant emphasis on policies such as SC11, which states that infill development must respect the established character of the area and the development fails to integrate with the character of the area.
- 8.7.3. I also note Policies SC14 and SC15 of the development plan that refer to the Building Height Guidelines, which in turn state it is Government policy that building heights must be generally increased in appropriate urban locations and that there is

therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility, which would apply to the application site.

- 8.7.4. In terms of the character of the area, the site is located in a transitional area at the edge of and in between both modern and tall structures ranging from 3-18 storeys within 30-200m to the south and east and single and two storeys houses to the west and north. The immediately adjacent buildings to the north, east and south are two storeys, with single storey house to the west. These houses make up the southern edge of the traditionally low-rise East Wall area. The docklands area has undergone a significant transformation in recent years to the extent that the site is the only undeveloped part of an urban block, that accommodated buildings ranging from 2 to 11 storeys in height, with similar and taller buildings being built or recently built to the south, east and north-east. The 7 storey element of the Saudi Arabian Cultural Bureau (SACB) is located c24m south of the site at the closest point and reached a height of 29.8m above the level of the site.
- 8.7.5. The application site has also been the subject of five planning applications since 2017, one of which expired in January 2025 under ABP PL29N.309748 (P. A. Reg. Ref. 3362/19 for 9 apartments in a 5 storey building on the western end of the site that is cleared of buildings. The eastern part of the site, on which the current building is located, is the subject of a live grant of permission for the construction of 9 apartments in a 4 and 5 storey building with heights ranging from 14.04m (roof terrace over 3rd floor), to 15.54m (parapet of 4th floor) and 16.79m above ground level. The floor to ceiling heights were 2.7m at ground level and 2.4 to 2.6m on the four upper floors. The recently expired permission for the western half of the site (P.A. Reg. Ref. 3365/19) would have been of similar height.
- 8.7.6. While the context of the existing low rise dwellings on Abercorn Road and Church Street should be taken into consideration as part of the site context, in light of prevailing national, and local policy seeking favouring increased building heights in appropriate urban locations, I am satisfied that the prevailing context is that formed by the existing larger and taller buildings within the urban block where the site is located, being Canon Hall and the SACB building.

- 8.7.7. The immediately adjacent house to the east of the site on Church Street East has a ridge height of c 7m while the 3 storey over semi-basement building at Canon Hall is 11.36m in height. The house to the immediate north of Abercorn Road is 11.207m high.
- 8.7.8. At sections 2.1.2 and 2.1.7, I described the height of the originally proposed development and the revised proposal that is the subject of this appeal. I noted that the maximum height of the proposed building would be 6 storey for a small section where the lift overrun would extend up to a height of 19.025m. The main body of the building would now be 5-storey in height at 15.875m, while the barrier around the roof terrace above would have a height of 16.975m and would be set back 3.1m from the boundaries. I also noted that the floor to ceiling height at each of the five floor levels would be 2.7m compared to 2.6m in the previously permitted development. Therefore, there would be scope to reduce the height of the four floors above ground level by up to 0.3m per floor or 1.2m overall, if necessary, and this will be addressed in detail in respect to daylight and sunlight in section ___ below.
- 8.7.9. Section 3.2 'Development Management Criteria' of the Building Heights Guidelines provides criteria to be used when assessing planning applications at the scale of the neighbourhood or street. It states, in summary, that developments should:
- Respond to the overall natural and built environment;
 - Avoid monolithic appearance in terms of form and materials;
 - Improve legibility and integrate in a cohesive manner;
 - Contribute to the mix of uses and/or building/dwelling typologies.
- 8.7.10. The application site has been partially cleared of two single storey houses and the eastern half consists of a two storey commercial building. The site currently detracts from the character and amenity of the area. I have previously described the building heights in the immediate area as being wide ranging from 1 and 2 storey up to 7 and 11 storey. The building also have a range of finishes with No 16A having a traditional red brick finish while the extensive Canon Hall building has a yellow brick finish. The houses opposite the site to the northeast have nap plaster finishes with one house finished in dry dash. The houses opposite and to the south on Abercorn Road are a

mix of painted and unpainted houses, as well as several with rough dash finishes and painted over brick. The SACB building is clad in stone panels.

- 8.7.11. The public facing facades of the building would be finished in a mix of low to no maintenance finishes including red brick and a rendered finish as well as a feature in the form of a zinc standing seam cladding and a powder coated aluminium brise soleil, while the rear elevation would be fitted with fibre cement panels. I am satisfied that the proposed development would improve the legibility of the area and would integrate with the existing character of the area.
- 8.7.12. I consider that the proposed development not seriously detract from the character of visual amenity of the area, which has undergone a significant change in recent years and consists of a mix of traditional low rise housing and modern mid to higher rise buildings
- 8.7.13. Appendix 3 to the Development Plan sets out specific guidance regarding the appropriate locations where enhanced density and scale including increased height will be promoted via performance criteria for the assessment of such development. it includes the are win which the site is located and 3 states that 'in general, and in accordance with the Guidelines, a default position of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific characteristics,... Where a development site abuts a lower density development, appropriate transition of scale and separation distances must be provided in order to protect existing amenities'.
- 8.7.14. I do not consider that the height of the building constitutes an increase in height relative to the wide range of building heights found in the immediate area and it is not necessary to assess the proposed development against the performance criteria set out in table 3 of Appendix 3 to the development plan. However, the acceptability of the height of the building needs to be considered in respect of the impacts of the development on sunlight, daylight and overshadowing of neighbouring properties, and I note there would be scope to reduce the overall height of the building by up to 1.5m, by reducing each of the floor to ceiling heights above ground floor level from 2.7m to 2.4m or alternative by reducing the height of the building by one floor, if its impacts are deemed excessive on residential amenity.

8.8. Standard of residential development – compliance with Apartment Guidelines

- 8.8.1. The Housing Quality Assessment (HQA), submitted with the response to further information provides information for each individual apartment in respect of the gross floor area, aggregate kitchen/dining living floor areas, bedroom sizes, storage areas, private amenity space, floor area in excess of the minimum and aspect.
- 8.8.2. Paragraph 1.18 of the guidelines states that the Board are required to apply any specific planning policy requirements (SPPRs) of the guidelines while paragraph 1.19 states that where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans. I will address the SPPR's below.

SPPR's 1 and 2 - Mix of Units

- 8.8.3. It is proposed to provide 13 no. 1 bed apartments and 10 no. 2 bed apartments in the development.
- 8.8.4. An observer on the appeal states that the site is located within the HNDA (Housing Need and Demand Assessment) for the north inner city and that there is a requirement for a minimum of 15% of units to be 3 bedroom units and a maximum of 25-30% of units to be one bedroom or studios. However, by reference to Figure 1-2 'Dublin City HNDA Sub Areas', which is found in Annex 3 to Appendix 1 to the Development Plan, the site is not located in the North Inner City HNDA area, so the unit mix set out in SPPR's 1 and 2 of the apartment guidelines apply.
- 8.8.5. Observers also raised unit mix as an issue, by particular reference to what they consider that there is an over-provision of studios, 1 and 2 bed units in the general area in recent SHD permissions and a lack of provision of larger (3+bed) units. There are three major sites developed or under construction in the immediate area, which are referred to in the planning history section of this report. Those permissions will provide a total of 1,804 units, consisting of 173 studios (9.59%), 840 x 1 bed units (46.56%), 692 x 2 bed units (38.36%) and 99 x 3 bed units (5.49%), which would indicate that the needs of smaller households in the area are more than being catered for in the new developments. The CSO SAPS maps for Census 2022 indicates that there were 3,514 private households in the North Dock B Electoral Division, with 65.75% being one or 2-person households and 94.65% being 1, 2, 3 or 4 person households. 4.75% of households accommodate 5 or 6 people, so while

this type of household is a small percentage of overall households, there would still be demand for larger or 3 bed units in this area and would equate to 1 unit in a 23 unit development.

- 8.8.6. Specific Planning Policy Requirement 1 (SPPR) stipulates that housing developments may include up to 50% one-bedroom or studio type apartments. The development would have 13 no. one bedroom apartments, which equates to 56.52% of the proposed apartments, so the development would not be compliant with the requirements of SPPR 1. I note that the original proposal for 28 apartments had 15 no. 1 bed units (53.57%), which was also not compliant with SPPR 1, although the planning authority did not raise this as an issue at further information stage. That is because non-compliance with SPPR 1 needs to be considered in the context of SPPR 2, which applies to the proposed development, as it refers to urban infill schemes on sites of up to 0.25ha and the application site is only 0.0587ha. SPPR 2 provides that where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units and it continues to state that where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th.
- 8.8.7. The all means that the development could have up to 16 no 1-bed units and 7 no 2-bed units, so I am satisfied that the proposed mix of 13 no 1-bed units and 10 no 2-bed units is compliant with the requirements of SPPR's 1 and 2 of the Apartment Guidelines and there is no requirement to provide 3 bedroom apartments.

SPPR 3

- 8.8.8. 19 of the 23 apartments would exceed the minimum floor space requirements set out in SPPR3 of the guidelines and 2 apartment would meet the minimum requirement. A further 2 of the 2-bedroom apartments would have floor areas of 67sqm and are designed to accommodate three persons. Paragraph 3.6 of the Apartment Guidelines states that planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres and this type of apartment is listed in Appendix 1 to the guidelines addressing 'Required Minimum Floor Areas and Standards' where it states that units of 63sqm

are permissible in limited circumstances, and no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. The two no 2-bedroom 3-person apartments constitute 8.69% of the total number of apartments.

8.8.9. I am satisfied that the requirements of SPPR 3 have been complied with.

Minimum floor area

8.8.10. It is a requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%. 14, or 60.9% of the 23 apartments exceed the minimum floor area by more than 10%.

SPPR 4 - Dual Aspect Ratios

8.8.11. SPPR 4 states that in central and accessible urban locations, a minimum of 33% dual aspect apartments will be required in a single scheme. 15 or 65% of the 23 apartments would be dual aspect, meaning that the proposed development would be compliant with SPPR4.

SPPR 5 - Floor to Ceiling Heights

8.8.12. SPPR 5 provides that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, while paragraph 3.21 provide that the suggested minimum floor to ceiling height is 2.4m for all other floors and that from a planning and amenity perspective, applicants may consider the potential for increasing the minimum apartment floor-to-ceiling height to 2.7 metres where height restrictions would not otherwise necessitate a reduction in the number of floors.

8.8.13. All apartments are proposed to have floor to ceiling heights of 2.7m, so I am satisfied that the proposed development would be compliant with SPPR 5.

SPPR 6

8.8.14. SPPR 6 provides that apartment schemes may have a maximum of 12 apartments per floor per core. No floor has more than 5 apartments and I am satisfied that the development would be complaint with SPPR6.

Internal Storage

- 8.8.15. 5 of the 23 apartment meet the minimum storage requirements of Appendix 1, while 18 exceed the minimum requirement. This was raised as item 4 in the request for further information and while the planning authority would have preferred that all units exceed the minimum requirements, it was accepted that the infill nature of the site meant that there are constraints and that the revised proposal was acceptable.
- 8.8.16. I note that of the 5 apartment unit that provide the minimum storage area, 4 significantly exceed the minimum apartment floor area, while apartment No. 22 just meets the minimum floor area and minimum storage area. I also note that the stated storage areas on the floor plans of apartment 22 do not equate to the figured dimensions which suggests that storage in excess of the minimum could be provided. Overall, I am satisfied that the proposed development would provide an adequate level of internal storage for future residents.

Private Open Space

- 8.8.17. All apartments would be provided with the required quantity of private open space in the form of balconies or terraces compliant with Appendix 1. However, I will examine this matter further in Section 8.11 below, with respect to noise impacts and overlooking on future occupants.

Communal Open Space

- 8.8.18. As per Appendix 1 to the apartment guidelines, the communal open space requirement is 133sqm and following the submission of further information, it is proposed to provide 170.3sqm in a roof gardens at fifth floor level. Section 4.11 of the guidelines stated that roof gardens may be provided, but must be accessible to residents, subject to requirements such as safe access by children. The proposed roof garden would not have the benefit of passive surveillance from apartments but would be set back sufficiently from the site boundaries and would have sufficiently high perimeter of 1.8m to ensure that non overlooking of adjacent properties occurred and that users were secure. I am satisfied that the quantity of open space will provide an adequate level of communal amenity for future residents.

Access

- 8.8.19. The five ground floor apartments would have own door access direct from the street while access to the upper floors would be available from a recessed entrance on

Church Street East and a second entrance from the courtyard that would be accessible from Abercorn Road. The first and fourth floor apartments would be accessible from external walkway running parallel to Church Road East, while the second and third floor apartments would be accessible from internal corridors directly from the stairs and lift core running through the middle of the building. The corridors meet the minimum width requirement of 1200mm set out in Part M of the building regulations which is referred to in paragraph 4.2 of the apartment guidelines, but do not meet the requirement of providing passing bays. The corridors could each serve 3 apartments and would have a maximum length of 13.2m, with the access doors to the apartments set 4.4m, 8.4 and 13m from the start of the corridor. I consider that it would not be necessary to provide for passing bays on either of the corridors at second or third floor.

Refuse Storage

- 8.8.20. Appendix 7 to the Development Plan - Guidelines for Waste Storage Facilities states that provision shall be made for the storage and collection of waste materials in apartment schemes in accordance with Apartments Guidelines. Sections 4.8 and 4.9 of the Guidelines refer to Refuse Storage and state refuse facilities shall be accessible to each apartment stair/lift core and designed with regard to the projected level of waste generation and types and quantities of receptacles required.
- 8.8.21. The bins store for the apartments with an area of 29.7sqm would be accessible externally at ground floor level within the courtyard and would open onto Abercorn Road on the western side of the building. I am satisfied that the bin storage area would provide adequate capacity and has been designed in accordance with the criteria of Sections 4.8 and 4.9 of the guidelines.

Conclusion on Apartment Guidelines

- 8.8.22. I am satisfied that the proposed development would comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines - December 2022 (2023), including its SPQR's and that the minor deviation from the requirement to provide a passing bay in the access corridors at second and third floor levels is acceptable in the context of the scale of the development. While the proposed development meets the technical requirements of the Apartment

Guidelines, I will address the quality of the impacts of the development on the amenity of future occupants and neighbours the later sections of this assessment.

8.9. Public Open Space

- 8.9.1. The Development Plan provides that a minimum of 10% of public open space must be provided for residential developments in Z1 zoned areas, while section 15.8.7 provides that in some instances, for schemes of more than nine apartments, it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity in cases where it would not be feasible, due to site constraints or other factors, to locate the open space on site. Taking into consideration the size of the site at 0.0587ha, that the site is surrounded by roads, footpaths and buildings, I consider that it is not possible or feasible to provide functional on-site public open space on the site, while I also note that there are areas of public open space within a 5 minute walk from the site including the linear open spaces of the Royal Canal Greenway and the River Liffey waterfront as well as a smaller space at Spencer Dock Park. If the board is minded to grant permission, I am satisfied that it would be appropriate to attach a condition requiring the payment of a financial contribution in lieu of open space and provision is made for same in the sum of €5,000 per apartment in accordance with the current Dublin City Development Contribution Scheme 2023-2026.

8.10. Density, Plot Ratio and Site Coverage

- 8.10.1. The appellant and observers have raised significant concerns about the scale of the proposed development and consider that the development is too high, out of character with the local area and constitutes overdevelopment of the infill site. Three quantifiable measures that can assist in determining whether or not a development constitutes overdevelopment are density, plot ratio and site coverage.

Plot Ratio and Site Coverage

- 8.10.2. Appendix 3 to the development plan states that plot ratio and site coverage can be used as part of a suite of measures to ensure higher density schemes are appropriately developed to a high standard. Site coverage is a tool to prevent the adverse effects of over development, thereby, safeguarding sunlight and daylight within or adjoining a proposed layout of buildings, particularly in urban locations where open space and car parking standards may be relaxed.

- 8.10.3. Table 2 of Appendix 3 provides an indicative plot ratio of 2.4-3.0 and an indicative site coverage of 60-90% in the 'Central Area', which would apply to the site. The proposed development, that was subject to the decision to grant permission, is states to have a plot ratio of 3.05, while the site coverage is stated to 58.6%. The site coverage figure does not include the surface level bike sheds. The ground floor courtyards is stated to be 55.3sqm, while the balcony of apartment No. 5 would be 11.8sqm, giving a total undeveloped surface area of 67.1sqm or 11.43%, meaning that the site coverage would be c88.57%, which is close to but within the range set out in the development plan.
- 8.10.4. The plot ratio at 3.05 is just outside of the range set out in the development plan.
- 8.10.5. While on their own I consider that the plot ratio and site coverage are acceptable, they are close to or just above the maximum of the ranges set out in the plan meaning that together with other factors they indicate that the proposed development may possibly constitute overdevelopment of the site.

Density

- 8.10.6. The original proposal for 28 apartments would have had a density of 477 units per hectare, while the revised proposal for 23 units, that is the subject of the decision to grant permission and is the subject of this appeal, would have a density of 391 units per hectare. The two separate permissions that had been granted on the site (one still live until November 2026 and one expired) would have provided a combined 18 units and a combined density of 306 units per hectare.
- 8.10.7. Table 1 'Density Ranges', of Appendix 3 'Height Strategy' to the development plan provides that a density range of 100-250 units per hectare would apply to 'City Centre and Canal Belt' sites. It also states that there will be a general presumption against schemes in excess of 300 units per hectare and that schemes in excess of this density will only be considered in exceptional circumstances where a compelling architectural and urban design rationale has been presented.
- 8.10.8. Section 3.2 also states that in recent years, there has been a move towards higher densities across the city and in Dublin Docklands under the North Lotts and Grand Canal Dock Planning Scheme, densities in the range of 200 to 250 units per hectare are achieved, whereas under the Poolbeg West Planning Scheme, densities in the range of 300 units per hectare are proposed. This is achieved by developing

buildings typically 5 to 8 storeys, with carefully considered landmark buildings, in order to achieve appropriately framed streets and sustainable neighbourhoods. Although close thereto, the application site is located outside the boundary of the North Lotts and Grand Canal Dock Planning Scheme, while the density would be well in excess of that achieved more prominent sites and it is not a landmark site.

8.10.9. I am satisfied that the proposed density of 391 units per hectare significantly exceeds the density range of 100-250 units per hectare set out for such sites in Table 1 of Appendix 3 to the Development plan.

Compact Settlement Guidelines

8.10.10. In January 2024, the same month that the planning authority issued a decision to grant permission, the Compact Settlement Guidelines (CSG's) replaced the 'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), which were revoked.

8.10.11. Section 3.3 describes settlement and area types as well as recommended density ranges that should be applied to locations. Table 3.1 states that 'City - Centre' in Dublin comprises the city core and immediately surrounding neighbourhoods and that it is a policy and objective that residential densities in the range 100 dph to 300 dph (net) shall generally be applied in the centre of Dublin.

8.10.12. I am satisfied that the site is located within a 'City - Centre' as defined in the Compact Settlement Guidelines, meaning that the site can in theory accommodate a density in the range of 100 dph to 300 dph.

8.10.13. An observer on the application states that the failure to reduce the development to 300 units per hectare would materially contravene the development plan in respect to density as per Holland J in Ballyboden Tidy Towns Group v An Bord Pleanála (2022) IEHC 7 and Humphreys J in Four Districts Woodland Habitat Group v An Bord Pleanála (2023) IEHC 335.

8.10.14. A density of 300 units per hectare would equate to 17 units, while the 18 units that had previously been permitted on the site in two separate applications would have a combined density of 306 units per hectare.

8.10.15. Similar to the development plan, section 3.3.6 of the Compact Settlement Guidelines refers to 'Exceptions' and states that there is a presumption against very

high densities that exceed 300 dph (net) on a piecemeal basis. It continues by stating that densities that exceed 300 dph (net) are open for consideration on a planned basis only and where the opportunity for densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan. It also states that in the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development and to protect the amenities of surrounding properties and biodiversity may take precedence over the densities set out in this Chapter, in the range of 100-300 dwellings per hectare.

- 8.10.16. I consider that while the application site is small, it is not a very small site, but I also note that section 3.3.6 is stating that that there may be circumstances that a density of even 100 units per hectare in a city centre site, may be inappropriate.

Density Assessment

- 8.10.17. I consider that there is a reason that very wide density ranges of 100 to 250 units per hectare are provided for in the development plan and 100 to 300uph in the Compact Settlement Guidelines, and that is because every single site will have its own unique set of constraints, that must be addressed when planning a development, and while in some cases densities of up to 300uph may be possible, in others, 100 units per hectare may be the maximum possible. It is only in exceptional circumstances that densities higher than 300 units per hectare will be permitted.
- 8.10.18. Policy SC11 of the development plan refers to promoting compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, while respecting the established character of the area, while Policy QHSN10 'Urban Density' promotes sustainable densities, particularly on vacant and/or underutilised sites, having regard to successful integration with the character of the surrounding area'. Chapter 15.5.5 development management states that higher density will be supported subject to suitable context and design, while new development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood.
- 8.10.19. Policy SC10 of the development plan seeks to ensure appropriate densities and the creation of sustainable communities in accordance with the principles set out

in the Sustainable Residential Development in Urban Areas Guidelines (2009) ...and any amendment thereof (i.e. The Compact Settlement Guidelines).

- 8.10.20. Policy informs us that the prevailing pattern of development in the area is one of the matters that need to be considered when assessing this application, as well as the nature and extent of the site itself. The collective consideration of many factors, one of which is density, will help determine whether or not the proposed development is an appropriate form of development for this site.

Precedents and compelling architectural and urban design rationale

- 8.10.21. I have previously noted that the combined density of the previously permitted developments of 18 apartments (9 units x 2) on the application site of 306 units per hectare. I also noted the three SHD applications referenced in section 4.2 of this report had densities of 377, 262 and 368 units per hectare. Unlike the current application the SHD sites were located in the SDRA 6 Docklands (SDZ and Poolbeg West), within the Docklands Area of the SDRA or the North Lotts and Grand Canal Dock Strategic Development Zone (SDZ).

- 8.10.22. I will now address whether or not the applicant has presented a compelling architectural and urban design rationale to permit a density of 391 units per hectare.

Exceptional circumstances

- 8.10.23. The applicant does not address exceptional circumstances in the response to the grounds of appeal.

- 8.10.24. The development plan states that a grant of permission for a development of in excess of 300 units per hectare, which will only happen in exceptional circumstances where a compelling architectural and urban design rationale has been presented' The applicants urban revised Architectural and Design Statement (ADS) states at page 10 that 'the submission will outline a robust site strategy to extend the established urban design principles to deliver a quality, sustainable residential neighbourhood, maximising the key aspects of the Docklands SDZ'.

- 8.10.25. The site is not located in the SDZ and there is nothing exceptional about the design, the layout of the apartments or the nature of the proposed material finishes to the building, while it would not provide any parking or any aspect of public realm.

Inclusivity

8.10.26. At page 21, the ADS states that the apartment are fully part M compliant, but as I addressed at another point in this assessment, the width of the access corridors at second and third floor levels are not fully compliant with Part M, as they do not provide passing bays, which is required when a corridor is only 1200mm wide. Page 21 also states that the communal open spaces (one only) will be overlooked for passive surveillance, which it will not as it is on the rooftop, and it also erroneously refers to public open space, which would not be provided on the site. It also refers to active frontage with a useable transition area between the street and the living accommodation. This is also incorrect.

Variety

8.10.27. At page 22 the ADS refers to opening up the Docklands SRDA. The site is not located in the SRDA although it is close thereto. It also refers to offering choice to first time buyers and downsizers, yet the initial application indicated that the development may be developed in conjunction with Cluid Housing, which is a housing charity.

Site Efficiency

8.10.28. This section shows an image indicating that the height of the building would be greater than the height of the previously permitted buildings on the site, notwithstanding the opportunity that was provided by way of further information to reduce the height of the buildings and set back the third floor (fourth floor above ground floor level). I consider that the height could have been reduced further than proposed by reducing the proposed floor to ceiling heights from 2.7m and they could have been reduced above ground floor level to 2.4m, which could reduce the overall height by as much as 1.5m (including the protruding rooftop area), so that it would be a similar height as the previously permitted development. While this could be addressed by way of a condition, if the board was minded to grant permission, the impact of reducing the floor to ceiling height was not considered and has not been assessed for impacts on sunlight or daylight to the proposed apartment, which could result in a poor level of internal amenity for future occupants.

Distinctiveness

8.10.29. The applicant considers that the use of the use of aluminium brise-soleil, angled windows and Pilkington glass would provide for a distinctive development

and I consider that the proposed material finished would be acceptable and would contrast with the existing building finishes in the immediate area. However, I do not consider the proposed finished to be exceptional.

Layout

- 8.10.30. The proposed layout simply follows the street frontage, while access to the first and fourth floor levels would be via external passageways rather than internal corridors. I do not consider that the layout of the building is exceptional relative to other similar developments.

Adaptability

- 8.10.31. With 2.7m high rooms, the apartments would be adaptable, but eh ADA acknowledges at page 35 that apartments are less adaptable than individual housing.

Conclusion on Exceptional circumstances

- 8.10.32. Having read the architectural and design statement (ADS) I am not satisfied that all aspects of the document addressed relate entirely to the application site and I am also not satisfied that the applicant has presented a compelling architectural and urban design rationale to permit a development with a density to 391 units per hectare, taking into account that the density range in the development plan is 100-250 uph and in the Compact Settlement Guidelines it is 100-300 uph.
- 8.10.33. While I accept the applicants case that the two original developments, that together would have provided 18 apartments at a density of 306 units per hectare may not have been economically viable, due to the need to provide 2 separate stair cores and 2 separate lifts and there is a logic in amalgamating the two sites, I am not convinced that it is necessary to increase the scale of development to the extent proposed and a much more appropriately scaled development could be facilitated on the site without having such a significant impact on the amenities of adjoining residences. I consider that this objective could be achieved by removing either the second or third floor levels, which would give a development of 18 apartments and a density of 306 unit per hectare. The inefficiencies of the previous separate applications would be overcome in this way. I deal with other impacts of the proposed development in the following sections including overlooking, overbearance

and sunlight, daylight and overshadowing. I am satisfied that this could be dealt with by way of a condition if the board is minded to grant permission.

8.11. Impacts on Surrounding Properties

- 8.11.1. The appellants state that the existing character of the area is low density, with low rise housing and that the design, scale and mass are overbearing in nature, would negatively impact residential amenity and have an adverse impacts on surrounding properties by reason of traffic congestion, overlooking, overshadowing, visual impact, structural impact and the nature of foundations. Overshadowing and traffic/access are dealt with separately in other sections of this report.

Overlooking

- 8.11.2. An observer has claimed that the rear garden of their property on the opposite side of Church Street East would be overlooked from the proposed development. The existing houses on the terrace, of which the observers home form part, have existing first floor rear facing bedroom windows that directly overlook the private open spaces of the rear of the neighbouring houses. I am satisfied that, in terms of impacts on residential amenity, any impacts of potential overlooking from the upper floors of the proposed development would not be so great as to warrant a refusal of permission.
- 8.11.3. I do not consider that it would be necessary to reduce the height of the building for reasons of overlooking of neighbouring properties to the east or south. While the observers state that the overlooking from the proposed development would be greater than overlooking from the existing non-residential SACB building, I note that the rear gardens of the houses at 17-21 Abercorn Road are already directly overlooked from the upper floors of the neighbouring terraced houses on Abercorn Road and from the balconies on the rear of the apartments at Canon Hall.
- 8.11.4. The applicant has incorporated a number of mitigation measures at the rear of the proposed building to address potential overlooking including angled windows, frosted glass balconies up to 1.8m in height, Pilkington Profilit vertical glazing panels to allow light into the apartment and clear glazing above the level of 1.8m. I am satisfied that the applicant has satisfactorily mitigated the potential overlooking of properties to the east and south of the site and has provide solutions that would ensure that no unacceptable overlooking or privacy impacts would occur for existing properties.

Overbearance

- 8.11.5. Overbearing impacts are impacts that a development would have on neighbouring properties by reason of height, mass and scale which is a function of the separation distance between buildings or properties. In this regard, the residential properties on the northeastern side of Church Street East would be as close as 12.8m from the proposed building and this view is their main southwestern view from their homes.
- 8.11.6. In item 5 of the request for further information, the applicant was requested to omit the sixth floor (top floor), which they did, and were also requested to set back the next two floor levels from the street edge on account of the level of overshadowing that would occur on neighbouring properties. The applicant did set back the fourth floor (the 5th floor from the ground) but did not set back the third floor. The purpose of setting back the floors was to reduce overshadowing, which would also have the effect of reducing overbearance. While the now top floor (4th floor) has been set back by c1.8m from the edge of the building, a canopy has been introduced to act as a cover over the terraced areas at fourth floor level, and this would have the effect of eliminating much of the benefit of setting the building line back from the building edge, as the canopy would add to the overshadowing effect of the building.
- 8.11.7. The proposed development has been increased in height relative to the previously permitted development largely as a result of increasing floor to ceiling heights and the ground floor level, and as a result, I am satisfied that the proposed development would have an overbearing effect on the houses to the immediate north east by reason of proximity.

Foundations and structural integrity of neighbouring houses

- 8.11.8. The plans and elevations submitted with the applicant and the response to further information indicate that the building would be built on a slab foundation, while the observers to the application state that the site consists of made ground and would require piles to secure the proposed structure. I note that the four previous grants of permission for development on the site, that have now expired, were granted on the basis of strip foundations, whereas the grant issued on application PL29N.309748 (P.A. reg. ref. 3409/20), which will not expire until the 26th of November 2026 simply indicated that a slab foundation would be installed.

8.11.9. The current application includes a drawing titled 'Standard Notes' that provides specifications which have been called into question by the observers. I have examined the specifications and note that there is reference to underpinning and work under existing foundations to be carried out by hand. Under the heading of foundations, it states that 'for arrangements of holding down bolts cast into foundations and pedestals refer to engineers drg's & also structural steelwork sub-contractor's details. Reference is made to contract drawings for drainage trenching and service trenching details, while reference is made to warehouse in respect of 'concrete'. Under the heading of 'steelwork' it refers to removing existing paint and connecting to existing structures, where new steel is to connect to existing concrete. Under the heading of 'demolition' it states that it is the contractors responsibility to ensure the safety of adjoining structures and a fully detailed dilapidation and photographic survey of existing and adjoining properties, roads, footpath, services etc and that this survey shall be submitted to adjoining property owners, that any changes shall be monitored and remedial works made good at no cost to the client.

8.11.10. I am not satisfied that the information on the standard notes is specific to the proposed development as it contains several references that are not relevant to the application. If the board is minded to grant permission it would be appropriate to attach a condition requiring the applicant to carry out pre construction surveys of adjoining properties as well as ongoing monitoring and a requirement to rectify any damage done at no cost to the adjoining property owners, not just the client.

8.11.11. On the basis of the information on the file, the applicant has provided information indicating that the proposed foundations would consist of a slab foundation, as the cross section drawings simply indicate a concrete slab will sit below the building and the standard notes do not appear to be site specific, but rather generic and related to warehouse development. If the board is minded to grant permission, but is concerned that there is insufficient information regarding the nature and type of foundations required to support the proposed development, then it may wish to consider seeking further information from the applicant in that regard, as well as seeking information about how is intended to maintain the structural integrity of the adjacent houses and the common boundaries with adjacent properties during construction, on the basis that the proposed development would abut the houses at 16A Church Street East and 17 Abercorn Road. Alternatively, if during constriction, it

is determined that a slab foundation is not appropriate to support the proposed building, then the applicant would be required to seek permission for an alternative foundation solution. However, that is beyond the scope of consideration in this assessment.

Consultation and boundary wall

8.11.12. An observer refers to a lack of consultation with them by the applicant in advance of lodging the application in respect of the proposed removal of the shared boundary wall, which is also the external wall of the building that is to be demolished. The wall of the existing structure forms the boundary with neighbouring property and once demolished it would leave the adjoining garden areas exposed. I note that it is not a requirement of an application of this nature to consult with neighbours and it has not been claimed that the boundary wall is owned by neighbours, but that a replacement wall needs to be erected up to 3m in height. I also note that section 34(13) of the Planning and Development Act 2000 (as amended) states that a person shall not be entitled solely by reason of a permission under this section to carry out any development and it is for the applicant to satisfy themselves that they have the right to carry out the proposed development, if permitted.

8.12. Daylight and Sunlight

8.12.1. The appellant is highly critical of the information provided in the Daylight Analysis and Overshadowing Report and is of the opinion that the results presented therein are impossible and that by not validating the results, the decision to grant permission is misinformed.

8.12.2. In response, the applicant refutes the grounds of appeal and states that the appellants have misunderstood, and mis-applied the BRE Guidelines, that their single assessment approach is a fundamental error and does not factor in sun path movements. They continue by stating that a holistic analysis and assessment can only be obtained with computer modelling, as they have demonstrated, and the model can be made available to the board, if required.

8.12.3. The applicant also states that while there would be a high level of failure for VSC at windows on the existing houses on Church Street East, the appellant did not understand the VSC analysis by refereeing to annual and winter VSC measures while the APSH results refer to neighbouring properties and not the proposed

development. The two parties also present different heights for the SACB building to the south of the site and I will address these matters in more detail below.

Policy

Urban Development and Building Height Guidelines (2018)

8.12.4. Section 3.2 of the Urban Development and Building Height Guidelines (2018), refers to the criteria to be considered in assessing applications at the scale of the site/building and states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light and that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 2009 (2nd edition 2011) or BS 8206-2: 2008.

8.12.5. The Development Plan 2022-2028

8.12.6. Appendix 16: Sunlight and Daylight to the development plan, which came into effect on the 14th of December 2022 refers to the 4 key documents being 1) BRE 209 (2011) second edition; 2) BS8206-2:2008, which was superseded in 2018 by 3) BS EN 17037:2018 and 4) IS EN 17037:2018, which is not deemed suitable for use in planning applications. Section 5 states that until BRE 209 is updated to include reference to BS EN 17037:2018 the planning authority will request metrics from both BS 8206-2 and BS EN 17037. Paragraph 3.6 states that if, over the coming years, a revised version of BR 209 is to be issued, the guidance within this new version will take precedence. BRE 209 has been updated, refers to BS EN17037 and applies to the proposed development.

The Apartment Guidelines (2023)

8.12.7. Paragraph 6.6 of 'Apartments and the Development Management Process' states that planning authorities should avail of appropriate expert advice where necessary and have regard to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context, when undertaken by development proposers which offer

the capability to satisfy minimum standards of daylight provision and continues to state that where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting, taking account of its assessment of specifics. This may arise due to design constraints associated with the site or location 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.

Compact Settlements Guidelines (2024)

- 8.12.8. Section 5.3.7 'Daylight' states that it is important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties and that regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. It continues by stating that in drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. It continues to state that poor performance may arise due to design constraints associated with the site or location and there is a need to balance 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.
- 8.12.9. Paragraph 1.6 of BRE 209 (2022) states that although it gives numerical guidelines, these (guidelines) should be interpreted flexibly since natural lighting is only one of many factors in site layout design. It continues by stating that in special circumstances the developer or planning authority may wish to use different target values. For example, in a historic city centre, or in an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.

Applicant's methodology

- 8.12.10. The Daylight Analysis and Overshadowing assessment report was prepared by H3D. The executive summary states that the assessment has been prepared using the methodology set out in BRE 209 3rd Edition 2022, while its daylight analysis also refers to BS EN 17037:2018.
- 8.12.11. The BRE Guidelines describe three distinct areas of impact being Daylight, Sunlight and Overshadowing and for each area of impact there are separate testing methodologies; separate measurements of impacts; and separate values prescribed for the parameters of recommended acceptable limits of impact.
- 8.12.12. I am satisfied that the applicant has prepared the Daylight Analysis and Overshadowing assessment in accordance with the appropriate guidance and provided results in respect of the appropriate impacts, while I note that the planning authority was satisfied with the information provided by the applicant at further information stage.

Appellant's case against applicant's methodology

- 8.12.13. Much of the appellant's case with respect to impact from overshadowing and loss of light is based on diagram 3 at page 18 of their grounds of appeal that shows the Saudi Arabian Cultural Centre having a height of 33,000 (assumed to be 33m) and a separate distance of 20m to proposed apartment no. 5 and a separation distance of 25m to proposed apartment no. 2 at the north western corner of the site nearest to the application site.
- 8.12.14. In response, the applicant stated that the SACB building is 29.8m high not 33m and only blocks light from the lowest apartments for a short period in the middle of the day and that there is good sun access to all apartments before and after it passed the SACB building.
- 8.12.15. Having visited the site and inspected the plans of the SACB building on the Dublin city council planning portal, I am satisfied that the building is not 33m and that the measurement of the building stated by the applicant would be a more accurate reflection of the building height.
- 8.12.16. The second issue that the appellant relies upon is proximity of the proposed building to the SACB building, where they state that it would be 20m from apartment

no. 5 and 25m from apartment no 2. Apartment no. 5 would be 3.209m from the southern boundary, while apartment 2 would be 5.8m from the boundary. The SACB building is single storey at its northern boundary closest to the application site, before rising to 4 storeys, while the 7 storey element has a curved northern façade facing the site, meaning that the distance between the highest part of the building and the application site is constantly changing and based on a review of the submitted plans I consider that the separation distance from the SACB building to apartment no. 2 would be c27.5m and the separation distance would extend to c47m between the building and parts of the SACB building located directly to the south. I am satisfied that these significantly adjusted building heights and separation distances would mean that the appellant's single point calculation are incorrect.

8.12.17. I will now proceed to assess the result of the Daylight Analysis and Overshadowing assessment submitted in respect of the revised proposal submitted by way of further information. I have considered the Daylight Analysis and Overshadowing assessment, the grounds of appeal and observations and have had regard to BRE 209 (2022) 3rd Edition and to BS EN 17037:2018.

8.12.18. Daylight within the Proposed Apartments

8.12.19. The daylight assessment of the proposed development indicates that all 33 no. bedrooms and 23 no. combined Kitchen/Living/Dining Rooms would receive the minimum lux levels of 100 or 200 lux over more than 50% of their floor area in accordance with the recommendations of BS EN 17037:2018.

8.12.20. I have considered the layout and orientation of the proposed building and the majority of bedrooms face northeast, so would capture early morning light, when it is most desired, while the living areas generally face south or west so capture more light during the daytime. All floor to ceiling heights are proposed to be 2.7m. Only two of the proposed apartments are entirely north-east facing units, being no. 15 at second floor and no. 20 at third floor level, but their living rooms have been designed with four windows to capture morning light.

8.12.21. I am satisfied that the habitable rooms in the proposed development would receive an acceptable level of daylight.

Sunlight to existing and proposed amenity spaces

8.12.22. BRE 2009 (2022) has retained the previous recommendation that amenity areas should receive at least two hours of sunlight on the 21st of March. The revised Daylight Analysis and Overshadowing submitted as further information, included an assessment of sunlight availability to neighbouring amenity areas for the four houses located to the direct south of the site, as a result of the proposed development, and the analysis has demonstrated that the four gardens studied already received an inadequate quantum of sunlight on 21st of March but that the proposed development would not have any additional impact on the amount of sunlight that they would receive with the development in place.

8.12.23. The appellants have stated that the proposed development would have an impact on the sunlight in the rear gardens of the houses on the north eastern side of Church Street East. While the proposed development may have an impact on afternoon sunlight on the 21st of March, I am satisfied that due to their orientation, the houses along the north eastern side of Church Street East would be capable of achieving 2 hours of sunlight in the early morning on March 21st.

8.12.24. With respect to the proposed rooftop communal open space area, the Daylight Analysis and Overshadowing assessment states that the communal area is 117.06sqm and that 113.54sqm (96.99%) would achieve the required 2 hours of sunlight on the 21st of March. I note that the minimum required area of communal open space is 133sqm and that 170.3sqm has been provided according to the fifth floor plan. 50% of 133 sqm is 66.5sqm. Notwithstanding the incorrect figures in Table 10 of the Daylight Analysis and Overshadowing assessment, I am satisfied that an adequate quantum of the proposed communal open space would achieve a minimum of 2 hours of sunlight on March 21st.

Daylight to Existing Buildings

8.12.25. In designing new development, it is important to safeguard the daylight to nearby buildings. The applicant's assessment contains a Vertical Sky Component (VSC) analysis for the windows of surrounding properties to the south, north-west and north-east. In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines 2022 state that if the VSC is greater than 27% then enough skylight should reach a window, but that any reduction below this level

should be kept to a minimum and that if the VSC, is both less than 27% and less than 0.8 times its former value, with the new development in place, occupants of the existing building would notice the reduction in the amount of skylight.

8.12.26. The applicant's assessment considers the VSC impacts on surrounding residential properties at 1-8 Abercorn Road, 17-21 Abercorn Road, and 1-8 Church Street East. Of the 42 windows tested, 41 currently have a VSC of more than 27, which means that they received enough skylight at present. All 42 windows would experience a reduction in the VSC, with the development in place.

8.12.27. At 1-8 Abercorn Road, the VSC of 3 of the 8 houses would fall below 27% but would remain greater than 0.8 of its existing values at 0.81-0.83, meaning that the occupants would not notice the reduction in the amount of skylight.

8.12.28. The VSC of all 10 windows of the windows at the rear of 17-21 Abercorn Road to the immediate south of the site, would fall below 27%, while the five windows the rear of No's 17, 18 and 19 would also experience a reduction to below 0.8 times its former value, with No's 17 and 18 particularly impacted with the first floor windows results being 0.51 and 0.59.

8.12.29. The most significant impact would be on the houses located directly opposite the site on the north western side of Church Street East. These houses face south west and at present all 24 windows experience a VSC of more than 27%. Of the 24 windows, 20 would also experience a reduction in VSC to below 0.8 times its former value, ranging from 0.53 to 0.75, meaning that the occupants of those houses would notice the reduction in the amount of skylight. I consider that this level of loss of skylight would be significant.

Comparison of proposed development v previously permitted developments on site

8.12.30. In order to justify the proposed development, the applicant has also provided details of the assessment of the same neighbouring windows in respect of the previously permitted developments, that at the time of submitting the response to further information, were still both live applications. In the interim one of the two grants of permission has expired (P.A. Reg. Ref. 3362/19) and there is no indication on the planning register that the duration of the permission was extended. The second permission, that relates to the eastern half of the site (PL29N.309748) (P.A. Reg. Ref. 3409/20) remains live until the 26th of November 2026.

8.12.31. Comparing the impact of the proposed development versus the two previously permitted developments, in the current application two of the 8 windows at 1-8 Abercorn Road would have a VSC below 27%, whereas in the previously permitted developments one window would be below 27%, with a VSC of 26.94%. I consider that while the reduction in VSC would be greater as a result of the proposed development, that the change would not be significant in VSC between the two applications in terms of impact on 1-8 Abercorn Road.

8.12.32. In the previously permitted developments, 4 of the 10 windows at 17-21 Abercorn Road would see their VSC fall below 27% and would also experience a drop below 0.8 times their former value, while 5 windows in the proposed development would be subject to the same impact. One additional windows in itself is not significant, but the extent of the impact would be greater from the current proposed development ranging with a drop to 0.51 and 0.57 of the former value at the two nearest houses, compared to 0.61 and 0.67 in the previously permitted development. In consider that this change is one that would have a noticeable impact on the immediately neighbouring properties.

8.12.33. All 24 of the windows at 1-8 Church Street East currently have a VSC over 27%. With the proposed development, the VSC of 20 of the windows would fall below 27%, while they would also experience a drop of below 0.8 times their former value. These values would range from 0.53 to 0.75, with 4 values between 0.53 and 0.55 at the ground floor levels of No's 4-7. A further 13 windows would have values between 0.6 and 0.69, while 3 would have values between 0.7 and 0.79 of their former values.

8.12.34. In the previously permitted developments, the VSC of 19 of the windows would fall below 27%, while they would also experience a drop of below 0.8 times their former value. None of the values would be in the 0.5 to 0.59 range, with 8 windows in the 0.6 to 0.69 range, and 11 between 0.7 and 0.79.

8.12.35. The applicant considered that there is very little in the way of difference between the two proposal and their report conclude that the VSC pass rate would be 40.5% compared to 45.2% in the previously permitted development. However, when the individual windows are assessed, it is clear that the impact will be greater than the previously permitted development and I am not satisfied that the applicant

has sought to provide compensatory measures to overcome the impacts of the additional overshadowing effect on neighbouring properties.

8.12.36. The results of the VSC analysis must be considered in the context of the physical nature of the site, in that two previously present single storey houses have been demolished on the western side of the site, while the existing commercial building is two storey in height, making for a low rise environment. The impact of the commercial building is evident in that the windows directly opposite at ground floor level on Church Street East are the only windows with an existing VSC of less than 30. The absence of higher buildings on the site has provided for artificially high level of sunlight access for the nearby houses, which would not be expected in a more developed urban context, even to the extent of 2 or three buildings, and in normal circumstances, it would be expected that two storey houses in an urban context would be expected to be subjected to dense shadows. However, recognising the particular context of this site, the planning authority stated in item 5 of the request for further information that the applicant had provided insufficient justification in the daylight analysis for the proposed levels of overshadowing of neighbouring properties and requested that the remove the top (sixth) floor and set back the fourth and fifth floors. The applicant set back the fifth floor but did not set back the fourth floor. They also introduced a protruding canopy on the fifth floor (fourth floor above ground level) and while the level of overshadowing has been reduced relative to the original proposal, there is as clear reduction in standards relative to the shadowing effects previously permitted, and I am not satisfied that these impacts could not have been adequately addressed, which they could have been to ensure that the VSC impact would be the same or less than that of the previously permitted developments, particularly considering that the proposed floor to ceiling heights in all floors is to be 2.7m, whereas the minimum floor to ceiling height requirement is 2.4m and the previously permitted developments had proposed floor to ceiling heights of 2.4 to 2.6m. I also note that the proposed density is 391 units per hectare and the development plan states that a densities over 300 units per hectare would only be considered in exceptional circumstances where a compelling architectural and urban design rationale has been presented. I have previously addressed this matter and concluded that such a rationale had not been presented. I note that the applicant has accepted that there is high level of failure for VSC on Church Street East.

8.12.37. It is acknowledged that a development of any scale on this site will result in some overshadowing of neighbouring properties and notwithstanding the need to provide for a sustainable level of development on this site and to complete the development of the streetscape at this location and acknowledging that there are precedents for similar types developments on this site, when all of the above matters are taken into consideration, I am not satisfied that the additional VSC impact of this proposed development on neighbouring properties (40.5% VSC pass rate) compared to the previously permitted developments (45.2% VSC pass rate) has been justified, and I would consider that the impact of the development as proposed (23 apartments), is not acceptable.

Sunlight to Existing Buildings

8.12.38. Sunlight to existing buildings is assess by the applicant in terms of annual probable sunlight hours (APSH), and if a room can receive more than one quarter of annual probable sunlight hours 25% (APSH), including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight. If a room receives less than these figures, then it would not receive enough sunlight and section 3.2.7 of the BRE 209 Guidelines states that any reduction in sunlight access below these levels should be kept to a minimum.

8.12.39. The applicant took the same approach as in VSC in that they assessed the development in the first instance for winter and annual APSH, before assessing the previously permitted developments on the site and carrying out a comparative analysis.

8.12.40. The report concluded that the pass rate for the previously permitted developments was 76.12% whereas in the current proposal it would be 69%. It also concluded that the reduction in the APSH pass rate would not be significant when compared to the previously permitted development.

8.12.41. While the BRE 209 Guidelines are purely advisory they state that sometimes a larger reduction in sunlight may be necessary if new development is to match the height and proportion of existing buildings nearby. I have previously addressed the height of the building which would be taller than the height of the previously permitted developments on site, while it is proposed to have floor to ceiling heights of 2.7m which adds to the overall height of the building. While it could be an option to

reduce the height of each floor by way of a condition, if the board was minded to grant permission as a means of improve the APSH for neighbouring properties, this would likely have an impact on the sunlight and daylight within the proposed apartments and based on the information submitted may have unintended and negative consequences for the future occupants of the building.

- 8.12.42. I am not satisfied that the difference in terms of APSH between the proposed development and the previously permitted developments on the site (69% v 76.2%) and all nearby houses is acceptable is acceptable and I am not satisfied that the applicant has put forward a clear and robust rationale for compensatory measures to mitigate any shortfall in the minimum standards.

Sunlight to Proposed Apartments

- 8.12.43. The applicant's does not address sunlight to the proposed apartments, which would be assessed against APSH annual and winter targets greater than 25% and 5% respectively. I note that the applicant has proposed the floor to ceiling heights to be 2.7m at each of the 5 floor levels, which would increase the levels of sunlight available to residents of the apartments, while I have also previously noted that the increased floor to ceiling height has the overall effect of raising the height of the building and generating additional overshadowing impacts on the neighbouring houses.

Conclusions on Daylight/Sunlight

- 8.12.44. I am satisfied that the BRE guidelines allow for flexibility in terms of their application and note the Board has discretion in applying the guidelines taking into account site constraints and the need to secure wider planning objectives, such as higher density along key transport corridors and the site would satisfy this criteria. I acknowledge that the site has been the subject to a number of planning applications in the past that were of a similar scale to the proposed development, but had a lesser impact in terms of impacts on loss of sunlight, daylight and overshadowing of neighbouring properties. Knowing this, the applicant has an opportunity to design a scheme that would minimises impacts on neighbours, but when considered together with my conclusion in respect of density, that the proposed development has not demonstrated that exceptional circumstances exist to permit a density of 391 units per hectare, where the recommended density range is 100-250 units per hectare in

the development plan and 100-300 units per hectare in the compact settlement guidelines, I am not satisfied that the applicant has put forward a clear and robust rationale for compensatory measures to mitigate any shortfall in the minimum standards and I consider that the development in the form presented in response to the request for further information is an overdevelopment of the site. I do, however, consider that a development of some form should be provided on this site and would recommend that one of the intermediate floors of the proposed building be removed.

8.13. Traffic, Parking and Access

Car Parking

- 8.13.1. There is currently no onsite parking associated with the commercial premises that is to be demolished, or the two former cottages that have been demolished. The applicant proposes to provide a car free development and this has raised significant objection from the appellant and observers, who state that there are significant pressures on parking in the area and that the proposed development would add to that pressure. They consider that the development should provide underground parking, in a similar format to that provided at Canon Hall to the south of the site, which is three storey in height over a partially underground basement level.
- 8.13.2. The applicant has set out why they consider that the development would be suitable for zero car parking, with particular emphasis placed on its central location and proximity to good and improving public transport connections. The Residential Travel Plan (RTP) submitted as further information, demonstrates the sites proximity to Spencer Dock Luas station and the Docklands rail station, both a c280m walk from the site, while Connolly Dart/Train Station is also within walking distance. The RTP demonstrates that multiple bus routes, including the high frequency N4 route run close to the site, and that it has good access to on street cycle-paths and the Royal Canal Greenway, as well as being connected to the public footpath network. The site is also within easy walking distance of many workplaces, schools and retail providers.
- 8.13.3. The site is located in parking Zone 2 in Map J of the Development Plan, which refers to areas located alongside key public transport corridors. A maximum provision of 1 car parking space per dwelling applies, resulting in a maximum requirement of 23 car parking spaces.

- 8.13.4. There is significant policy support in the Apartment Guidelines, Compact Settlement Guidelines and the Climate Action Plan in support of reduced parking and in areas where car-parking levels are reduced people are more likely to walk, cycle, or choose public transport for daily travel.
- 8.13.5. Paragraph 4.21 of the Apartment Guidelines states that in higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 8.13.6. The Compact Settlement Guidelines contain specific planning policy requirements (SPPR's) which the board 'shall apply', including SPPR No.3, which states that car-parking provision should be minimised, substantially reduced or wholly eliminated in areas such as where this site is located. It also recommends that the maximum car parking provision be 1 no. space per dwelling.
- 8.13.7. The Climate Action Plan 2024 emphasises the need for reallocation of road space away from the private car to more sustainable modes of transport, including public transport and cycling. It also states that planning authorities should not require specific minimum levels of car parking with the exception of disabled parking for any type of development and that at locations with good public transport maximum levels for car parking provision should be applied. In making decisions, the board is required to be consistent with the Climate Action Plan.
- 8.13.8. The Transportation Planning division had no objection to the proposal and noted that pay and display parking would be introduced to Abercorn Road in the near future and it would remove parking pressures from commuters. That part of Abercorn Road that is located to the south and east of the site is now a pay and display area and on the occasion of the site visits it was noted that there were empty parking spaces on Abercorn Road. Access to through traffic from Abercorn Road onto Church Street East has been blocked off by temporary bollards and moveable planters. There are no parking restrictions on the rest of Abercorn Road of Church Street East.
- 8.13.9. The Residential Travel Plan notes that household car ownership in the surrounding area is 52% (Census 2022) and that the daily commute of 63% of locals is by means other than private car, generally using public transport, walking and cycling, while 16% of people work remotely.

8.13.10. I acknowledge concerns raised by the appellant and observers regarding the lack of car-parking and potential for overspill parking to occur on the surrounding road/footpath network including adjacent to their homes. However, I am satisfied that the applicant has undertaken to market the scheme as a zero-car scheme, and has proposed that all tenants would sign a covenant that they would not own a car while living in the development. For that reason, it is not unreasonable to expect that it would attract residents who do not own or require the use of a car. The applicant also proposes to introduce a Travel Action Plan that would see a Residential Travel Plan Co-Ordinator appointed and a series of measures introduced to promote the use of public transport, cycling and walking, while the success of the measures would be monitored three months after first occupation, annually thereafter, and amended as necessary.

8.13.11. I am satisfied that the site is within a central and/or accessible urban location as described in the Apartment Guidelines and that the development would comply with the criteria of section 4.29, whereby car parking provision may be relaxed in part or whole, on a case by case basis, for urban infill schemes on sites of up to 0.25ha.

8.13.12. Taking into consideration prevailing policy, which supports the provision of higher density development with limited or no parking, in or near key public transport corridors, which are served by existing or proposed high frequency public transport connections, and in light of the policies that support the provision of compact and higher density developments on underutilised urban sites, I am satisfied that the proposal to provide an entirely car free development at this site would be acceptable, subject to the attachment of a condition requiring compliance with the proposals set out in the Residential Travel Plan.

Bike parking

8.13.13. The Apartment Guidelines 2023 provide that a general minimum standard of 1 cycle storage space per bedroom and 1 space per 2 residential units for visitors will be provided. As the ground floor apartments are own door units, SPPR 4 of the Compact Settlement Guidelines referring to Cycle Parking and Storage states that in the case of residential units that do not have ground level open space or have smaller terraces, a general minimum standard of 1 cycle storage space per bedroom should be applied and that visitor cycle parking should also be provided. It continues

to stated that provision should be made for larger/heavier cargo and electric bikes, that cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction and that it is best practice that either secure cycle cage/compound or preferably locker facilities are provided. The development plan bicycle parking requirement is 1 space per bedspace and 1 visitor space per 5 apartments.

8.13.14. The total number of bicycle parking spaces required by the Apartment Guidelines is 44.5 made up of 33 for residents and 11.5 for visitors, while the development plan requirement is 38 made up of 33 for residents and 5 for visitors.

8.13.15. While I am satisfied that sufficient parking will be provided to serve the needs of the apartments, no provision has been made for the provision of cargo bikes, but I am satisfied that this could be addressed by way of a condition if the board is minded to grant condition as the proposed parking provision exceeds the minimum requirement set out in the apartment guidelines.

Access and Servicing

8.13.16. The initial application did not contain any information regarding how the site would be accessed during the demolition and construction phases or how it would be serviced once operational. While the Transportation Planning division did not seek further information the applicant was requested to submit a Construction and Environmental Management Plan (CEMP) by way of further information.

8.13.17. A draft CEMP was submitted which envisages a 18-24 month project duration. The proposed access route was envisaged as accessing along Church Street East via East Road before leaving via Abercorn Road and Sheriff Street Upper. Access to through traffic from Abercorn Road onto Church Street East has been blocked off by temporary bollards and moveable planters so the proposed haul route cannot be accessed and this was correctly pointed out by the appellants / observers.

8.13.18. Notwithstanding the closure of the through road along Abercorn Road, the result of that closure is that there significantly lower volumes of traffic travel adjacent to the site as the former rat run route has been eliminated. However, the site will still be accessible from both roads. Taking into consideration the significant quantum of

development that has been carried out and is ongoing in the area at present, with more than 1,800 apartment recently built or under construction, I am satisfied that there is sufficient capacity in the local road network to cater for the volumes of traffic that would service the site during the demolition and construction phases and this can be addressed by way of a condition requiring the submission of a Construction and Demolition Management Plan, incorporating a construction traffic management plan.

- 8.13.19. The servicing of the site, which would primarily relate the collection of waste can be addressed by way of a Servicing & Operational Waste Management Plan that can be agreed with the planning authority by condition if the board is minded to grant permission.

Public Transport Capacity

- 8.13.20. I am satisfied, by reference to the sites proximity to the Luas, commuter rail lines and the bus network that the site is well served by high frequency and high capacity public transport network that would facilitate the travel needs of occupants the proposed development. I also note that several car share stations operate in close proximity to the site, and that future occupants of the development could avail of these services, if necessary.

8.14. Flooding

- 8.14.1. A number of observers on the application raised concern regarding the potential for flooding at the site as a result of the proposed floor levels and a surface water infiltration/attenuation system that is to be installed below the courtyard at the southern end of the site, while noting that the local residents cannot get flood insurance due to a past flooding episode.
- 8.14.2. The applicant submitted an updated Site Specific Flood Risk Assessment in response to item 6 of the request for further information, which had sought clarity on the exact method used to determine peak flood levels and reflect updated development plan guidance.
- 8.14.3. The applicant carried out a detailed assessment of immediate hydrological features and determined that the primary potential flood risk can be attributed to extreme coastal flooding tidal/coastal flooding that may influenced sections of the River Liffey

and Grand Canal. Secondary flood risk is attributed to potential surcharge or damage to the urban drainage or water supply infrastructure in the vicinity.

8.14.4. The screening assessment gathered information from the OPW, EPA and Local Authority Hydrometric Data. OPW flood maps indicate that the site was not affected by a 2002 tidal flooding event that caused widespread flooding to the west of the site. Historic OSI mapping and more recent GSI groundwater flooding maps did not indicate any past flooding events at or near the site. The site does not fall within a predictive fluvial flood zone, based on the OPW CFRAM maps issued in May 2017 and is not deemed to be a significant fluvial flood risk nor does it fall within the predictive tidal flood zone. The site is deemed to fall within the 1 in 20 year and 1 in 100 year tidal flood extents for the current, Mid-Range and High End Future Scenarios from the OPW's 2013 Irish Coastal Protection Strategy Study but this strategy is deemed to be less accurate than the CFRAM study. The site lies in a defended area.

8.14.5. The site is deemed to fall within flood zones A and B and the justification test states that the main threat is from tidal events but that the development of the site would not result in the loss of any flood storage area. Maximum flood levels are projected to be 0.25m in the vicinity of the site and the proposed ground floor levels would be above the level of the 1 in 200 year plus climate change tidal flood scenario.

8.14.6. I am satisfied that the proposed development would not increase the risk of flooding in the area and would not exacerbate the impact of flooding on nearby properties.

8.15. Other matters

Part V

8.15.1. Prior to the lodgement of the application, the applicant applied for and was granted a certificate of exemption under the provisions of Section 97 of the Planning and Development Act 2000 (as amended) from the requirements of Section 96 of the Act. So, if the board is minded to grant permission, no part V condition should be attached.

Luas C1 Docklands Supplementary Development Contribution Scheme

- 8.15.2. The site lies with the boundary of the Section 49 Supplementary Development Contribution Scheme Luas Docklands, so if the board is minded to grant permission, a Section 49 supplementary development contribution should be attached.

9.0 AA Screening

- 9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in the AA screening set out in appendix 2 to this report, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the European Sites in Dublin Bay being:

- South Dublin Bay and River Tolka Estuary SPA (site code 004024)
- South Dublin Bay SAC (site code 000210)
- North Bull Island SPA (site code 004006)
- North Dublin Bay SAC (site code 000206)
- North West Irish Sea SPA (site code: 004236)

or any other European Site, in view of the Conservation Objectives of those sites and Appropriate Assessment (and the submission of a NIS) is not therefore required.

- 9.2. This determination is based on:

- Scientific information provided in the Screening report;
- The scale of the development on fully serviced brownfield lands;
- Distance from and weak indirect connections to the European sites;
- No ex-situ impacts on wintering birds;
- Possible impacts identified from the possible overflowing of sewage from Ringsend Wastewater Treatment Plant would not be significant in terms of site-specific conservation objectives for South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, North Bull Island SPA, North Dublin Bay SAC and North West Irish Sea SPA and would not undermine the maintenance of favorable conservation condition or delay or undermine the

achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

- 9.3. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

10.0 Recommendation

- 10.1. I recommend that permission be **GRANTED** for the reasons and considerations and conditions set out below.

11.0 Reasons and Considerations

Having regard to the zoning of the site, to the nature and scale of the proposed development, and to the provisions of the Dublin City Development Plan 2022-2028, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2023) and the Urban Development and Building Heights - Guidelines for Planning Authorities (2018), it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an appropriate use, building height, density, design and layout for this site, would respect the character and setting of the area, would not seriously injure the amenities of the area or of property in the vicinity, would feature an appropriate provision of drainage, access for pedestrians, cyclists and emergency vehicles and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the planning authority, 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) The proposed second floor as shown on Drawing No FI-1-2-01 shall be omitted.
 - b) Provision shall be made for cargo bike parking within the bike storage structure for residents.

Revised drawings showing compliance with this requirement, which shall provide for a development of 18 apartments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the protection of residential amenity.

3. Replacement boundary walls along the eastern and southern site boundaries will be constructed and completed within 1 month of demolition of the existing structure on site.

Reason: In the interest of residential amenity.

4. Prior to the commencement of development, a flood evacuation plan for the site shall be submitted to and agreed in writing with the planning authority.

Reason: in the interest of public health.

5. Details of the materials, colours and textures of all the external finishes to the proposed apartment block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(a) Details of a maintenance strategy for materials within the proposal shall also be submitted for the written agreement of the planning authority, prior to the commencement of any works on site.

(b) Prior to commencement of development full details, including samples where appropriate, of the treatment of the areas of public realm within the site boundary, shall be erected at the site perimeter and the planning authority shall be notified of same. This shall include full details of the external finishes and landscaping materials.

Reason: In the interest of visual amenity, durability and to ensure a high standard of public realm.

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

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

7. Prior to the commencement of development the developer shall enter into a connection agreement(s) with Uisce Eireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network

Reason: in the interest of public health and to ensure adequate water/wastewater facilities

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

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

9. 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. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

10. Lighting shall be provided in accordance with a final scheme, which shall include lighting for the rooftop communal open spaces, entry areas bicycle parking and bin storage 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 public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety

11. 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.

12. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard 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 residential amenity.

14. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, an Operational Management Plan which ensures public accessibility, including for local sports and community groups, to the community sports hall.

Reason: To ensure the appropriate management, maintenance and community use of the facility.

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

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

16. The construction of the development shall be managed in accordance with a Construction 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 intended construction practice for the development with measures to reflect mitigation described in the submitted Environmental Impact Assessment Report for the application, in addition to the following:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) location of access points to the site for any construction related activity;
- (c) location of areas for construction site offices and staff facilities;
- (d) details of site security fencing and hoardings;
- (e) details of on-site car parking facilities for site workers during the course of construction;
- (f) 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;
- (g) measures to obviate queuing of construction traffic on the adjoining road network;
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) details of appropriate mitigation measures for noise, dust and vibration, 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 and demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: in the interests of amenities, public health and safety

17. Prior to the commencement of development, the applicant shall submit to the planning authority from written agreement, a plan indicating how telecommunications signals will be maintained during the construction phase, prior to the commissioning of the new rooftop telecommunications antenna.

Reason: In the interest of maintaining uninterrupted telecommunications signals

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

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

19. 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 reinstatement of that part of the site owned by Dublin City Council that is in the control of for the purposes of the application, 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.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities including a contribution in lieu of the public open space requirement 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.

21. The developer shall pay to the planning authority a financial contribution in respect of the LUAS Cross City Scheme 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 provision of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the applicant 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.

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

Joe Bonner
Senior Planning Inspector

9th April 2025

Appendix 1 Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	318993-24		
Proposed Development Summary	Demolition of industrial building for construction of six storey apartment building with 28 residential units and all associated site works (reduced to 23 apartments after further information)		
Development Address	17-23 Church Street East, Dublin 3		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class 10(b)(i) of Part 2: threshold 500 dwelling units. Class 10(b)(iv) of Part 2: Urban development Class 14 of Part 2 (demolition)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	✓	The proposed development is not a type of project for which EIA is mandatory, as per Part 2 of Schedule 5 to the Planning and Development Regulations 2001 (as amended). The proposed development does not meet or exceed any relevant thresholds.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes	✓	<p><u>Class 10(b)(i) of Part 2:</u> threshold 500 dwelling units. The original proposal was for 28 apartments while the revised proposal that is subject to the decision to grant permission, and the appeal, is for 23 apartments.</p> <p><u>Class 10(b)(iv) of Part 2:</u> The threshold for Urban development which would involve an area greater than ... 2 ha in the case of a business district or 10ha in other parts of a built-up area. The site area is 0.0587ha.</p> <p><u>Class 14 of Part 2 (demolition)</u> (No threshold). This element is described as 'Works of demolition' carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.</p> <p>It is proposed to demolish an existing 2 storey commercial industrial building (331sqm). The nature of the proposed demolition works would not be likely to have significant effects on the environment.</p>	Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?		
No	✓	Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318993-24
Proposed Development Summary	Demolition of industrial building for construction of six storey apartment building with 28 residential units and all associated site works (reduced to 23 apartments after further information)
Development Address	17-23 Church Street East, Dublin 3
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development will consist of the demolition of an existing two storey structure with a floor area of 331sqm on the eastern side of the site of 0.0587ha (587sqm). Two single storey cottages were previously cleared from the western side of the site on foot of a grant of permission.</p> <p>It was originally proposed to construct a 5 and 6 storey building with 28 apartments with a floor area of 2,123sqm of floor space. Following further information, the scale of development was reduced to 23 apartments in a 4-5 storey building and a floor area of 1,794sqm.</p> <p>The land use in the immediate area is residential, in a mix of one, two and three storey buildings adjacent to and opposite the site, before the height of buildings rising quickly c24m to the south with buildings of 7 and 11 storey making up the southern end of the urban block that the site is located in.</p> <p>Land associated with the Irish Rail and Dart is located to the east of the site.</p> <p>There is a live grant of permission for the demolition of an industrial/office building at 17-21 Church Street (the eastern part of the site) and construction of a 4</p>

	<p>and 5 storey block of 9 apartments. This permission remains live until the 26th of November 2026.</p> <p>The proposed development would generate waste as a result of demolition, construction and operation. Given the moderate size of the proposed buildings, I do not consider that the level of waste that would be generated would be significant in the local, regional or national context and would not require the use of substantial resources. No significant waste, emissions or pollutants would arise during the demolition, construction or operational phases.</p> <p>Due to the nature of the proposed use, I am satisfied that the development, does not pose a risk of major accident and/or disaster.</p> <p>The development will implement SUDS measures to control surface water run-off including a blue roof and permeable paving and infiltration trenches, from which surface water would be released by hydrobrake into the combined sewer. The site would also connect to the public combined foul sewer. I do not consider that it would present a risk to human health by reason of pluvial flooding.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The application site is not located in or immediately adjacent to any European site. The closest Natura 2000 sites are those in the Dublin Bay area being South Dublin Bay and River Tolka Estuary SPA (Site Code:004024), c1km to the north.</p> <p>The immediate area consist of 1, 2 and 3 storey residential buildings, while 7-11 storey buildings are located c24-50m to the south. There are no protected landscapes, or sites of historic, cultural or archaeological significance in the vicinity of the site.</p> <p>The proposed development would connect to public water and wastewater services provided by Uisce Éireann.</p> <p>There are a number of significant permitted projects in the area, which are at advanced stages of construction including ABP-304710-19 for 554 apartments on a site c100m east of the site and ABP-308827-20 for 702 apartments c185m northeast of the site. I am satisfied that these developments would be largely completed by the</p>

	time that this development would be carried out and would not have significant cumulative effects on the environment together with these projects.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Demolition and construction impacts which would arise as a result of the development reflect typical developments of this nature and scale, including increased construction traffic on local roads, with an associated increase in noise/emissions, disturbance (light, dust, noise) impacts to neighbouring residential properties, generation of construction waste materials (soil, building materials, waste from staff facilities), surface water run-off and potential for contamination from fuel / oil leaks from construction equipment. Such impacts would be short term in duration and there are no immediately adjacent development sites, so the impacts could reasonably be controlled and managed through an agreed Construction and Environmental Management Plan. And Construction and Demolition Waste Management Plan. I am satisfied that there is no potential for significant effects on the environmental factors set out in Section 171A of the Planning and Development Act 2000 (as amended) having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended).	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP:

Date:

(only where Schedule 7A information or EIAR required)

Screening for Appropriate Assessment

Test for likely significant effects

Step 1: Description of the project and local site characteristics

Case file: ABP 318993-24

Brief description of project	Demolition of existing 2 storey commercial building and construction of 23 apartments in 4 and 5 storey building, Church Street East and Abercorn Road, Dublin 3. Third party appeal against decision to grant permission.
Brief description of development site characteristics and potential impact mechanisms	<p>The proposed development was originally proposed to be for 28 apartments on a 0.0587 hectare site (587sqm). Following a request for further information, the number of units was reduced to 23 and it is that development that is the subject of the appeal.</p> <p>Site preparation works require the demolition of the existing two storey building with a floor area of 331sqm on the eastern side of the site. The western side has already been cleared of two former single storey cottages, under a previous grant of permission. A construction and environment management plan (CEMP) accompanied the response to further information.</p> <p>The proposed development would be connected to the public water, surface water and foul sewer networks. Surface water, which is not currently attenuated, would be attenuated by way of a blue roof and a sub-surface infiltration trench to the combined sewer to the west of the site in Abercorn Road, while the planning authority attached a condition requiring the roof incorporate a green roof. No watercourses were recorded on the site and there are no direct connections to the closest European sites (Natura 2000) being South Dublin Bay and River Tolka Estuary SPA (Site Code:004024), c1km to the north, to the River Liffey c410m to the south, the Grand Canal c250m west or the River Tolka c1km to the north, all which flow into Dublin bay at Dublin port, where a number of European sites are located.</p> <p>The site was surveyed by ecologists with no habitats, mammal or invasive plant species recorded. The site is characterised as entirely consisting of non-priority habitat being 'buildings and artificial surfaces BL3.</p>
Screening report	Yes (Prepared by Kingfisher Environmental Consultants)
Natura Impact Statement	No
Relevant submissions	<p>Third party observations:</p> <p>Issues Raised: Potential Flooding</p>

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

Five European sites are potentially within a zone of influence of the proposed development. I note that the screening report considered four sites within 5 km of the site, but I consider that the North West Irish

Sea SPA, which extends to the mouth of Dublin Port and was designated in July 2023, with conservation objectives published in September 2023, five months after the Screening Report was prepared in April 2023, is also relevant to this stage of the process, due to potential for hydrological connectivity.

European Site (code)	Qualifying interests Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
South Dublin Bay and River Tolka Estuary SPA (004024)	<ul style="list-style-type: none"> • Light Belied Brent Goose • Oystercatcher • Ringed plover • Grey plover • Knot • Sanderling • Dunlin • Bar-tailed godwit • Redshank • Black-headed gull • Roseate tern • Common Tern • Arctic tern • Wetland and waterbirds <p>Conservation Objectives https://www.npws.ie/protected-sites/search/by-code?code=004024</p> <p>NPWS 2015</p>	1km north at nearest point across built up urban land.	Indirect - via surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from the WWTP into Dublin Bay.	Y
South Dublin Bay SAC [Site Code: 000210]	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide • Annual vegetation of drift lines • Salicornia and other annuals colonising mud and sand • Embryonic shifting dunes <p>https://www.npws.ie/protected-sites/sac/000210</p> <p>NPWS 2021</p>	2.3km at nearest point across the River Liffey and to the south of Dublin Port.	As above	Y
North Bull Island SPA [site code 004006]	<ul style="list-style-type: none"> • Light-bellied brent goose • Shelduck • Teal • Pintail • Shoveler • Oystercatcher • Golden plover • Grey plover • Knot 	3.7km north-east at bridge to Dollymount strand extending to mouth of Dublin Port c5.7km east	As above	Y

	<ul style="list-style-type: none"> • Sanderling • Dunlin • Black-tailed godwit • Bar-tailed godwit • Curlew • Redshank • Turnstone • Black-headed gull • Wetland and waterbirds https://www.npws.ie/protected-sites/spa/004006 NPWS March 2015			
North Dublin Bay SAC [site code 000206]	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide • Annual vegetation of drift lines • Salicornia and other annuals colonising mud and sand • Atlantic salt meadows • Mediterranean salt meadows • Embryonic shifting dunes • Shifting dunes along the shoreline with marram grass • Ammophila arenaria (white dunes) • Fixed coastal dunes with herbaceous vegetation (grey dunes) • Humid dune slacks • Petalwort https://www.npws.ie/protected-sites/sac/000206	3.7km north-east at bridge to Dollymount strand extending to mouth of Dublin Port c5.7km east	As above	Y
North West Irish Sea SPA [Site Code: 004236]	<ul style="list-style-type: none"> • Red-throated Diver • Great Northern Diver • Fulmar • Manx Shearwater • Cormorant • Shag • Common Scoter • Little Gull • Black-headed Gull • Common Gull • Lesser Black-backed Gull • Herring Gull • Great Black-backed Gull • Kittiwake • Roseate Tern • Common Tern • Arctic Tern • Little Tern • Guillemot 	5.7km east, at mouth of Dublin bay	As above	Y

	<ul style="list-style-type: none"> • Razorbill • Puffin https://www.npws.ie/protected-sites/spa/004236 NPWS September 2023			
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

While the applicant's AA Screening Report did take into account the potential indirect connectivity to European Sites via the Ringsend Wastewater Treatment Plant by stating at section 2.4 that wastewater will be connected to the main sewer, and that, it has capacity to accommodate the proposed development, they did not take into account that there is potential for sewage to overflow from the WWTP into Dublin Bay, while they also did not take into account the North West Irish Sea SPA, which was designated in July 2023, with conservation objectives published in September 2023, five months after the Screening report was prepared in April 2023. Therefore, the applicant screened out four European sites before considering the significance of effects, and did not consider the fifth European site.

AA Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
South Dublin Bay and River Tolka Estuary SPA (004024) Birds <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 tetanus</i>) [A162] • Black-headed gull (<i>Chroicocephalus ridibundus</i>) [A179] • Roseate tern (<i>Sterna dougallii</i>) [A192] 	Direct: No direct impacts and no risk of habitat loss, fragmentation or any other direct impact. Indirect/operational: Via attenuated surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from the WWTP into Dublin Bay.	Ecological information shows the current land use is not suitable for regular use by SCI wintering waterbirds of the nearby SPA's. There is a potential indirect hydrological pathway or connection between the site and Dublin Bay via the combined surface water and foul sewer that flows into the Ringsend WWTP and periodic overflows from the WWTP flow untreated into Dublin Bay. While the loading on Ringsend WWTP would be slightly increased as a result of the proposed development, the impact would not be significant and there is no evidence that pollution through nutrient input is affecting the conservation objectives of South Dublin Bay and River Tolka Estuary SPA, and it is considered that no significant effects are likely to arise from this source. No significant effects are predicted during the construction phases from pollutants entering the surface water system. While the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, major upgrade works are currently underway which will enable it to treat the increasing volumes of

<ul style="list-style-type: none"> • Common Tern (Sterna hirundo) [A193] • Arctic tern (Sterna paradisaea) [A194] Habitats <ul style="list-style-type: none"> • Wetland and waterbirds [A999] 		<p>wastewater arriving at it to the required standard, thus enabling future development like that proposed under this application, within Dublin city to be serviced by the upgraded waste water public infrastructure. These works are projected to be completed in 2025 and are likely to be completed by the time the proposed development, if permitted, and if implemented, would become operational.</p> <p>I am satisfied that the proposed works would not result in impacts that could affect or undermine the conservation objectives of South Dublin Bay and River Tolka Estuary SPA which are 'to maintain the favourable conservation condition' of all of the Qualifying Interests (Birds and Habitats) listed in column 1 opposite in respect of the SPA, with the exception of the Grey Plover, which is proposed to be removed as a QI.</p>
	Likelihood of significant effects from proposed development (alone): No	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</p> <p>The only other projects considered in the screening report are the two previously permitted development on the site, which this proposed development would replace. As it is not possible to give effect to the three separate grants of permission on the same site, I do not consider that they could have in-combination effects.</p> <p>No other plans and projects were examined in the Screening Report and no other effects of magnitude are predicted that could add to other plans and projects.</p>	
	Impacts	Effects
South Dublin Bay SAC [Site Code: 000210] Habitats <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide; • Annual vegetation of drift lines; • Salicornia and other annuals colonising mud and sand; • Embryonic shifting dunes 	<p>Direct:</p> <p>No direct impacts and no risk of habitat loss, fragmentation or any other direct impact.</p> <p>Indirect/operational:</p> <p>Via attenuated surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from</p>	<p>In the permission granted for the upgrade of the Ringsend WwTP, it was found that periodic nutrient overloading from the plant into Dublin Bay, could contribute to localised declines in and pose a threat to some shellfish, fish, birds and marine mammals, but the environment will remain largely unchanged and bird populations would be unaffected. The zone of influence of the existing WwTP is to the north side of Dublin Bay and no significant effects are likely to arise from the proposed development.</p> <p>The site is physically separate from the European sites to the north of Dublin Bay, by the Dublin Port harbour wall so the</p>

	the WWTP into Dublin Bay.	conservation objectives of the Mudflats and sandflats, which is to maintain the favourable conservation condition, would not be affected.
	Likelihood of significant effects from proposed development (alone): No	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</p> <p>The only other projects considered in the screening report are the two previously permitted development on the site, which this proposed development would replace. As it is not possible to give effect to the three separate grants of permission on the same site, I do not consider that they could have in-combination effects.</p> <p>No other plans and projects were examined in the Screening Report and no other effects of magnitude are predicted that could add to other plans and projects.</p>	
	Impacts	Effects
<p>North Bull Island SPA [site code 004006]</p> <p>Birds</p> <ul style="list-style-type: none"> • Light-bellied brent goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Teal (<i>Anas crecca</i>) [A054] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden plover (<i>Pluvialis apricaria</i>) [A140] • Grey plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius Arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] 	<p>Direct:</p> <p>No direct impacts and no risk of habitat loss, fragmentation or any other direct impact.</p> <p>Indirect/operational:</p> <p>Via attenuated surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from the WWTP into Dublin Bay.</p>	<p>Ecological information shows the current land use is not suitable for regular use by SCI wintering waterbirds of the nearby SPA's.</p> <p>There is a potential indirect hydrological pathway or connection between the site and Dublin Bay via the combined surface water and foul sewer that flows into the Ringsend WWTP and periodic overflows from the WWTP flow untreated into Dublin Bay. While the loading on Ringsend WWTP would be slightly increased as a result of the proposed development, the impact would not be significant and there is no evidence that pollution through nutrient input is affecting the conservation objectives of North Bull Island SPA, and it is considered that no significant effects are likely to arise from this source. No significant effects are predicted during the construction phases from pollutants entering the surface water system.</p> <p>While the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, major upgrade works are currently underway which will enable it to treat the increasing volumes of wastewater arriving at it to the required standard, thus enabling future development like that proposed under this application, within Dublin city to be serviced by the</p>

<ul style="list-style-type: none"> • Turnstone (<i>Arenaria tetanus</i>) [A169] • Black-headed gull (<i>Chroicocephalus ridibundus</i>) [A179] <p>Habitats</p> <ul style="list-style-type: none"> • Wetland and waterbirds [A999] 		<p>upgraded waste water public infrastructure. These works are projected to be completed in 2025 and are likely to be completed by the time the proposed development, if permitted, and if implemented, would become operational.</p> <p>I am satisfied that the proposed works would not result in impacts that could affect or undermine the conservation objectives of North Bull Island SPA which are 'to maintain the favourable conservation condition' of all of the Qualifying Interests (Birds and Habitats) listed in column 1 opposite.</p>
	Likelihood of significant effects from proposed development (alone): No	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</p> <p>The only other projects considered in the screening report are the two previously permitted development on the site, which this proposed development would replace. As it is not possible to give effect to the three separate grants of permission on the same site, I do not consider that they could have in-combination effects.</p> <p>No other plans and projects were examined in the Screening Report and no other effects of magnitude are predicted that could add to other plans and projects.</p>	
	Impacts	Effects
<p>North Dublin Bay SAC [site code 000206]</p> <p>Habitats</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 (<i>Glaucopuccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Embryonic shifting dunes [2110] 	<p>Direct:</p> <p>No direct impacts and no risk of habitat loss, fragmentation or any other direct impact.</p> <p>Indirect/operational:</p> <p>Via attenuated surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from the WWTP into Dublin Bay.</p>	<p>There is a potential indirect hydrological pathway or connection between the site and Dublin Bay via the combined surface water and foul sewer that flows into the Ringsend WWTP and periodic overflows from the WWTP flow untreated into Dublin Bay. While the loading on Ringsend WWTP would be slightly increased as a result of the proposed development, the impact would not be significant and there is no evidence that pollution through nutrient input is affecting the conservation objectives of North Dublin Bay SAC, and it is considered that no significant effects are likely to arise from this source. No significant effects are predicted during the demolition, construction or operational phases from pollutants entering the surface water system.</p> <p>While the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, major upgrade works are currently underway which will</p>

<ul style="list-style-type: none"> • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] <p>Species</p> <ul style="list-style-type: none"> • Petalwort (<i>Petalophyllum ralfsii</i>) [1395] 		<p>enable it to treat the increasing volumes of wastewater arriving at it to the required standard, thus enabling future development like that proposed under this application, within Dublin city to be serviced by the upgraded waste water public infrastructure. These works are projected to be completed in 2025 and are likely to be completed by the time the proposed development, if permitted, and if implemented, would become operational.</p> <p>I am satisfied that the proposed works would not result in impacts that could affect or undermine the conservation objectives of North Dublin Bay SAC which are ‘to maintain the favourable conservation condition’ of the following Qualifying Interests (Species and Habitats) listed in column 1 opposite, namely:</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Petalwort (<i>Petalophyllum ralfsii</i>) [1395] <p>The conservation objective for the other habitats is to restore the favourable conservation of:</p> <ul style="list-style-type: none"> • Annual vegetation of drift lines [1210] • <i>Salicornia</i> and other annuals colonising mud and sand [1310] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] <p>With the exception of <i>Salicornia</i> and other annuals colonising mud and sand [1310], the other habitats are all land based and I am satisfied that the potential emissions from Ringsend WwTP would not compromise the objective to restore these habitats.</p>
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		Salicornia and other annuals colonising mud and sand [1310] is generally recorded to the north of the coastal causeway connecting Bull Island to the mainland and it relies on coastal sediments for its formation. I am satisfied that any potential impacts from the release of effluent from Ringsend WWTP would not affect the objective to restore this habitat or make it more difficult.
	Likelihood of significant effects from proposed development (alone): No	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</p> <p>The only other projects considered in the screening report are the two previously permitted development on the site, which this proposed development would replace. As it is not possible to give effect to the three separate grants of permission on the same site, I do not consider that they could have in-combination effects.</p> <p>No other plans and projects were examined in the Screening Report and no other effects of magnitude are predicted that could add to other plans and projects.</p>	
	Impacts	Effects
<p>North West Irish Sea SPA [Site Code: 004236]</p> <ul style="list-style-type: none"> • Red-throated Diver (<i>Gavia stellata</i>) [A001] • Great Northern Diver (<i>Gavia immer</i>) [A003] • Fulmar (<i>Fulmarus glacialis</i>) [A009] • Manx Shearwater (<i>Puffinus puffinus</i>) [A013] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Shag (<i>Phalacrocorax aristotelis</i>) [A018] • Common Scoter (<i>Melanitta nigra</i>) [A065] • Little Gull (<i>Larus minutus</i>) [A177] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] • Herring Gull (<i>Larus argentatus</i>) [A184] 	<p>Direct:</p> <p>No direct impacts and no risk of habitat loss, fragmentation or any other direct impact.</p> <p>Indirect/operational:</p> <p>Via attenuated surface water and foul sewage discharges to the combined sewer that discharges to Ringsend WWTP, with potential overflow from the WWTP into Dublin Bay.</p>	<p>Ecological information shows the current land use is not suitable for regular use by SCI wintering waterbirds of the nearby SPA's.</p> <p>There is a potential indirect hydrological pathway or connection between the site and Dublin Bay via the combined surface water and foul sewer that flows into the Ringsend WWTP and periodic overflows from the WWTP flow untreated into Dublin Bay. While the loading on Ringsend WWTP would be slightly increased as a result of the proposed development, the impact would not be significant and there is no evidence that pollution through nutrient input is affecting the conservation objectives of North West Irish Sea SPA, and it is considered that no significant effects are likely to arise from this source. No significant effects are predicted during the construction phases from pollutants entering the surface water system.</p> <p>While the Ringsend Wastewater Treatment Plant is not currently compliant with its emission limit standards, major upgrade works are currently underway which will</p>

<ul style="list-style-type: none"> • Great Black-backed Gull (<i>Larus marinus</i>) [A187] • Kittiwake (<i>Rissa tridactyla</i>) [A188] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Little Tern (<i>Sterna albigifrons</i>) [A195] • Guillemot (<i>Uria aalge</i>) [A199] • Razorbill (<i>Alca torda</i>) [A200] • Puffin (<i>Fratercula arctica</i>) [A204] 		<p>enable it to treat the increasing volumes of wastewater arriving at it to the required standard, thus enabling future development like that proposed under this application, within Dublin city to be serviced by the upgraded waste water public infrastructure. These works are projected to be completed in 2025 and are likely to be completed by the time the proposed development, if permitted, and if implemented, would become operational.</p> <p>The birds listed in Column 1 opposite which have an objective to restore the favorable conservation of are the Fulmar, Cormorant, Shag, Herring Gull, Kittiwake and Puffin and are SCI's of one or more of Lambay Island, Ireland's Eye, Skerries Island and Howth Head SPA's.</p> <p>I am satisfied that the proposed development by reason of its scale and separation distance from the nearest SPA and the unsuitability of the site as a foraging site for the above named birds, would not result in impacts that could affect or undermine the conservation objectives for those Qualifying Interests in North West Irish Sea SPA which are 'to restore the favourable conservation condition' while I am also satisfied that the proposed development would not result in impacts that could affect or undermine the conservation objectives for those Qualifying Interests,) listed in column 1 opposite' in the North West Irish Sea SPA which are 'to maintain the favourable conservation condition'</p>
	Likelihood of significant effects from proposed development (alone): No	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</p> <p>The only other projects considered in the screening report are the two previously permitted development on the site, which this proposed development would replace. As it is not possible to give effect to the three separate grants of permission on the same site, I do not consider that they could have in-combination effects.</p> <p>No other plans and projects were examined in the Screening Report and no other effects of magnitude are predicted that could add to other plans and projects.</p>	

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on European sites. No further assessment is required for the project.

No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the European Sites in Dublin Bay being

- South Dublin Bay and River Tolka Estuary SPA (site code 004024)
- South Dublin Bay SAC (site code 000210)
- North Bull Island SPA (site code 004006)
- North Dublin Bay SAC (site code 000206)
- North West Irish Sea SPA (site code: 004236)

or any other European Site, in view of the Conservation Objectives of those sites and Appropriate Assessment (and the submission of a NIS) is not therefore required.

This determination is based on:

- Scientific information provided in the Screening report;
- The scale of the development on fully serviced brownfield lands;
- Distance from and weak indirect connections to the European sites;
- No ex-situ impacts on wintering birds;
- Possible impacts identified from the possible overflowing of sewage from Ringsend Wastewater Treatment Plant would not be significant in terms of site-specific conservation objectives for South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, North Bull Island SPA, North Dublin Bay SAC and North West Irish Sea SPA and would not undermine the maintenance of favorable conservation condition or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.