



An
Coimisiún
Pleanála

Inspector's Report

ABP-319232-24

Development

Protected structure: Conversion, renovation and alteration of Stone Villa (a protected structure) to accommodate 32 apartments.

Location

No. 297 North Circular Road, Phibsborough, Dublin 7. The site incorporates a protected structure (a house) known as 'Stone Villa'

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4515/19

Applicant(s)

Lilacstone Ltd.

Type of Application

Planning Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

Third Party

Appellant(s)

Lilacstone Limited.

Observer(s)

TII

Cherrymount Park, NCR, and St Peters Ave Residents.

Cabra Road Residents Association
St. Peter's Ave. Environmental Group
P. Burke and D. Higgins
J. and C. Doyle
R. Scaife and G. Lardner
C.Nevin
P. Magee
M. Fichtner and N. Stynes
G. and E. Fitzgerald
Shadowmill Ltd
P. Quinn
Cllr. Joe Costello
Cllr. Sherlock

Date of Site Inspection

15th December 2025.

Inspector

Elaine Sullivan

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1.0 Introduction

- 1.1. This is a first party appeal against the decision of Dublin City Council to issue notification to refuse permission for the construction of 32 residential units with associated development on an infill site of 0.27 hectares within a suburb in Dublin City. The works would include the renovation and alteration of 'Stone Villa' a Protected Structure and development within its curtilage. The issues raised in the grounds of appeal are set out in Section 11.0 of this report.
- 1.2. The Commission previously decided on this appeal under reference number **ABP-306681-20**. This decision was quashed by order of the High Court, and the case was remitted back to the Commission for a fresh determination. The appeal has been reactivated under **ABP-319232-24**. The following report represents a *de novo* assessment of the proposed scheme.
- 1.3. I note to the Commission that in the intervening period between the first appeal and the subject appeal, the *Dublin City Development Plan 2022-2028* has been adopted and replaced the previous Development Plan that the original application was assessed against. Changes to national planning policy since the application was assessed include the adoption of the *First Revision of the National Planning Framework*, the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities* and the *Planning Design Standards for Apartments, Guidelines for Planning Authorities, 2025*, (currently subject to legal challenge and not relevant to the subject proposal as the guidelines are not retrospective).
- 1.4. Having regard to the High Court Order in this case, the quashing of the previous Commission decision and the passage of time, the Commission considered that it was appropriate in the interests of justice to request relevant parties under section 131 of the Planning and Development Act 2000 (as amended) to make any further general submissions in relation to the appeal.
- 1.5. The Section 131 request invited all participants to make general comments or observations on the application and the adoption of the new Dublin City Development Plan 2022-2028. Eight submissions were received in response and are summarised below.
- 1.6. In consideration of the Section 131 submissions received, to address any changes to

planning policy, and the adoption of the Dublin City Development Plan 2022-2028, the Commission requested further information from the applicant under Section 132 of the Planning and Development Act 2000 (as amended). A response was received from the applicant and in the interests of natural justice, the applicant's response was circulated to all parties to the appeal and further submissions were invited. The contents and responses to the Section 132 request are summarised in the following sections.

2.0 Section 131 Responses

2.1. The Section 131 request invited all participants to make general comments or observations on the application and the adoption of the new Dublin City Development Plan 2022-2028. Eight submissions were received in response and are summarised below.

2.2. Planning Authority Response

2.2.1. No response received.

2.3. First Party Response

2.3.1. A response from the first party was received on the 14th of May 2024 and was supported by a legal opinion. The applicant put forward that there are a number of technical reports, including bat surveys, which are necessary to inform the decision of the Commission. To this end, the applicant requests that the Commission issue an invitation for additional documents in accordance with Section 132 of the Planning and Development Act 2000 (as amended).

2.3.2. The legal opinion submitted by the applicant states that it is desirable that the Commission carry out its assessment in relation to the impact on bats by reference to the most up to date survey information. Reference is also made to the court decision which notes a lack of information regarding the works to the protected structure. In this regard the applicant considers that the Commission would benefit from additional details on the conservation of the protected structure.

2.3.3. The applicant also considers it prudent to respond to the request from the Commission in their letter dated the 26th of March 2024 that they have the

opportunity to submit their observations on the adoption of the Dublin City Development Plan 2022-2028.

2.4. **Third Party Responses**

Ronan Scaife and Geraldine Lardner –

- 2.4.1. The site should be subject to a new planning application. In the four and a half years since the application, a new Development Plan has been adopted, and environmental issues may have changed. Biodiversity on the site includes bats and barn owls and requires careful and sensitive intervention. Development on the site should be subject to a new planning permission. The observation includes a link to the Birdwatch Ireland website and to their barn owl survey.

Shadowmill Ltd. / Gary Fitzgerald –

- 2.4.2. Due to the passage of time, the adoption of a new Dublin City Development Plan and gaps in the application documentation and potential changes in the baseline environmental conditions on the site, the application should be refused. Reference is made to new bat guidelines and daylight and sunlight guidelines.
- 2.4.3. The submission notes changes in the existing environment since the original application was lodged. The adjoining site, which was previously a car dealership, has become vacant and has been vacant since 2023 – this is a material change in the baseline-built environment.
- 2.4.4. New families have moved into houses adjoining the Stone Villa site and have not had the chance to comment on the application. Interaction with the planning process for these people would be limited to legal challenge on the constitutionality of a decision in terms of access to participation.
- 2.4.5. As the planning application was ruled to be insufficient in detail by the courts, any new information submitted by the developer will, by definition, be significant and will be subject to a further round of public participation and not just to the participants in the appeal.
- 2.4.6. The court ruled that the plans and particulars submitted with the application did not comply with Article 23(2) of the Planning and Development Regulations 2001 (as amended) which relates to protected structures.

- 2.4.7. Deficiencies in the application information in relation to the EIA Directive was also identified regarding EIA screening.
- 2.4.8. The new Development Plan includes detailed quantitative, qualitative and technical criteria for new development. Reference is made to Table 3 of Appendix 3 – Achieving Sustainable Compact Growth.
- 2.4.9. The correct process for the Commission would be to seek detailed submissions from the developer to address the substantive reasons for quashing the previous decision of the Commission. The response should be circulated to other parties with adequate time allowed to engage appropriate experts to review any new details.

Patricia Magee –

- 2.4.10. There has been changes in the receiving environment and in planning policy since the original application was made. The development would impact on the amenity of No. 1 St. Peters Avenue through loss of light.
- 2.4.11. The development would result in a loss of biodiversity on the site, which include protected species such as bats and barn owl. Many birds also nest in the mature trees on the site.

Cabra Road Residents Association -

- 2.4.12. Reference is made to the original submission which is relevant and which raised concerns regarding the impact of the proposal on the character of surrounding protected structures, overshadowing of neighbouring properties, loss of biodiversity and loss of protected species on the site.

St. Peters Environmental Group (Pat Magee) –

- 2.4.13. Details as previously submitted. Concerns also raised regarding the impact on biodiversity, which includes bats and barn owls, as well as loss of trees.

Tessa Feaheny B.L. (5 St. Peter's Avenue) -

- 2.4.14. Issues raised regarding loss of biodiversity, including trees, bats, barn owl and butterfly and the impact on amenity of adjoining houses in terms of loss of light and quality of life.

Gary & Emma Fitzgerald -

2.4.15. This submission included a letter from residents at 26 Cabra Road who moved into the area in 2021 and who had not participated in the original application process. The rear boundary of No. 26 backs onto the subject site and any decision on the application will affect the property. Their concerns are expressed through the Shadowmill submission.

3.0 Section 132 Request

3.1. In consideration of the Section 131 submissions received, to address any changes to planning policy, and the adoption of the Dublin City Development Plan 2022-2028, the Commission requested further information from the applicant under Section 132 of the Planning and Development Act 2000 (as amended). The Commission requested the following information,

1. Any general submissions/observations on the planning application the subject to this appeal and the adoption of the Dublin City Council Development Plan 2022-2028 in the context of the appeal.
2. An updated Ecological Impact Assessment (EclA) identifying, quantifying and evaluating potential effects of the development on habitats, species (including but not limited to bird and bat species) and ecosystems within and around the subject site. The EclA should include an updated bat survey that fully details the potential impact of the development on bats, whether roosting on the site and/or within the protected structure or using the site for foraging or commuting. Details of appropriate mitigation measures to address the impacts should also be included. Where the removal or disturbance of bat roosts is required, a derogation consent should be provided with the EclA.
3. An updated Architectural Heritage Impact Assessment prepared in accordance with the requirements of Article 23(2) of the Planning and Development Regulations 2001 (as amended). The assessment should describe how the proposals would affect the character of the protected structure or any part of it and how any potential adverse effects would be mitigated.
4. A review of the Daylight and Sunlight Impact Assessment that was prepared for the proposed development within the context of the updated guidance *BR*

209 - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2022) to demonstrate if there is any material change in the results / performance of the development.

3.2. A response was received from the applicant on the 22nd of September 2025 and includes the following,

- A cover report outlining the Section 132 Response from the applicant.
- Architectural Heritage Impact Assessment.
- Ecological Impact Assessment.
- Daylight and Sunlight Assessment.
- Calculation of Public and Communal Open Space.

4.0 Applicant's Response to Section 132

4.1. Item 1 –

- 4.1.1. The application was originally assessed in accordance with the Dublin City Development Plan 2016-2022, which was the relevant plan at the time. This plan has since been replaced by the Dublin City Development Plan 2022-2028 (DCDP). The applicant carried out a comparative analysis of both plans as they relate to the proposed development and found the changes in policy between both plans to be minimal.
- 4.1.2. I note to the Commission that a review of the Development Plan and national planning policy will be provided in Section 10.0 of this report. This review will outline the main policies and objectives that relate to the application.
- 4.1.3. In addition to the change in Development Plan, the applicant also notes that new Section 28 Guidelines have been implemented. Regarding residential development, the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024*, (hereinafter the 'Compact Settlements Guidelines'), has brought about a decrease in minimum specified separation distances (SPPR 1). The applicant refers to the *Planning Design Standards for Apartments Guidelines for Planning Authorities, 2025*, (hereinafter the '2025 Apartment Guidelines'), which provide flexibility in unit mix, internal space standards and dual aspect ratios.

However, the 2025 Apartment Guidelines only apply to an application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e. from 9th July 2025.¹ The current Development Plan incorporates SPPR 1 from the 2023 Apartment Guidelines, which allows for up to 50% one bed or studio apartments in a development.

4.2. **Item 2 –**

- 4.2.1. In response to Item 2, the applicant submitted an updated Ecological Impact Assessment (EclA). The EclA included a Screening for Appropriate Assessment, which concluded that *'likely significant effects and not anticipated'* on any European site from the project, due to the nature and scale of the project and the distance between and connections to the development and the nearest European sites.
- 4.2.2. A review of the closest proposed Natural Heritage Areas (pNHA) was also included in the EclA. This review considered that the pNHA sites could be 'screened out' of any further assessment due to the lack of hydrological connectivity, the nature and scale of the development, and/or distance from the proposed site. Field surveys carried out include habitat mapping, potential bat roost suitability, breeding bird surveys and surveys for mammals and protected species.
- 4.2.3. The main findings are summarised as follows:
- 4.2.4. Habitats – 5 habitats were identified within the site; Stone walls and other stonework (BL1), Buildings and artificial surfaces (BL3), Dry meadows and grassy verges (GS2), Treelines (WL2) and Scrub (WS1). All five habitats were considered to be of **'high local ecological importance'**
- 4.2.5. Fauna – Mammals protected under the Wildlife Act recorded within 2km of the site included Badger, Irish Hare, Hedgehog and Otter. The ecological walkover survey found no direct or indirect evidence of fauna species listed under the Wildlife Acts of the EU Habitats Directive. Given the lack of suitable resources for Otter, Irish Hare and Badger, the EclA states that it is highly unlikely that these species utilise the lands within the site boundary. However, the proposed site is considered to be of **'high local ecological importance for hedgehog'**.

¹ As per Department of Housing, Local Government and Heritage Circular Letter: NSP 04/2025

- 4.2.6. Bats – Previous surveys had observed bats using the site but did not find evidence of bat roosts on the site. A desktop survey found that four bat species protected under the Wildlife Act and the EU Habitats Directive were recorded in the vicinity. These were, Common Pipistrelle, Daubenton’s Bat, Leisler’s Bat and Soprano Pipistrelle.
- 4.2.7. For the updated survey, three bat emergence studies were undertaken at the site using bat detectors and a thermal imaging camera. Stone Villa was the focus of the emergence study, and no bats were recorded emerging from the derelict building. However, two bat species, Common Pipistrelle and Soprano Pipistrelle, were recorded on the site during the emergence study. A static bat activity survey was also conducted over three nights. This survey found recorded Common Pipistrelle and Soprano Pipistrelle over all three nights. A third species, the Lesser Noctule, was recorded using the site on two of the three nights.
- 4.2.8. A preliminary bat roost survey was carried out on the site in 2019 and found that the site contained Potential Roost Features (PRFs) that would be removed as a result of the development. The PRFs included the derelict building and trees within the site. However, on further inspection at this time, only one Sycamore tree in the north-east corner was found to have roosting potential. A second more extensive survey was carried out in 2021 on trees that were found to have Potential Roost Features (PRF). Three trees were identified as displaying PRFs were examined by ecologists.
- 4.2.9. Tree No. 1 was a mature Sycamore *Acer pseudoplatanus* (T172) located in the north-east corner of the site. This tree was initially considered to have bat roosting potential due to the presence of a trunk hollow. However closer inspection found that it had undesirable characteristics for roosting bats which include, pooling of rainwater and unsuitable crevices. Whilst no bats roosts were found, the tree was determined to have ‘low roosting potential’.
- 4.2.10. Tree No. 2 is another mature Sycamore located in the north-east corner of the site. Upon detailed examination this tree was found to have ‘negligible bat roost potential’.
- 4.2.11. Tree No. 3 is a semi-mature Apple tree located towards the centre of the site. This tree was also found to have ‘negligible bat roost potential’.
- 4.2.12. Regarding the protected structure on the site, ecologists identified PRFs within the exterior surfaces. These included, sizeable cracks in the masonry, gaps in masonry,

holes in roof tiling and dense ivy cover. The features are illustrated in photographs in Figures 4-12 to 4-14 of the EclA and became the target observation points during the bat emergence survey. As noted above, no bats were observed entering or exiting any of the PRFs within the protected structure during the bat emergence surveys. An additional survey of the interior of the building was carried out prior to the emergence survey. The Ecologists did not record any sign of bat habitation within the interior rooms that were accessible in the central structure.

- 4.2.13. The EclA notes that as it was not possible to inspect all the locations in the house where bats may be present, the absence of bat evidence does not equate to the absence of bat roosts within the structure. Therefore, a static bat detector was placed in the building between the period of the 22nd of August 2025 and the 2nd of September 2025. No bat species were recorded on this detector. The site was also found to have a 'habitat suitability' score of 18.89 on the Bat Conservation Ireland Habitat Suitability index. This index is presented on a scale of 0-100 where 100 is most favourable for bats.
- 4.2.14. Based on the findings of the bat surveys and a review of the site habitat, the EclA concluded that the site was of '**high local ecological importance**' for the foraging and commuting activity located within the boundary of the site.
- 4.2.15. Breeding bird surveys - During the bird surveys, 18 bird species were recorded on the site, of which three are listed as 'Amber' on the list for Birds of Conservation Concern Ireland (BoCCI), (Goldcrest, Herring Gull and Spotted Flycatcher) with the fourth species, Wood Pigeon, listed as an Annex II and Annex III species in the EU Birds Directive. In addition, a Collared Dove nest was recorded in a Sycamore in the scrub habitat and Feral Pigeon was recorded roosting and/or nesting in the protected structure. Based on the survey results the site is of '**high local ecological importance**' for breeding bird species and '**less than local ecological importance**' for wintering bird species.
- 4.2.16. Additional surveys found that the site was of '**less than local ecological importance**' for reptiles/common lizard and of '**low local ecological importance**' for amphibians. Due to the presence of two active White-tailed Bumblebee hives on the site (one within the Stone Villa wall and one on the ground near the wall) and a

recorded sighting of the Tree Bumblebee, the site is determined to be of '**high local ecological importance**' for terrestrial invertebrates.

4.2.17. Invasive Species – Four invasive non-native species were recorded on the site; three of which were of medium impact and one of low impact. None of which were listed in the European Union (Invasive Alien Species) Regulations 2024 (S.I. No. 374 of 2024).

4.2.18. The EclA includes an assessment of impacts for the ecology on the site and recommends mitigation measures to address loss of habitat and disturbance.

4.3. **Item No. 3 –**

4.3.1. In response to Item No. 3 an updated Architectural Heritage Impact Assessment (AHIA) was submitted. As well as addressing Item No. 3 of the Section 132 request, the new assessment noted the concerns also raised in the High Court judgement. It provides a full assessment of the significance of the building and its setting and context. It identifies any associated special architectural and historic character and any other features which are of note in accordance with the requirements of the Planning and Development Act 2000 (as amended) and the DoHLGH Guidelines on Architectural Heritage. An evaluation of the chronology of the site is also included. A schedule of works proposed to save the building is outlined and an assessment of these works is included. Mitigation measures included in the design are noted as well as providing further details in relation to structural remedies and restorations to fabric including the iron gates to the front boundary. The Assessment notes that the building and its setting was fully evaluated and photographically recorded both externally and internally. A full set of drawings detailing existing and proposed floor plan layouts, roof plans, sections and elevations. Notes are included on the extant architectural features and how they will be altered and/or refurbished.

4.3.2. A Structural Appraisal Report was prepared by consulting engineers and submitted with the AHIA. The appraisal notes that the scope of the report was restricted to a visual inspection of the structural elements and no calculations for the structural elements were undertaken. Access to the structure was limited with woodwork and other parts of the structure either covered by vegetation or inaccessible. A series of photographs were taken to illustrate structural damage, and the report concludes that the house *'is in very poor structural condition and requires extensive remediation*

works'. A Method Statement for Masonry Repair was also included in the report from the structural engineers.

- 4.3.3. A Timber Specialist Report was prepared by a Consultant Timber Technologist. A visual inspection was carried out on the building during a site visit and the observations noted that decay, principally due to dry rot, is widespread and active with continuing ingress of water. Much of the affected timber has lost its strength and is unfit for use. A report details the extent of this decay on a room-by-room basis and includes recommendations for remedial action.

Item No. 4 –

- 4.3.4. The original Daylight and Sunlight Impact Assessment was reviewed within the context of the updated BRE Guidance (BRE 209-2022) since the application was lodged to see if there was a material change in the outcome of the original assessment.
- 4.3.5. The updated report includes a daylight and sunlight assessment with an accompanying shadow study. It also incorporates an Impact Assessment and Scheme Performance Review carried out in accordance with BRE 209-2022. The report states that the analytical 3D model was also updated to reflect revised testing approaches, methodologies and practises. I have included a summary of results below. The impact of the proposal on existing residential development will be addressed in full in Section 12.0 of this report.

The Impact Assessment assessed the following properties;

- No's 5-10 Cherrymount Park – to the west of the site.
- No's 24 & 26 Cabra Road – to the north of the site, and,
- No's 1 & 2 St.Peter's Avenue – to the north-east of the site.

The following metrics were assessed -

- The effect on daylight to the windows of these properties by measuring the Vertical Sky Component (VSC), which can be described as the amount of skylight that falls on a vertical wall or window.
- The effect on sunlight to the windows by measuring the Annual and Winter Probable Sunlight Hours (APSH/WPSH) to the windows of these properties

that are oriented within 90° of due south. On this basis, this assessment excluded the windows along the properties 1-4 Cherrymount Park.

- The effect on sunlight to the rear gardens of the surrounding properties located across Cherrymount Park, Cabra Road, North Circular Rd and St.Peter's through the Sun on Ground (SOG) study.

Impact Assessment on Existing Properties

Daylight –

4.3.6. The BRE Guidelines state that a proposed development could possibly have a noticeable effect on the daylight received by an existing window, if the following occurs:

- The VSC value drops below the guideline value of 27%; **and**
- The VSC value is less than 0.8 times the existing value.

4.3.7. The Assessment notes that in the absence of design layouts, floor plans., or information pertaining to the internal 'as-built' layouts, assumptions were made regarding the functions of the rooms the relevant windows served. A total of 53 windows were assessed. Using the parameters listed above, the effect on the VSC (daylight) of these windows would be considered 'negligible' for 50 of the windows and 'minor adverse' for the remaining 3. The assessment found that the only three 'minor adverse' impacts relate to a single ground-floor window at 9 Cherrymount Park and single windows at No's 1 and 2 St.Peter's Avenue, while all other windows would experience a negligible level of impact.

Sunlight – (Annual and Winter Probable Sunlight Hours (APSH/WPSH))

4.3.8. In accordance with BRE Guidance, only windows that have an orientation within 90 degrees of due south of the proposed development were included in the assessment. Therefore, the effect on APSH/WPSH was assessed for 30 no. windows/rooms of the surrounding existing properties across Cherrymount Park, St.Peter's Avenue and Cabra Road.

4.3.9. The effect on the APSH of these windows was considered 'negligible' for 28 of the windows and 'minor adverse' for 2 windows, which were located at No. 1 St.Peter's Avenue and No. 9 Cherrymount Park.

4.3.10. The effect on the WPSH of the same windows would be considered 'negligible' for 27 of the windows and 'major adverse' for 1 window at No. 9 Cherrymount Park.

Sun on the Ground (SoG) –

4.3.11. Section 3.3.17 of the BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of the area should receive at least two hours of sunlight on March 21st. The revised assessment studied the effect the proposed development would have on the level of sunlight on March 21st in the rear gardens of the neighbouring properties located along North Circular Rd, Cherrymount Park, Cabra Road and St.Peter's Ave. In total 19 spaces were assessed. The effect on the SoG of these spaces all presented as 'negligible' (or 'non-applicable', due to their existing baseline values being less than 1%) with only one considered 'minor adverse.' This space experiencing a 'minor adverse' impact is the back garden of 1 St Peter's Ave. The assessment notes that this garden did not meet the guidelines in the previously issued report in 2019.

Scheme Performance:

4.3.12. The proposed scheme was assessed regarding,

- Access to Daylight for the habitable rooms of the proposed development in Apartment Blocks A and B and Stone Villa, through a Spatial Daylight Autonomy (SDA) study.
- Access to Sunlight for the same habitable rooms and measures through a Sunlight Exposure (SE) assessment for the rooms.
- Sun On Ground (SOG), which indicates the level of sunlight on the proposed external amenity spaces on March 21st. This date is also known as the spring equinox and is chosen as the assessment date as daytime and night-time are of approximately equal duration on this date.

I have summarised the results of the performance assessment below. The scheme will be assessed in full in Section 12.0 of this report.

Daylight – Spatial Daylight Autonomy (SDA) -

- 4.3.13. The study assessed the Spatial Daylight Autonomy (SDA) for all residential habitable rooms within the proposed development both with and without trees. This was to ensure that a clear understanding would be obtained regarding the daylight potential of the proposed development.
- 4.3.14. The proposed development comprises 32 no. units, which includes approximately 75 no. habitable rooms. Under the criteria as set out in the BR 209 for considering trees, the SDA value in 68 of the habitable rooms meets or exceeds the appropriate target values. This would result in a compliance rate of c. 91%. The assessment not including trees had a compliance rate of 95% which indicates that trees have a limited impact on compliance.
- 4.3.15. A supplementary assessment for SDA was carried out using the guidance contained in I.S. EN 17037, which is the Irish adoption of the European standard for Daylight in Buildings. I.S. EN 17037 sets out more onerous recommendations for SDA, and as such, the number of habitable rooms achieving compliance under this standard is 38 (51%) in the assessment that includes trees and c. 61% without trees. In cases where rooms comply with the criteria of BR 209 but do not meet the criteria of I.S. EN 17037, the consultants are of the opinion that these rooms will be adequately daylight. This recommendation is because BR 209 provides room-specific criteria, unlike I.S. EN 17037. BR 209 considers the varying daylight requirements for different room types, which I.S. EN 17037 does not account for.

Access to Sunlight – Sunlight Exposure

- 4.3.16. A sunlight exposure (SE) assessment was carried out on all habitable rooms within the proposed development. For these assessments, trees were included in the analytical model as opaque objects. Two assessments were carried out: one with all trees (evergreen and deciduous) included and one with only evergreen trees included in the model. This approach is in accordance with section 3.1 of the BRE Guidelines.

4.3.17. All 32 units were assessed with the following results.

In the assessment carried out with all trees considered as opaque objects:

- High - 21 units with at least 4 hours SE
- Medium - 2 units with at least 3 hours SE
- Minimum - 8 units with at least 1.5 hours SE
- below minimum recommendation - 1 unit with less than 1.5 hours SE

When only evergreen trees included in the assessment model:

- High - 29 units with at least 4 hours SE
- Medium - 2 units with at least 3 hours SE
- Minimum - 0 units with at least 1.5 hours SE
- Below minimum recommendation - 1 unit with less than 1.5 hours SE

4.3.18. The SE assessment shows that, regardless of the inclusion of trees, the compliance rate for the assessed units is 97%. The only unit falling below the minimum recommendation is Unit 11 of Block A, which is a north-facing unit with a single window facing west, which is partially obstructed by the corner of the building.

Sun on the Ground

4.3.19. This study assessed the level of sunlight on March 21st within both proposed amenity in the development. The results found that both areas would meet the criteria as set out in Section 3.3 of the BRE Guidelines.

4.4. Conclusion

4.4.1. I am satisfied that the applicant has responded to the Section 132 request and that sufficient information has been provided to facilitate a comprehensive assessment of the development proposal. Planning policy that related to the development is outlined in Section 10.0 of this report and the development will be assessed on its merits. The full assessment of the development will consider the impact of the proposal on existing residential amenity, architectural heritage (protected structure) and biodiversity, as well as any other issue raised in the appeal process.

5.0 Observations Received

5.1. In the interests of natural justice, the applicant's response was circulated to all parties to the appeal and submissions were invited. The Commission received 8 no. submissions in response. The submissions contain lengthy and detailed observations. Whilst it is not practical to reproduce them in full, I have summarised the submissions below by focusing on the main planning points of each. All details in the submissions have been read and will inform the assessment.

5.2. Ronan Scaife & Geraldine Lardner –

- Boundary issue – the boundary shown for Block B infringes on the rear garden of No. 11 Cherrymount Park.
- Ecological Impact – the EclA notes the importance of the site for ecology but concludes that the removal of habitats would have a '*Permanent, negative and non-significant impact*'.
- Unsuitable development – the development is not in keeping with local architecture and is not conducive to sustaining long-term communities.

Previous points originally raised in planning application Ref. 4515/19 also apply and are appended to the submission. These issues include, density and over-development, loss of privacy and security for existing development, lack of amenity space in development, lack of car parking, boundary issues, loss of biodiversity.

5.3. Gary & Emma Fitzgerald –

- Previous decision – the observer submits that based on previous decisions, it will legally not be possible to grant Block B unless there are very clear reasons for doing so.
- Scale and design – Block A is too big for the site
- Boundary issues – the boundary between the site and No's 9-11 Cherrymount Park is incorrect as shown. A boundary survey was prepared and submitted with the observation and with the previous submission in 2000.
- Third party submissions – It has been almost 5 years since the initial application to Dublin City Council (DCC). In the interim period new residents

have moved in that have no access to the planning process and there are new extensions that may be impacted by the development.

- Consolidated development – The Ashley Motors site is now vacant and presents an opportunity to consolidate sites to provide a joint development with a greater diversity of housing.
- Protected structure – the AHIA does not address the impact of the proposed 4-storey Block A on Stone Villa. The impact of the development on the views of Stone Villa from the rear gardens of Cherrymount Park was not considered. The impact of Block B on other protected structures was not considered, (i.e. No's 24 and 26 Cabra Road).
- Daylight & Sunlight –the updated assessment does not adequately address the impact of the proposal on daylight and sunlight to existing properties and the difference in site levels was not considered. Reference is made to No. 1 St. Peters Avenue in this regard. An architectural drawing showing a section between Block B and No. 1 St. Peters Avenue was prepared and submitted with the observation.

5.4. Patricia Magee –

- Protected Structure – Impact on Stone Villa which is almost beyond repair at this stage. The development would also impact on neighbouring protected structures at 24 and 26 Cabra Road, which have the same conservation standing as Stone Villa.
- Daylight and Sunlight – impact on No. 1 St. Peter's Avenue will be overbearing and will result in loss of daylight to rear windows. An architect's report and drawing illustrating a section between Block B and No. 1 St. Peter's Avenue was submitted. The submission states that Block B is too close to No. 1 St. Peters Avenue and will have an adverse impact on the daylight and sunlight to the property and to the amenity space to the rear. The change in levels between both sites was not considered in the model.
- Boundary issue – the boundary needs to be defined. The original site is smaller on the older maps.

- Scale of development – the scale and massing are excessive and not respectful of the historic built fabric of the area. The height and proximity of development do not respect existing residential development.
- Biodiversity – the loss of trees and habitat will impact on biodiversity in the area.

5.5. Cormac Nevin and Sarah Grace –

Third parties support the previous decision of the PA and the recommendation of the Planning Inspector in the previous appeal.

- AHIA – the parties submit that the AHIA includes photographic records from 2016, which is evidenced by their date stamp. The Outline Conservation Specification for works to be carried out is generic and refers to No's 3 and 4 Harcourt Street throughout. The Structural Appraisal Report is a visual report only. The high degree of deterioration noted in the report would suggest a Comprehensive structure appraisal that contains a detailed remediation plan consistent with the proposed alteration to the structure.
- Daylight and Sunlight – The Daylight and Sunlight Impact Assessment has not been updated since the original assessment in 2020 and fails to take account of an extension to the rear of No. 6 Cherrymount Park which was completed in 2024.

5.6. Cabra Road Residents Association –

- Daylight and Sunlight – The results of the Daylight and Sunlight Assessment show that No's 1 and 2 St Peter's Avenue will be negatively affected through loss of daylight, sunlight and sun on the ground of external spaces. No continuous elevation or sectional drawings show the level profiles between the proposed and existing buildings. Due to the inaccuracy of the assessment the actual impact would be greater than that assumed in the assessment. An architectural drawing showing a section between No. 1 St. Peters Avenue and Block B was prepared and submitted with the observation.
- Protected Structures – The impact of the proposal on neighbouring protected structures, (i.e. No. 24 and 26 Cabra Road) was not considered.

- Scale of Development – the bulk, height, massing and proximity of Block B is incongruous with the surrounding architectural context.

5.7. Residents of Cherrymount Park, North Circular Road and St. Peter's Avenue –

The submission replies solely to the matters requested in the Section 132 request from the Commission should be read as an addendum to the originally submitted observation on the first party appeal.

- Section 28 Guidelines – Whilst the applicant submits that new Section 28 Guidelines support the development through the provision of shorter separation distances and increased height and density, this does not negate considerations regarding the impact of the proposal on existing properties. Block B is too close to existing houses, and it would have a detrimental impact on the amenity of such properties. Both Block B and Block A would be overbearing when viewed from neighbouring properties.
- Protected Structure – The updated AHIA addresses the impact of the internal works to Stone Villa but does not consider the impact of the overall proposal on the setting of the protected structure. A query is put forward as to whether development within the 'curtilage' of the protected structure was considered. The third party considers that the proximity, height and mass of Block A to Stone Villa would have a negative impact on the setting of the protected structure.
- Ecological Impact – The observers have concern that the ecology of the site, and in particular bats, would be negatively impacted through the overdevelopment of the site. They submit that the impact has not been adequately considered and that adequate and up to date information was not provided. It is argued that the AA Screening is now out of date as it was carried out 6 years ago.
- Public Open Space – The submission argues that the open space to the front and side of the Protected Structure should not be included in the public open space calculation as it is more characteristic of providing a setting for the protected structure and offers no privacy.

- Communal Open Space – The provision of communal open space is unsatisfactory and of poor quality. There is no clear division between communal and private open space and as the site is over the threshold of 0.25ha, the Development Plan does not allow for any relaxation of standards, (Section 15.9.8).

5.8. Shadowmill Ltd. –

Shadowmill Ltd. adopts the submissions of the other observers, in particular the submission of Gary Fitzgerald and the Marston Planning on behalf of the residents, and the Cabra Road Residents Association.

5.9. TII –

TII's position is the same as set out in the original submission made to the application in the first instance on the 23rd of December 2020, that recommended conditions that ensure that,

- there is no adverse impact on Luas operation and safety,
- The development shall comply with TII's '*Code of engineering practice for works on, near or adjacent the Luas light rail system*'.
- A Section 49 Supplementary Development Contribution is attached as the site is within the *Section 49 Supplementary Development Contribution – Luas Cross City (St. Stephens Green to Broombridge)*.

6.0 **Site Location and Description**

6.1. The site has an area of 0.27 hectares and is located on the northern side of North Circular Road near Phibsborough Village. The site extends deeply from the road and is irregular in shape with almost a c.27m frontage. It widens to almost 40m before narrowing to around 17m at the northern end. It is flanked on the western side by a pair of Edwardian houses fronting the North Circular Road. The eastern side of a lollipop shaped cul-de-sac development (Cherrymount Park) backs onto the remaining western boundary with the houses at various distances and angles. To the east, the site is adjoined by a former car sales forecourt, sales room and motor repair shed, (Asheley Motors). Two-storey over basement and two-storey terraced housing that fronts Cabra Road and St. Peter's Avenue also back onto the site to the

north end of the site. A laneway separating the site appears to have been partly amalgamated into adjoining properties.

- 6.2. A former house called Stone Villa is positioned to the front of the site. The house is listed on the Record of Protected Structures (RPS Ref. 1727) and is currently boarded up and in a dilapidated state. The site itself has been vacant for a long time and is extensively overgrown and was inaccessible on the occasion of the site visit. Stone Villa is a three-bay three-storey house of generous proportions relative to its context. It has a two storey return and ancillary extension with an overall floor area of around 260 sq.m. Its features include an asymmetrical entrance door, pointed arched openings, double pitched roof (the rear pitch is split with internal hips), an ashlar stone façade and plain rendered brick gables. Based on documentation, a later Edwardian porch entrance at ground/basement level has been removed. The windows are blocked up with concrete blocks.
- 6.3. The boundary wall includes three decorative chamfered stone capped pillars and a granite topped externally rendered random rubble stone wall. The original principal road entrance appears to be at the eastern end of the frontage as marked by the gate piers and smaller entrance (pedestrian) is at the western end. There are mature trees on the site which are quite visible from the surrounding roads. Presently there are views from Cherrymount Park to the west through the site to the spire of St. Peter's Church. The boundary walls and structures form an uneven boundary line with the subject property and parts of the boundary have been recently constructed. Garden fences/walls presently enclose some trees that appear to be shown within or along the subject site boundaries.
- 6.4. The site is close to an array of services and is a 5-10-minute walk from Phibsborough village, the Mater Hospital, Mountjoy Prison, Grangegorman campus, Broadstone Bus Depot. North Circular Road is a busy arterial route linking the city to outlying areas and also includes local services in the immediate vicinity of the site. It provides for multi-modal access to local destinations as well as connecting to the city network. There is a frequent bus service, cycle lanes and the Phibsborough Luas stop is immediately to the east. Car parking is restricted by the inclusion of double yellow lines along the road fronting the site. Paid parking is provided along Cherrymount Park to the west and other surrounding roads.

6.5. In terms of residential character, there is a diversity of accommodation which includes student accommodation complexes, hostel/support accommodation, subdivided older Victorian housing stock and 19th and to mid-20th century lower density family houses.

7.0 Proposed Development

7.1. The proposed development is for a total of 32 residential units. It would involve the conversion, renovation and alterations to the protected structure, Stone Villa. This house would be converted into three apartments, and two separate apartment blocks comprising 29 apartments would be constructed to the rear of the site and behind the protected structure.

7.2. Apartment Blocks A and B are proposed to the rear of the existing house in a stepped linear format extending deep into the site. The design is contemporary with a recessed top floor and a total height of four storeys. The total building area of 2529sq.m. provides for 32 units of varying sizes. Block A @ 1263 sq.m., Block B @ 1009 sq.m. and the house at 257 sq.m. The site coverage is proposed at 23% and plot ratio is 0.93 in the overall development. It is proposed to widen the entrance from 2.9m to 7.5m to provide an access road through the site and along its eastern boundary.

7.3. The grounds of appeal proposed an alternative design, Option B, which involves a reduction of 9 units to provide a total of 23 no. apartments. This reduction would be achieved by removing the second floor (third storey) from Blocks A and B, which would result in heights of 3 storeys. A comparison of the original scheme and the alternative Option B is set out in the following table.

	Proposed Development	Option B
Stone Villa	3 units 2 no. 1-bed 1 no. 2-bed	3 units 2 no. 1-bed 1 no. 2-bed
Block A	15 units	10 units

	4 no. 1-bed 3 no. 2-bed (3 person) 8 no. 2-bed (4 person)	2 no. 1-bed 8 no. 2-bed
Block B	14 units 7 no. studios 2 no. 1-bed 5 no. 2-bed	10 units 5 no. studios 1 no. 1-bed 4 no. 2-bed
Total	32 units 7 x studios 8 x 1-bed 17 x 2-bed	23 units 5 x studios 5 x 1-bed 13 x 2-bed
Density	118.5/ha	85/ha
Plot ratio	1.1:1.0	
Site coverage	23%	No change
Roof Height Block A	12.25m	9.25m
Roof Height Block B	12.45m	9.375m
Private Open space	Terraces and balconies to Block A & Block B (309 sq.m.)	Terraces and balconies to Block A & Block B
Public and communal Open space	29% (788sq. open space)	386m2 communal space 402m2 public space
Car parking spaces	9	9
Bicycle parking	60	60

8.0 Planning Authority Decision

8.1. Decision

Refuse permission for the stated reason:

- 1 Having regard to the constricted nature of the application site and the layout of the proposed development in terms of height and location of the proposed blocks within close proximity to the boundaries of the site, it is considered that the proposed development would have an adverse impact on the residential amenity of occupants of properties on Cherrymount Park, Cabra Road and St.Peters Avenue (Cabra Villas) by way of significant overshadowing and excessive levels of overlooking. It is further considered having regard to the height and proximity to shared boundaries that the development will have an overbearing and obtrusive appearance for occupants of adjacent dwellings and has an adverse impact on the setting of the Protected Structure. The proposed development would therefore seriously injure the amenities of property in the vicinity, be contrary to the provisions of the City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

8.2. Planning Authority Reports

- 8.2.1. The report of the Planning Officer (PO) assesses the proposal by detailed reference to the Dublin City Development Plan 2016-2022 (which was the Development Plan at that time) and national guidelines in respect of housing strategy and standards, building conservation and transport.
- 8.2.2. The PO had no objection to the principle of housing on the site and the overall design which they considered to be architecturally attractive, they had concerns regarding the impact on amenity of surrounding residential development and the impact on the curtilage of the protected structure.
- 8.2.3. Notwithstanding the acceptability of the density and height at the well serviced site the proposal is not considered to adequately respect and integrate with the surrounding character by reason of height and proximity to the boundaries with existing residential properties at Cherrymount Park, Cabra Road and St. Peter's Avenue

8.2.4. The following key points are notably raised in the assessment of the PO:

- Conservation of Stone Villa: support of Conservation office is noted regarding comments about bringing the Protected Structure back to residential use subject to best conservation practice. A Conservation report (2003) by the council is cited in respect of its good building condition at that time. Stone Villa is of cultural and historical significance as it represents an 19th c. villa house type once common, but now quite rare, on the outskirts of the city which was regarded as the countryside until the beginning of the 20th century. The survival of the house maintains the link with the historic rural character of the location.
- Impact on residential amenity with reference to
 - 287 and 289 North Circular Road,
 - 5-13 Cherrymount Park,
 - 1-2 St. Peter's Avenue
 - 24, 26 and 28 Cabra Road.
- Housing Mix: The ratio of units is in compliance with the SPPR 1 of Sustainable Urban Housing: Design Standards for New Apartments (2018), (which was the relevant guidance document of the time).
- The daylight and sunlight analysis report findings are noted regarding the below target value of Annual Probable Sunlight hours (APSH) for Nos. 9-11 Cherrymount Park and No.28 Cabra Road. The proposed reduction is otherwise considered to be within an acceptable range for Cabra Road. One rear window would not be in compliance with target. It is concluded that the development would have a significant detrimental impact by way of overshadowing due to the height and proximity of Blocks A and B.
- Separation distances are noted and would be approximately,
 - 5.6m between Stone Villa and Block A,
 - 6.1-8.5m between Block A and 5-7 Cherrymount Pk,
 - 3.4m with no. 8 Cherrymount Pk. The proposed layout would result in severe overlooking, overbearing and obtrusive impact.
- Blocks B would be,

- 10m from rear elevation of 1 St Peter's Avenue.
 - 24 m from the rear elevations of Cabra Road.
 - 22.1- 28.3m from the rear elevations of Cherrymount Park.
- While noting screening measures such as placement and angling of windows and decorative screening, there are concerns about amenity value of proposed apartments. The decorative screens are an appropriate strategy.
 - Compliance with Average Daylight Factor (ADF) in BRE guidance is noted proposed units. The compliance applies to all units, bar one kitchen window in a unit in Stone Villa which is acceptable.
 - Internal space and floor areas of apartments are acceptable as they meet with SPPR 3 and section 3 of Design Standards for Apartments 2018, whereby most of the units exceed minimum floor area. The only deviance is the 2.29m floor to ceiling height at ground level of Stone Villa which is acceptable given its protected status.
 - Entrance space to apartment Block B is considered to be restricted and unwelcoming.
 - Private open space is more than recommended in the Development Plan.
 - Concerns about hedge only boundary around private terraces at ground level – requires a solid boundary. Concerns about screens.
 - The absence of private space for the converted house units is offset by the refurbishment and protection of a Protected Structure.
 - 187 sq.m. of communal open is required but this is not delineated. While the application indicates 788 sq.m. of public open which cumulatively exceeds standard, the area is not delineated as such and is not considered to comply with the development plan standards in section 16.3.4
 - Part V – Letter from applicant noted regarding agreement in principle with the preferred option of acquisition of units by DCC.
 - A total of 22 letters of observation are summarised.
 - Clarification of boundary line and evidence of consent where required.
 - No appropriate assessment issues arise.

8.2.5. Other Technical Reports

- Conservation Department: Additional information required. The report fully supports the return of residential uses provided works are in accordance with best conservation practice. Alterations to the previous proposal are noted and welcomed, (i.e. the omission of an extension as approved in a previous proposal and alterations to include new windows). Further details of the interior features are required with drawings setting out the structural intervention and evidence of a conservation led stabilisation. Key points in the report are summarised as follows,
 - Apartment blocks they are too close to Stone Villa. Revised plans demonstrating a reduction in the bulk and massing of Blocks A and B are requested.
 - Block A should be scaled back in width and height to align more with the Stone Villa.
 - From inspection of old OS maps and building characteristics, it is probable that the main entrance was first floor level. This does not appear to inform the design.
 - The rear garden should be appropriate in size for the house.
 - Further details of boundary required
 - More details drawings an information on windows, porch original features.
 - In terms of impact on wider area it is stated that the high-quality adjacent mid-20th housing set in a mature setting would be adversely impacted.

- **Roads Streets and Traffic Department** - The Transportation Planning Division has concerns about shortage of car parking and overspill into surrounding streets and requests a car parking strategy and management plan supported by data on car ownership or apartments and a mobility management plan. Further information is also required in respect of secure bicycle parking and the splayed entrance.

- **Waste Management** - no objection subject to conditions.

- **Drainage** - no objection subject to conditions

8.3. Prescribed Bodies

- **Transport Infrastructure Ireland (TII)** - S. 49 Supplementary Development Contribution Scheme – Luas Cross City applies. The applicant shall ensure no adverse impact on the Luas operation and safety. The development shall comply with the Code of engineering practice for such work.
- **Irish Water** - No submission.
- **Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs** - No submission.

8.4. Third Party Observations

A total of 22 observations were received by the PA and raised the following issues.

Protected Structure –

- Refurbishment is supported.
- Excessive scale will impact on the setting.
- Historic fabric will be removed (front wall and pillar).

Layout & Design –

- Excessive height, scale and massing.
- Excessive density.
- Overbearing impact on existing houses.
- Insufficient diversity in typology.
- No reference to existing scale, materials and design.
- Lack of meaningful open space.
- Lack of car parking.

Residential Amenity –

- Would result in loss of privacy / overlooking.
- Overshadowing of houses and loss of daylight.
- Unsuitable boundary treatment to existing houses.

- Incorrect boundary shown on drawings.
- Overspill parking on neighbouring streets.
- Depreciation of property.

Biodiversity –

- Loss of trees.
- Loss of habitats for bats.
- Lack of analysis of flooding and climate change.

9.0 Planning History

9.1. The Site

ABP-306681-20, (PA Ref. 4515/19) – Decision quashed by order of the High Court, 2023 [IEHC 157]. The decision of the Commission was to grant permission for the conversion and renovation of Stone Villa and the construction of Block A and to refuse permission for Block B.

PL29N.247378, (PA Ref. 4313/15) – Permission granted for the construction of 6 no. 4-bed, 3-storey houses to the rear of Stone Villa, a new 3-storey extension to Stone Villa and refurbishments and renovations to the protected structure to provide 6 no. 2-bed apartments.

ABP-303902-19, (PA Ref. VS-0055) – Appeal against a Section 18 Demand for Payment of Vacant Site Levy. The demand for payment was confirmed by An Commission Pleanála (formerly An Bord Pleanála).

10.0 Policy Context

10.1. Development Plan

10.1.1. The **Dublin City Development Plan 2022 - 2028** (DCDP) is the current statutory plan for Dublin City, including the subject site.

10.1.2. The main policies/objectives that relate to the development proposal are set out below. This is not an exhaustive list and should not be read as such.

The Commission should consider inter alia the following:

Zoning - The subject site is indicated on Map E of the DCDP and is zoned objective 'Z1' – Sustainable Residential Neighbourhoods, the objective of which is, '*To protect, provide and improve residential amenities*'.

Conservation - The site contains a Protected Structure (PS), Stone Villa (RPS Ref. 1727). (Note – the NIAH lists the building as a House dating from 1810-1830, NIAH Ref. 50130294).

- **Chapter 5 – Quality Housing and Sustainable Neighbourhoods**

QSHN36 - High Quality Apartment Development - To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood.

QHSN37 – Houses and Apartments - To ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.

QHSN38 – Housing and Apartment Mix - To encourage and foster the creation of attractive, mixed use, sustainable residential communities which contain a wide variety of housing and apartment types, sizes and tenures, in accordance with the Housing Strategy and HNDA, with supporting community facilities and residential amenities.

- **Chapter 11 – Built Heritage and Archaeology** – Policies and objectives that relate to proposals for works to Protected Structures are contained in this chapter.

Policy BHA2 – Development of Protected Structures - That development will conserve and enhance protected structures and their curtilage and will:

(a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for

Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.

- (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.
- (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.
- (c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.
- (d) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.
- (e) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.
- (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.
- (g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.
- (h) Have regard to ecological considerations for example, protection of species such as bats.

- **Chapter 15 – Development Standards**

Chapter 15 states that the Specific Planning Policy Requirements (SPPR) as set out in Section 28 Guidelines, including the Urban Development and Building Height Guidelines (2018) and the Sustainable Urban Housing; Design Standards for New Apartments, Guidelines for Planning Authorities (2020)* have informed the

development management guidelines and standards contained in the Development Plan.

*I note to the Commission that the 'Apartment Guidelines' were updated in 2023 and were updated again in 2025. The relevant guidelines for the purposes of the subject development are the 2023 Guidelines.

15.2.3 - Planning Application Documentation - Planning Thresholds – states that 'Planning applications should be supported by the necessary analysis and documentation to demonstrate the proposed design and rationale for a scheme'. Table 15-1 sets out the development thresholds for some of the documentation related to specific planning applications.

The following documents are listed for all residential developments and for developments of 30 units or more - Housing Quality Assessment, Landscape Design Report, Planning Report, Daylight and Sunlight Assessment, Lifecycle Report, Operational Management Statement, Mobility Management Plan, Engineering Services Report (Civil and Structural), Construction Management Plan, Construction Demolition Waste Management Plan, Operational Waste Management Plan, Climate Action and Energy Statement (including District Heating), Surface Water Management Plan, Conservation Report, Appropriate Assessment Screening and NIS. This list is not exhaustive and contains references to other reports subject to site specific circumstances.

15.5.2 – Infill Development - Dublin City Council will require infill development:

- To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.
- To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.
- Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.

- In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.
- Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.

15.5.4 – Height - Appendix 3 identifies the height strategy for the city.

15.5.5 – Density – Appendix 3 – City Centre and Canal Belt – 100-250 uph.

15.5.6 – Plot Ratio and Site Coverage – Appendix 3 – Central Area = 2.5-3.0
Indicative Plot Ratio / 60-90% Site Coverage.

15.8 – Residential Development –

15.8.6 – Public Open Space - The public open space requirement for residential developments shall be 10% of the overall site area.

15.9 – Apartment Standards –

15.9.1 – Unit Mix – As per SPPR 1 of the Apartment Guidelines (2020) (since updated), Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.

15.9.2 – Unit Size / Layout – As per SPPR 3 of the Apartment Guidelines (2020). Table 15-5 sets out the minimum floor area requirements for the different unit types.

In accordance with the Housing Options for an Ageing Population Policy Statement 2019, 50% of the apartments that are in excess of the minimum sizes should be designed in accordance with the guidance set out in Universal Design Guidelines for Homes in Ireland 2015.

15.9.3 – Dual Aspect – As per SPPR 4 of the Apartment Guidelines (2020) – a minimum of 33% of dual aspect units will be required in more central and accessible locations.

15.9.4 - Floor to Ceiling Height - As per SPPR 5 of the Apartment Guidelines (2020).

15.9.5 - Lift, Stair Cores and Entrance Lobbies - As per SPPR 6 of the Apartment Guidelines (2020).

15.9.7 - Private Amenity Space – As per Appendix 1 of the Apartment Guidelines (2020).

15.9.8 - Communal Amenity Space - As per Appendix 1 and Section 4.10 to 4.12 of the Apartment Guidelines (2020). On refurbishment or infill sites of up to 0.25 ha, the communal amenity requirements may be relaxed on a case-by-case basis.

15.9.16.1 - Daylight and Sunlight – Methodology for the assessment is set out in Appendix 16.

Appendix 3 – Achieving Sustainable Compact Growth - contains the Height Strategy for the city as well as guidance on density, plot ratio and site coverage. Section 4.1 states that, in general, a default position of 6 storeys will be promoted within the city centre and the canal ring subject to site specific characteristics, heritage/environmental consideration and social considerations. Appropriate transitions of scale should also be provided.

Table 3 – sets out 10 performance objectives for consideration when assessing proposals for enhanced height, density and scale.

10.2. National Planning Policy

10.2.1. **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES-EMR)**. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten-year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

10.2.2. **National Planning Framework First Revision (2025) (NPF)**

The NPF is the Government's strategic plan for shaping the future growth of the country to the year 2040. The framework contains a set of ten National Strategic Outcomes (NSOs) which include 'compact growth', 'sustainable mobility', 'transition

to a carbon neutral and climate resilient society’ and ‘sustainable management of environmental resources’.

The first revision of the NPF was approved by Government in April 2025 and projects a population increase of an additional 1 million people in Ireland between 2022 and 2040. This would require a significant increase in housing needs, with the NPF anticipating an average of 50,000 new homes per year to 2040. An additional 470,000 people are anticipated for the Eastern and Midland Region between 2022 and 2040. Section 2.7 of the revised NPF states that an updated Implementation Roadmap will be published to translate national and regional planned growth projections to city and county levels.

10.2.3. **Climate Action Plan (CAP) 2025**

This revision of the CAP builds on the previous 2024 CAP. It refines and updates the measures and actions required to deliver carbon budgets and sectoral emissions ceilings and provides a roadmap for taking decisive action to halve Ireland’s emissions by 2030 and achieve climate neutrality by no later than 2050. The Commission is required to perform its functions in a manner consistent with the Climate & Low Carbon Development Act.

10.2.4. **The National Biodiversity Action Plan (NBAP) 2023-2030**

The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Commission to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Commission. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local Level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, EIA Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

Section 28 Ministerial Guidelines

10.2.5. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I believe the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023.

(I note to the Commission that The *Design Standards for Apartments, Guidelines for Planning Authorities (2025)* were issued on 8th of July 2025, however, these Guidelines only apply to any application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e. from 9th July 2025.²)

- Urban Development and Building Heights Guidelines, 2018.
- Sustainable Residential Development and Compact Settlement Guidelines 2024 (density / height / separation distances / open space). (Note - These Guidelines replace the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) and support the application of densities that respond to settlement size and different contexts within each settlement type).

10.3. Natural Heritage Designations

10.3.1. No Natural Heritage Area (NHA) or proposed NHA (pNHA) designations apply to the subject site.

10.3.2. The closest pNHA is the Royal Canal pNHA, which is c. 0.6km to the north of the site. The ecological features of conservation concern for the Royal Canal pNHA are, *Opposite leaved Pondweed (Groenlandia dense)*, *Otter (Lutra lutra)* and *Tassel Stonewort (Tolypella intricata)*. There is no direct connection from the subject site to the pNHA.

10.3.3. The site is not within or directly adjoining any designated Natura 2000 site. The closest designated site is the South Dublin Bay and River Tolka Estuary SPA, which

² As per Department of Housing, Local Government and Heritage Circular Letter: NSP 04/2025

is approximately 3.3km overland with a hydrological distance of 7.9km. Appropriate Assessment is considered in Section 13.0 of this report.

10.4. EIA Screening

10.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

11.0 The Appeal

11.1. Grounds of Appeal

11.2. The first party appeal has been submitted by the applicant's agent. It is submitted that the proposal accords with national spatial and housing policy in that it is a highly accessible site, and its development supports public transport through density and limited car parking. Considerable attention to detailed layout and integration with surrounding development has informed the design. The planning authority is understood to be supportive in principle of a residential scheme at this accessible urban site and in terms of the architectural style and density. The level of impact on residential amenity is however disputed in respect of the impact of a 4-storey high building on surrounding houses. More specifically the following points are made in support of the design approach.

- The Building Height Guidelines advance the NPF objective to actively seek greatly increased levels of residential development in urban centres and significant increases in building heights and overall density. In this context part 3 part 4 storeys (max 12.45m) is appropriate.
- The site is centrally located and highly accessible and accordingly supports densification in line with National policy.

- The site is submitted to be underutilised given its location – easily accessible by foot, bike, and public transport – 54 metres from the Luas stop and served by up to 11 bus routes.
- The low-rise development should not be the dictating form and there are numerous examples to support this. A number of cases are cited in support of the higher height.
- The narrowness of site is conceded as a design challenge with little scope to position blocks differently.
- The blocks have been positioned appropriately relative to neighbouring low-density dwellings having regard to limited options and the existence of a Protected Structure.
- There is good adherence to BRE guidelines (as per the original assessment carried out in 2019). 16 houses of the site have been assessed for overshadowing. Of those only one falls short. The 24% impact on No. 1 St.Peter's Avenue is only slight, and the impact is submitted to be reduced due to trees. In its assessment the PA fails to consider the shadow analysis and the extent of sunlight remaining.
- The overbearing impact is subjective, and the planning consultants hold the view that the well-designed scheme creatively addresses perceived impacts and that the scheme compares favourably with other permitted high density and higher rise schemes in suburban areas.
- There is going to be an inevitable change in character if the form of development is to sustainably densify the city. Some overshadowing is inevitable in infill sites, and has been supported by previous Commission decisions, (ABP-305659-19 is referenced).
- In the context of national policy, the remodelled 2 - 3 storey block revision (Option B submitted with the appeal) is a compromise by the developer. The breaking down into 3 modestly scaled blocks integrates positively with the area.
- The open space vastly exceeds that required in both options. The footprint is the same.

- The proposal constitutes an improvement on the extant permission with respect to impact on the Protected Structure.
- Claims that the car parking is inadequate is strongly disputed given the location of the urban site which is close to public transport.

11.3. Planning Authority Response

- No further comments.

11.4. Observations

11.4.1. Fifteen observations on the grounds of appeal were lodged.

11.4.2. They object to the proposed format of development principally primarily on the grounds that the scale and height is inappropriate in the context of existing pattern of development for the site. It is submitted there is an over reliance on the national strategy approach to consolidating development in well serviced nodes and insufficient consideration to the site-specific context. Overall, it is submitted to be substandard in terms of integration and impact on amenity of adjacent houses and that of future occupants of the development. The following issues underline the concerns raised among the residents and site-specific concerns follow:

- Four storey height conflicts with policies to protect character of historic environments.
- Overshadowing and loss of access to daylight and sunlight and visible sky.
- Overbearing impact – subjectivity is disputed
- Loss of privacy and nuisance due to overlooking noise and light pollution
- Impact on natural environment: Loss of trees. Loss of green space and impact on habitats and species already displaced by the Luas and loss of aspect and open space.
- Boundary encroachment
- Impact on Protected Structure by reason of nature and extent of development.
- Impact on features of Stone Villa – insufficient records of interior.
- Insufficient parking and management of same and impact of this on surrounding roads.

- Unit mix - Excessive one and 2 bed units at the expense of 3 bed units which is contrary to the development plan.
- Loss of front boundary features
- Opening up the site presents security risks.
- Boundary treatment and use of wooden fencing queried.
- While acknowledging the revised plans in the appeal and reduction by a storey in A and B Blocks, the footprint is the same and does not address conservation issues in the redesign or car parking and management of same e.g. no mobility management plan. Such cannot be addressed by condition.
- Sustainable neighbourhood should be the objective in line with the development plan policies aims.
- The Urban Development Building Height guidelines acknowledge that historic environments can be sensitive to large scale tall buildings.
- Even at 12.3m in height there is no justification for four storeys by reference to these guidelines or development plan. The context of 2-3 storey development defines the strong urban character.
- P320 of the Development plan confirms suburban areas of this nature will remain low rise with some exceptions. This is a backland site where the proposed development conflicts with the established pattern and character and will generate overlooking, noise, disturbance, and loss of mature vegetation.
- The curtilage of the Protected Structure should be respected.
- While numerically plot ratio and site coverage are within acceptable ranges, the format and proximity to multiple boundaries gives a dense development. (118.5 units/hectare.
- Over reliance on amenities of adjacent garden.
- Backland development of 2 apartment blocks at 4 storeys high dominates the site and there is no meaningful open space.
- The recreation space is not of any quality – Block B is 4.3m from boundary
- Conflict with existing development – overlooking form north facing Balconies in Block A.
- The screens will result in substandard amenity for occupants, but the removal would be overbearing.
- Loss of original boundary features for sightlines is unacceptable.

- Unduly oppressive for St. Peter's Avenue.
- Encroaches on boundary of nos. 9-13 Cherrymount Pk.
- The reasoning for the previous permission for 12 houses on the site and the restriction to a two-storey extension to the protected structure is cited in support of the arguments against the scale of apartment development.
- Insufficient water pressure.

11.5. Further Responses

11.5.1. As noted in Section 1.0 above, the Commission previously decided on this appeal under reference number **ABP-306681-20**. This decision was quashed by order of the High Court, and the case was remitted back to the Commission for a fresh determination. In the interim period, planning policy had changed and in the interest of natural justice the appeal was recirculated to all parties with further observations invited. The responses to the Section 131 request are outlined in Section 2.0 of this report. Further to this consultation, the Commission issued a Section 132 request to the applicant for further information. This information was then recirculated to all parties with observations requested. Third party responses to this consultation are contained in Section 4.0 of this report. All observations have been noted and are considered in the overall assessment.

12.0 Assessment

12.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues raised can be condensed into the following issues:

- Principle of Development
- Proposed Scheme – Design and Layout
- Residential Amenity
- Architectural Heritage
- Biodiversity

- Other Issues

12.2. Principle of Development

- 12.2.1. The proposed development is for the conversion, renovation and alteration of the existing structure on the site, Stone Villa, a Protected Structure to accommodate 3no. apartments and for the construction of 29 no. apartments in two blocks to provide a total of 32 no. apartments.
- 12.2.2. An alternative option has been submitted by the applicant that would result in the construction of 20 no. apartments in two blocks to provide a total of 23 no. apartments. This option will be assessed in tandem with the original option in the following sections of the report.
- 12.2.3. The proposed residential development is in accordance with the 'Z1' – Sustainable Residential Neighbourhoods, zoning objective for the site and as such is acceptable in principle. Development plan policy also promotes the principle of compact growth and encourages the development of underutilised or vacant sites within the city. The conversion and refurbishment of a vacant and dilapidated protected structure is also in accordance with planning policy to conserve and enhance buildings which are listed on the Record of Protected Structures.

Conclusion -

- 12.2.4. I am satisfied that the development proposal is in accordance with the zoning objective for the site and on that basis, it is acceptable in principle. The proposal and alternative option submitted with the appeal, will be assessed on their merits against the policies and objectives of the DCDP in the following sections of the report.

12.3. Proposed Scheme - Design and Layout

- 12.3.1. The proposed development would involve the conversion of Stone Villa from a former house to three separate residential units and the construction of two apartment blocks to the rear of the site and the protected structure. The original property was subdivided throughout its history and separate housing developments have been constructed to the west and north. This has resulted in an irregular shaped site which extends to the rear of a number of residential properties to the

west and north. Documents submitted with the application state that the constraints of the site informed the design approach and the shape and position of the blocks to the rear of the site.

- 12.3.2. As noted by the appellant, the PA were generally supportive of the development. The report of the PO noted that the proposal would result in the reuse and restoration of a dilapidated protected structure and bring a vacant urban site into use. The design of the new blocks was considered to be attractive, with the potential to successfully integrate with the setting within the curtilage of a protected structure and alongside dwellings in the surrounding area. However, the PA had concerns regarding the setting of the development within the curtilage of a protected structure, the relatively constricted nature of the subject site and the context and scale of development within the immediate area.
- 12.3.3. In response to the concerns of the PA, the grounds of appeal included an alternative development option for the site. Option B would reduce the height of both blocks by one floor by removing a middle level in each block. This would reduce the height from 4 storeys to 3, whilst retaining the top floor set-back. Other amendments include alterations to the balcony/ terrace in the north elevation, screening and entrances. Both development proposals will be assessed below.

Density -

- 12.3.4. The original proposal would have a density of 118 uph, which is in accordance with the DCDP density range of 100-250 uph for 'City Centre and Canal Belt' sites. It is also in accordance with the Compact Settlements Guidelines, which recommends a density range of 100 to 300 uph for City Centre sites, (50 to 250 uph for City – Urban Neighbourhoods). Whilst the density proposed would be at the lower range of the scale, I consider it to be reasonable given the physical constraints of the site and the proximity of existing housing. Option B would have a density of c. 85uph which would not meet the minimum density range in the DCDP or the Compact Settlements Guidelines.
- 12.3.5. I consider the density proposed in the original 4-storey proposal to be acceptable as it is within the recommended range in the DCDP and the Compact Settlements Guidelines. Whilst the density in Option B would be lower than recommended, the

presence of the protected structure and the physical constraints of the site present extenuating circumstances that could allow for its consideration.

Internal Unit Standards -

12.3.6. The PA had no objection to the overall design and internal layout of the development of the new two new apartment blocks to the rear of the site. I have reviewed the details submitted with the application and I am satisfied that the development is in accordance with the development management requirements set out in the DCDP, and the Apartment Guidelines (2023) as they relate to internal floor areas standards, storage and private open space for the individual units.

Private Open Space -

12.3.7. Private open space in Blocks A and B would be provided through ground floor terraces and private balconies on the upper floors. The units in Stone Villa have not been provided with any dedicated private open space, which is acceptable in the DCDP for building refurbishment schemes. I also consider it appropriate to minimise interventions to the protected structure. The planning gain in bringing the protected structure back into use is also noted. Whilst the quantum of private open space for each unit is in accordance with the requirements of the Development Plan and the Apartment Guidelines (2023), the quality of the space was questioned by the PA. Concerns were raised regarding the privacy of ground floor terraces and the impact of the proposed screens on the amenity of the west facing balconies.

12.3.8. I am satisfied that sufficient privacy could be afforded to the ground floor terraces by using appropriate screening, which could be addressed through a planning condition. To prevent overlooking of the rear gardens on Cherrymount Park, decorative metal screens of 2.1m in height are proposed to the west and north facing balconies on the upper levels of Blocks A and B. Some external terraces and secondary amenity spaces are also enclosed with solid walls which would impact on outlook and amenity. Whilst this approach would be effective, I would share the concern of the PA regarding the amenity of the units which would have limited aspect. In particular, the proposed studio units in the centre of Block A are single aspect and would have a 2.1m screen to their only external outlook. The Daylight and Sunlight Assessment also found these units to be non-compliant with BRE Guidelines for Spatial Daylight Autonomy (SDA). The results of the Assessment are expanded on below and do not

specifically state that the non-compliance is linked to the presence of the screens for these units. The use of opaque glazing instead of screens could allow a greater level of diffuse light to the units, however, they would have a less attractive appearance on the elevation of the building.

Daylight and Sunlight -

12.3.9. The original Daylight and Sunlight Assessment for the scheme was reviewed to consider updated BRE Guidance (BRE Guidelines BR 209-2022) which was published after the application was made. The updated report includes a daylight and sunlight assessment with an accompanying shadow study for neighbouring properties. It also incorporates an Impact Assessment and Scheme Performance Review for the proposed development. Within the scheme, all habitable rooms were assessed for access to daylight, sunlight and sun to amenity areas using the following metrics -

- Daylight – The level of daylight to a building is measured using Spatial Daylight Autonomy (SDA). This metric replaced the Average Daylight Factor (ADF) which was the recommended metric in the under the 2nd edition of the BRE Guidelines (BR 209-2011).
- Sunlight – Sunlight Exposure (SE) is the recommended metric for assessing sunlight access within a proposed development. SE replaces the Annual and Winter Probable Sunlight Hours (APSH/WPSH), which was the recommended metric in the 2nd edition of the BRE Guidelines (BR 209-2011).
- Sun on the Ground (SoG) - The amenity of external open space by measuring the area of sunlight on the ground on the 21st of March. BRE recommends that for a space to be adequately sunlit throughout the year, at least half of it should receive 2 hours of sunlight on the 21st of March.

12.4. Daylight - The proposed scheme was assessed for daylight using the Spatial Daylight Autonomy (SDA) metric which assesses whether a room receives sufficient daylight on a working plane during standard operating hours on an annual basis. The methodology used by the consultants is outlined in Section 2.5.1 of the Assessment. In the 32 units proposed, there would be 75 habitable rooms. The study assessed

the SDA for all habitable rooms against updated BRE Guidance in scenarios with and without trees. With trees, the study found that 68 no. habitable rooms would meet or exceed the appropriate target values. This gave a compliance rate of 91% and without trees the compliance rate was 95%.

- 12.5. A supplementary assessment for SDA was carried out using the guidance contained in I.S. EN 17037, which is the Irish adoption of the European standard for Daylight in Buildings. I.S. EN 17037 sets out more onerous recommendations for SDA, and as such, the number of habitable rooms achieving compliance under this standard is 38 (51%) in the assessment that includes trees and c. 61% without trees. In cases where rooms comply with the criteria of BR 209 but do not meet the criteria of I.S. EN 17037, the consultants are of the opinion that these rooms will be adequately daylight. This recommendation is because BR 209 provides room-specific criteria, unlike I.S. EN 17037. BR 209 considers the varying daylight requirements for different room types, which I.S. EN 17037 does not account for.
- 12.6. I note to the Commission that Appendix 16 of the DCDP states that I.S. EN 17037 is unsuitable for use in planning policy as it offers only a single target for new buildings (e.g. a kitchen would have the same target as a warehouse or office) and does not offer guidance on how new developments will impact on surrounding existing environments. Section 3.4 of Appendix 16 states that BR 209 must still be used for planning purposes. Although the DCDP refers to BR 209 (2011) specifically, it also 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'*. Therefore, I consider it reasonable to apply the updated guidance to the assessment of the scheme.
- 12.7. Under the BRE 209 guidance the following units did not achieve the recommended daylight levels,
- Block A – Living/kitchen/dining areas (LKDs) of Units 05, 09, and 11: These living/kitchen/dining areas are relatively deep in plan, which inherently limits the distribution of daylight. These rooms are non-compliant regardless of the inclusion of trees. Unit 5 is a first-floor studio with metal screen to the balcony. Unit 9 is a corner unit with a solid wall screening the balcony and a saw-tooth / angled window to the kitchen/dining area. Unit 11 is a single-aspect, north-facing unit on the top floor. The LKD of Unit 5 scored poorly in the SDA – the

target Lux is 200 – the % area above the recommended level of 50% was 32% without trees and 28% with trees.

- Block B - LKDs of Units 06, 10 and Bedroom 2 of Unit 03: Daylight compliance in these rooms is constrained by tree obstruction. If assessed without the influence of trees, the spaces would otherwise satisfy the relevant daylight criteria. Unit No. 6 is a 1-bed unit with a screen to the west-facing balcony. Unit No. 10 is on the second floor and has a north-facing balcony. The LKD has a solid screen on the west facing balcony.
- Stone Villa - Kitchen/Dining: This room is non-compliant regardless of the inclusion of trees. The design and layout of these rooms are restricted due to the limitations to interventions to the protected structure and the window locations and sizes. The planning gain afforded in returning the building to use is noted and plans submitted show that all of the units in the protected structure will be generous in size and layout which will compensate for non-compliance.

12.7.1. Despite some units not achieving the recommended compliance with BRE and/or I.S. EN 17037, the assessment concluded that the SDA analysis indicates that most rooms receive adequate daylight even when the impact of surrounding existing and proposed trees is considered. The consultants note that the Apartment Guidelines allow for flexibility for building refurbishment schemes on sites of any size. Given the site constraints on the proposed site and the fact that an appropriate level of density is being targeted, the assessment concludes that the results of the SDA study could be considered to be favourable.

12.7.2. Sunlight - A sunlight exposure (SE) assessment was also carried out on all habitable rooms within the proposed development to measure the level of sunlight available to the proposed units. For these assessments, trees were included in the analytical model as opaque objects. The assessments have been carried out in two states:

- All trees (evergreen and deciduous) included in assessment model.
- Only evergreen trees included in the assessment model.

12.7.3. The SE assessment has shown that, regardless of the inclusion of trees, the compliance rate for units, in accordance with section G3.4 of the BRE Guidelines, is

97%. The only unit falling below the minimum recommendation is Unit 11 of Block A; a single-aspect, north-facing unit with a single window facing west which is partially obstructed by the corner of the building. The assessment notes that for a unit to be compliant under BR 209, only one habitable room in the unit needs to meet the guideline values. This room can be either a bedroom or LKD. The results table for the individual units show that some bedrooms were below minimum but the LKD for those units performed well, apart from Unit 11 of Block A.

12.7.4. The external amenity areas in the development were also assessed to determine if they would receive sufficient light. This assessment involved a Sun on the Ground (SoG) assessment, which measures the area capable of receiving 2 hours of sunlight on March 21st. The recommended minimum is 50% of the study area. The results of the assessment found that the amenity areas for the proposed development would comply with BRE standards. Balconies and/or terraces were not included in the assessment.

12.7.5. I accept the conclusion of the assessment that the overall scheme would generally perform well in terms of access to daylight and sunlight. The restrictions of the units in the protected structure are noted as the design and layout are dictated somewhat by the existing window locations and sizes. It is accepted that allowances can be made for refurbishment schemes and protected structures. The worst performing units are the west-facing studio units and Unit 11 which is north-facing and restricted by a window. Although the assessment does not describe any mitigating measures for these units, I note that they are larger than the recommended floor area and that Units 5 and 9 have secondary windows to the dining area.

Unit Mix -

12.7.6. Concerns were raised by third parties regarding the unit mix in the development and whether it was appropriate for fostering sustainable communities. Observers expressed a preference for larger units that could accommodate families. The proposed development would have 7 no. studios (21.8%), 8 no. 1-bed units (25%), and 17 no. 2-bed units (53.1%). Option B would have 5 no. studios (21.7%), 5 no. 1-bed units (21.7%) and 13 no. 2-bed units (56.5%). SPPR 1 of the Apartment Guidelines (2023) allows for up to 50% 1-bed or studios, with no more than 20-25% studios with no minimum requirement for 3-bed units. Whilst the provision of larger

units could provide a greater range of typologies, there is no guarantee that they would encourage family use. The scheme is relatively small in scale and, as previously noted, the site is constrained by existing development. Therefore, a balance must be made towards achieving an appropriate density for valuable infill land and the provision of larger unit types.

12.7.7. The proposed unit mix for both development options would be in accordance with the DCDP and the Apartment Guidelines.

Public / Communal Open Space -

12.7.8. The applicants planning report states that there would be 788m² of public open space for the development. This equates to 29.1% of the site area and is above the DCDP standard of 10% for sites zoned Z1. The PA noted that whilst the quantum of public open space was in excess of the Development Plan standard, there was a concern regarding the quality of the space given its location and arrangement. Third party submissions also raised an issue regarding the quality and quantum of public open space for the development.

12.7.9. The Landscape Masterplan shows three main areas of open space,

- Area 1 is to the front of the house and between the site boundary – a pedestrian access in the south-western corner of the site would be reinstated with a pathway crossing the space to the front of the house.
- Area 2 – is the area to the west of Stone Villa and between the western site boundary. This area would be laid out and planted to reinstate the path and planting bed arrangement shown on the historic 1886-7 OS Map and will involve a formal planting layout with a modern interpretation.
- Area 3 – is a combination of spaces around Block B and includes bicycle parking and secondary access to the rear of Block B with a path around the building.

12.7.10. The application as originally submitted shows the areas as public open space with no allowance for communal open space. Section 15.8.6 of the DCDP requires a minimum of 10% public open space for residential developments on sites zoned Z1. This would equate to 270m² public open space. The 2023 Apartment Guidelines require the provision of communal amenity space in developments. Appendix 1 of

the guidelines prescribe a specific quantum of communal space for each unit type. Based on the unit mix for the proposed development, it would require 187m² of communal open space. The applicant's response to the Section 132 request includes a drawing and calculation for public open space and communal open space. The areas to the front and west of Stone Villa is shown as public open space of 402m². Communal open space is shown to the side and rear of Block A (225m²) and in the north-western corner of the site, adjacent to Block B (161m²).

12.7.11. Whilst the quantum of both provisions would be above the minimum recommended standards, I would question the functionality of the area to the west of Stone Villa as public open space and the area adjoining Block B as communal amenity space. Whilst the area to the front of Stone Villa would be open and accessible, the area to the west is deeper within the site and close to the proposed units. It is unlikely to be used as space that is open to the public and there may be security concerns for future residents. However, I would consider this space to be suitable for communal open space. The area to the north-west of Block B is narrow with limited amenity value. It functions primarily as circulation and access, and I do not consider it to be suitable as communal amenity space.

12.7.12. If the area to the front of Stone Villa was to function as public open space it would provide an area of approximately 216m². This would leave a shortfall of c. 54m² to meet the 10% requirement of 270m². Section 15.8.7 of the DCDP allows for a financial contribution in lieu of public open space where it is not feasible to provide the 10% requirement on site. This provision would be applicable for the subject site. If the area adjacent to Block B was to be omitted from the communal space calculation, the area to the west of Block A and Stone Villa would provide sufficient communal space to meet the quantum required in Appendix 1 of the 2023 Apartment Guidelines.

12.7.13. I am satisfied that the layout of the proposed development can provide a sufficient quantum of public and communal open space as per the DCDP and the Apartment Guidelines. I note the objections of the PA to the quality of the public open space given its location. However, I consider the area to the front of the site to be suitable for public open space as it is accessible and visible from the public road. The areas to the side of Stone Villa and Block A would also function well as communal open space as they are overlooked and directly adjacent to the residential

units. The SoG study carried out for the Daylight and Sunlight Assessment also found that the spaces would be in compliance with the BRE guidelines with regard to access to sunlight.

Car Parking -

- 12.7.14. Car parking for the development would be provided at surface level and would comprise 9 spaces. The Transportation Planning Division of the PA did not support the level of parking proposed for the development as it was not in accordance with Development Plan standards of the time which recommended a maximum of 1 space per unit. The report of the Transport Division recommended that the applicant submit further information which included a car parking strategy outlining the rationale for the lower level of parking and a mobility management plan.
- 12.7.15. Current Development Plan standards for car parking are contained in Table 2 of Appendix 5 of the DCDP. Table 2 provides maximum car parking standards, which would allow for 16 paces for the proposed development, (i.e. 0.5 spaces per unit in Zone 1, i.e. between the canals). However, the car parking strategy set out in Section 4.0 of Appendix 5, allows for a relaxation of car parking standards in Zone 1 for any site located within a highly accessible location. I note that the 2023 Apartment Guidelines promote a default policy of minimising car parking for apartment developments in central locations that are well served by public transport. These guidelines were published after the adoption of the DCDP and highlight a shift in policy regarding the provision of private car parking facilities in urban areas. I consider a reduced level of parking for the site to be appropriate in this instance as the site is in a highly accessible urban location in proximity to bus and Luas public transport.
- 12.7.16. Third parties raised a concern that the lack of car parking for the development would lead to additional pressure for parking space on residential streets in the area. There is limited on-street, car parking in the surrounding residential streets which is regulated through pay and display and permit parking. Therefore, it would not be suitable for long-term parking associated with the development and residential parking permits would not be available for future residents of the development.
- 12.7.17. I consider the level of parking provided to be acceptable based on the location of the site and its proximity to public transport.

Conclusion -

12.7.18. Whilst the proposed development would have a relatively high level of compliance with development management standards in terms of unit sizes and the quantum of private and public open space, I am not satisfied that the proposal would deliver a sufficient level of amenity for all units in terms of private open space. The proposed metal screens to the west and north facing balconies would impact on the amenity of these units, some of which are single aspect. As these screens are required to prevent overlooking, there is no alternative solution. The SDA study also found that two of these units would be below the recommended levels of daylight. An argument could be made that the number of units that fail to meet all development management standards is low within the context of the scheme, and, that the low level of compliance would be acceptable given the substantive planning gain to be had in developing the vacant site and protected structure. For this reason, I do not consider the issues relating to the quality of private open space, outlook and aspect for a small number of units in the total scheme would constitute a sufficient reason for refusal on their own.

As noted above, I consider that the lack of communal open space in the original proposed has been addressed by the applicant and I am satisfied that a sufficient level of public and communal space can be provided.

12.8. **Existing Residential Amenity**

In the decision of the PA the main reason for refusal relates to the impact of the proposal on existing residential amenity. The PA considered that the proposed development would have an adverse impact on the residential amenity of occupants of properties on Cherrymount Park, Cabra Road and St.Peter's Avenue (Cabra Villas) by way of significant overshadowing and excessive levels of overlooking. They also considered that, given the height and proximity to shared boundaries, that the development would have an overbearing and obtrusive appearance for occupants of adjacent dwellings. Third party submissions reflected this opinion and raised concerns regarding the impact of the proposal on existing residential amenity.

Height / Overbearance

- 12.8.1. Blocks A and B of the development were originally proposed as four storeys in height. To address the reasons for refusal the applicant put forward an alternative option, (Option B), as part of the grounds of appeal. Option B reduced the height of Blocks A and B by one floor by removing a middle level of each block. This ensured that the set-back at roof level on each block was retained.
- 12.8.2. The Building Height Guidelines (2018) note that general building heights of at least three to four storeys, coupled with appropriate density, must be supported in principle at development plan level. The guidance also states that within the canal ring in Dublin, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective. Appendix 3 of the DCDP contains the Height Strategy for the city and reinforces the principles of the Height Guidelines. Regarding the City Centre and within the Canal Ring, the DCDP states that, *'...a default position of 6 storeys will be promoted in the city centre and within the canal ring subject to site specific characteristics, heritage/environmental considerations, and social considerations in respect of sustaining existing inner city residential communities. 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'*. Section 4.1 of the Height Strategy states that *'All proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3'*, (of Appendix 3).
- 12.8.3. I am satisfied that the proposed development for a four-storey building would be in accordance with the height strategy for the site, where up to 6 storeys can be considered as a default position. I do not consider the proposal would represent a significant increased height over the prevailing context. Whilst the adjoining houses to the west are traditional two storey houses, the wider context along North Circular Road and Cabra Road comprise three storey houses (2-storey over basement). The existing house on the site is also three storeys in height. As the proposal would be just one storey above the prevailing context and within the recommended density range for the site, I do not consider it necessary to demonstrate full compliance with Table 3 of the Height Strategy in the DCDP. Although the height strategy in the DCDP allows for 6 storeys, the site has a set of physical and contextual constraints that would restrict height levels. These include the proximity to existing housing and

the proximity to the protected structure. However, given the proximity of the new buildings to the rear gardens of existing properties, there is a concern regarding the impact of the buildings in terms of visual impact and overbearing impact.

12.8.4. I consider the western elevations of Blocks A and B to be sufficiently animated to prevent a monolithic outlook when viewed from existing properties. The elevations would be broken by recesses and projections and by different materials including variations in brickwork, decorative metal screens to the balconies and metal cladding to the top floor. A line of columnar trees is also proposed along the western boundary to soften the impact. Having visited the site, I consider that the four-storey elevation would be excessive within the context of the adjoining property on Cherrymount Park. Block A would be just 8 m from the western site boundary and would face directly onto the rear gardens of houses on Cherrymount Park. This would result in an overbearing impact when viewed from the private amenity spaces of existing houses. The proposal to reduce the height in Option B would address the intensity of this impact from the houses on Cherrymount Park, however this has knock-on effects for the overall density of the scheme.

12.8.5. Whilst a reduction in height may address the Impact of Block A, the issue is more acute for Block B as it is closer to existing properties. Block B would be just 4m from the eastern site boundary and 5m from the north-eastern corner of the site which bounds the space to the rear of No. 1 St.Peter's Avenue. Notwithstanding the proposed reduction in height of one storey, I consider that the scale and massing of Block B at this location would be excessive and would result in an overbearing impact on the properties to the north of the site, and in particular, to No's 1 and 2 St.Peters Avenue. Third party submissions note that the house at No. 1 is at a lower level than the subject site and has submitted a technical drawing to demonstrate the difference. The applicant has not addressed this submission, and the details of the application do not include information on the ground levels of the properties to the north. The drawing submitted shows a difference in site levels of c. 0.9m, which would increase the overall impact of the development on the adjacent property. Whilst a reduction in height may be sufficient to address the concerns regarding the impact of Block A, it would not address the impact of Block B on existing houses. This would be due to the proximity of the block to existing houses, which along with the height and massing, would result in a significant overbearing impact for existing

properties on St.Peter's Avenue and Cabra Road. I consider that a reduction in height from four to three storeys would not be sufficient to address the impact on these properties.

Overlooking

Block A

- 12.8.6. Block A would be positioned to the rear of No's 5, 6, 7 and 8 Cherrymount Park. Drawing 18-39-PA1-S-0003, *Proposed First Floor Site Plan*, shows separation distances ranging from 21.1m (between main elevations), to 24.2m (to recessed sections of the elevation of Block A), between opposing first floor levels. Section 15.9.17 of the DCDP states that a separation distance of 22m was traditionally required between first floor windows but a reduced separation distance may be acceptable in certain circumstances. SPPR 1 of the Compact Settlements Guidelines, which were published after the Development Plan was adopted, requires a separation distance of at least 16m between opposing windows above ground level. The separation distances provided would be in accordance with the DCDP and SPPR 1 of the Compact Settlement Guidelines.
- 12.8.7. The western elevation of Block A faces directly onto the rear gardens of No's 5 – 7 Cherrymount Park and the northern elevation would face onto the rear garden of No. 8. As the northern elevation of Block A would be just 3.3m from the site boundary and the western elevation would be c. 8 – 8.5m from the site boundary, design interventions have been included to prevent overlooking. This is provided by 2.1m high screens to the west and north facing balconies and by using saw-tooth / angled windows to the bedrooms. In terms of blocking direct views, these features would be successful. However, the use of screens and angled windows has the potential to negatively impact on the amenity of the proposed units. This is discussed in the sections above which notes that only a small number of units would be adversely affected. Whilst the separation distances between Block A and existing properties are in accordance with development management standards, third parties had a concern regarding the overbearing impact of the development on existing houses. This is considered for both blocks in the sections below.
- 12.8.8. Block B is positioned in the northern section of the site. This part of the site is the narrowest section and the site boundary adjoining properties on Cherrymount Park,

Cabra Road and St. Peter's Avenue. OS maps of the area show a laneway between the site boundary and the rear of the houses on Cabra Road. The defining boundary to this lane seems to no longer be in place and it is unclear whether the laneway still exists. The south-western section of Block B would be the closest to the site boundary with projecting elements of the façade extending almost to the boundary with the main elevation just 2.2m from the boundary. This part of the block would be orientated facing the rear gardens of No's 9-12 Cherrymount Park and a separation distance of c. 35m between the western elevation of Block B and the rear of No's 9 and 10 would be provided. No's 11, 12 and 13 would be closer in proximity to the block but, due to the angled position of the houses, there would not be any directly opposing windows. The issue of overlooking from the west facing, upper levels of Block B would be addressed by fitting 2.1m high metal screens and angled windows to the bedrooms.

12.8.9. The northern section of Block B would be much closer to existing properties. Although the properties on St. Peter's Avenue are the closest in proximity to the site, they would not face directly onto the proposed block. Drawings submitted with the application show a separation distance of c. 23.7m between directly opposing windows at first floor level to the rear of No's 24 and 26 Cabra Road. Since the application was lodged the three-storey return at No, 26 Cabra Road has been replaced and now has windows on the rear elevation at all three levels. This has reduced the separation distance between directly opposing windows to approximately 20m, which is still greater than the 16m minimum in the Compact Settlement Guidelines. Balconies on the northern elevation of Block B would not be fitted with metal screens. Given the proximity of the Block to existing houses to the north, this would result in either direct overlooking of properties on Cabra Road and St. Peter's Avenue. I also consider that the height of Block B would be overbearing when viewed from the properties to the north of the site and in particular, the properties on St. Peters Avenue which are on constrained sites.

12.8.10. I am satisfied that the design interventions such as the metal screens and angled windows would be sufficient to prevent overlooking of adjoining properties to the west. As noted previously in the report, the provision of screens would result in a loss of amenity to the subject units.

Daylight / Sunlight / Overshadowing

12.8.11. Concerns were also raised by third parties regarding the impact of the development on adjoining residential properties in terms of loss of daylight, sunlight and overshadowing. A specific reference was made to No. 1 St. Peter's Avenue. It is submitted that the relationship between this property and the proposed development at Block B was not adequately considered and that the level change between both sites was not included in the daylight and sunlight assessments. An architectural drawing detailing a contiguous section between both properties was submitted in support of this observation. Third parties also note that an extension has been constructed to the rear of No. 6 Cherrymount Park that was not considered in the model used for the assessment.

12.8.12. An updated Daylight and Sunlight Assessment was prepared by the applicant on foot of a Section 132 request from the Commission. The impact assessment was carried out in accordance with the most recent BRE Guidelines (*BR 209 - Site Layout Planning for Daylight and Sunlight: a Guide to Good Practice (2022)*) and was considered for properties adjoining the site to the west and north. This includes the properties at No's 5-10 Cherrymount Park, No's 24 & 26 Cabra Road and No's 1 & 2 St. Peter's Avenue. The following metrics were used,

- Effect on daylight through the effect to the Vertical Sky Component (VSC) to the windows of these properties. The VSC metric is used for existing properties and can be identified as the amount of skylight that falls on a vertical wall or window.
- Effect on sunlight through the effect to the Annual and Winter Probable Sunlight Hours (APSH/WPSH) to the windows of these properties that are oriented within 90° of due south. On this basis, this assessment excluded the windows along the considered properties 1-4 Cherrymount Park.
- Effect on sunlight to the rear gardens of the surrounding properties located across Cherrymount Park, Cabra Road, North Circular Rd and St.Peter's Ave were assessed through the Sun on Ground (SOG) study.

Specific concerns were raised by third parties for the properties at No's 1 and 2 St. Peters Ave and No. 6 Cherrymount Park.

Daylight (VSC) -

- 12.8.13. A total of 53 windows serving habitable rooms were included in the VSC assessment. The results found that 50 windows would experience a 'negligible' effect and 3 would experience a 'minor adverse' effect. A proposed development could have a noticeable effect on the daylight received by an existing window, if the VSC value drops below the guideline value of 27%; **and** the VSC value is less than 0.8 times the existing value. In instances where a baseline value is less than 1%, the impact will be considered 'non-applicable' (n.a.).
- 12.8.14. The assessment found that all the relevant windows to the rear of No's 5, 6, 7 and 8 Cherrymount Park would achieve above 27% VSC with the development in place. Therefore, the development would have a negligible impact on the level of daylight to these properties. Third party submissions state that a new extension was constructed to the rear of No. 6 Cherrymount Park and was not considered in the model used for the assessment. As such the results are inaccurate. The assessment states that the analytical 3D model was also updated to reflect revised testing approaches, methodologies and practices as well as the changes to the area since the original application in 2019. Regarding the receiving environment, Section 2.2 of the assessment, states that, *'A combination of survey information, available online photography and/or ordnance survey information were used to model the surrounding context and assessed buildings'*. It further notes that, *'As the information gathered from online sources is not as accurate as surveyed information, a reasonable tolerance should be allowed to the placement of windows, boundary treatments and the results generated'*.
- 12.8.15. I have reviewed publicly available online mapping sources and, at the time of writing, none of the maps show an extension to the rear of No. 6 Cherrymount Park. Figure 2.5 of the assessment shows an image of the *'Model view of the baseline model state'* and does not show any extension to the rear of No. 6. Therefore, it is likely that this was not accounted for in the assessment. The third-party submission did not include any details of the extension. I carried out an online planning search and found that a Section 5 declaration was issued by the PA under Ref. 0328/23 that requested whether an extension that projected 2.5m from the rear wall was exempt development. It is unclear whether this question relates to the extension that was constructed and online drawings are not available to determine the full extent of

extension and what level of glazing was used. As no details are available regarding the scale and design of the extension, it is impossible to determine the potential impact of the proposal in terms of loss of daylight or overshadowing. In the VSC assessment the ground floor windows at No. 6 were modelled as having a baseline VSC of 35.98% and 35.91% respectively. The proposed VSC value was calculated to be 30.28% and 30.38% respectively, which would allow for a degree of tolerance above the recommended level of 27% VSC. However, a ground floor extension would decrease the distance between both developments, and the predicted impact would not be fully determined unless it was subject to further assessment.

12.8.16. No's 9 and 10 Cherrymount Park also performed well in general, with all but one ground floor window to the rear of No. 9 in compliance with BRE recommendations. This window is located beneath an over hanging canopy and was found to have a baseline VSC value of 10.47%. Post construction, this value would reduce to 7.79% and would represent a reduction of more than 0.8 times the baseline value. Although this impact was considered to be 'minor adverse' an additional 'No-balcony' study was carried out. Without the canopy in place the window would have a VSC value of 29.8% with a proposed value of 26.54%. The reduction would be 0.89 times less than the existing value. Whilst the proposed VSC value would be slightly less than the recommended 27%, it would be BRE compliant as the level of reduction would not be more than 0.8 times the original value. Therefore, the effect would be negligible. I consider the impact assessment to be reasonable as the window is currently overshadowed by a canopy that was retrofitted to the existing house.

12.8.17. To the north of the site, the properties at No's 24 and 26 Cabra Road also performed well in the VSC assessment with all windows post development in compliance with BRE guidance. No's 1 and 2 St. Peters Avenue are the closest in proximity to the site boundary. The assessment found two windows in these properties would experience a 'minor adverse' impact from the development. Both windows would be at ground floor level and would be to the rear of No. 1 and No. 2 respectively. Figure A.10 in the assessment shows the location of the windows to the rear of No. 1 St. Peter's Avenue. There is a single storey extension in place to the rear of the property, and this structure includes 6 of the fourteen windows assessed. Four of the windows on the southern elevation of the extension were found to have

baseline VSC values ranging from 21.54% to 26.40%, all of which would be less than the BRE recommendation of 27% VSC. However, this structure also has two rooflights which were found to have good VSC values. For rooms that have multiple windows, each window is assessed separately, and a weighted average is calculated to determine the level of effect on the room. For the four windows facing south the recommended VSC (based on a reduction of 0.8 times the original value) was determined. Although none of the windows met the recommendation, the assessment found that the VSC values would achieve a level of compliance with BRE guidance that ranged from 95-98% for those four windows. A separate ground floor window (Ref. 1b) was found to have a 'minor adverse' impact from the development by virtue of the proposed VSC value of 17.56% (from a baseline of 23.47%) and a reduction of 0.75 times the original value. Of the remaining six windows assessed, two had baseline VSC values of less than 27% (1f – 25.73% and 1g – 18.60%). Whilst both of these windows would experience reductions in VSC values the ratio of proposed VSC to baseline VSC was found to be 0.85 and 0.84 respectively, which represents compliance with BRE guidance.

12.8.18. Of the fourteen windows assessed at No. 1, seven ground floor windows did not achieve the recommended level of 27% VSC. Four of these windows served a room that had two supplementary roof lights which, on balance could achieve adequate daylight. The remaining three windows would experience a loss of daylight with one window predicted to have a 'minor adverse' impact.

12.8.19. Three windows were assessed on the rear of No. 2 St. Peters Avenue. All three windows had a baseline VSC above the recommended 27% value. Two of the windows would experience a reduction of 0.82 and 0.90 times the original value and would still have a value of more than 27% VSC. However, one ground floor window, (Ref. 2b), would experience a reduction in the VSC value from 28.73% to 22.22%, which represents a reduction of 0.77 times the original value. As the recommended VSC was deemed to be 22.98% the level of impact was predicted to be 'minor adverse'.

12.8.20. Most of the surrounding properties would not experience a significant impact in the levels of daylight received as a result of the development. Negative impacts were found for one window at No. 9 Cherrymount Park. This window is a ground floor, corner window with an overhanging canopy and as such is constrained by the

existing building. The remaining rear windows at No. 9 would comply with BRE guidance and the property also has a large back garden to compensate. Some windows to the rear of No's 1 and 2 were found to be negatively impacted by the development. Whilst the remaining windows were found to perform in accordance with the guidelines, I would have a concern that the reduction in daylight could be more acute for these properties given the high boundary walls and the constrained nature of the sites.

Sunlight – APSH / WPSH

- 12.8.21. The Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH) value represents the percentage of probable sunlight hours that the assessed window / room can receive on an annual basis (i.e. an average across the year) and during the winter months. BRE guidance states that a proposed development could possibly have a noticeable effect on the sunlight received by an existing window / room, if the APSH value drops below the annual (25%) or WPSH value below the winter (5%) guidelines; **and** the APSH / WPSH value is less than 0.8 times the baseline value; **and** there is a reduction of more than 4% to the APSH.
- 12.9. The APSH/WPSH impact assessment was carried out on the windows/rooms of the neighbouring properties with an orientation within 90 degrees of due south and that could be affected by the proposed development. No's 5-8 Cherrymount Park were excluded from this assessment on the basis that the windows of the properties that face the subject site do not have an orientation within 90° of due south. The properties that were included in the assessment were No's 1 & 2 St. Peter's Avenue, No's 24 & 26 Cabra Road and No's 9 & 10 Cherrymount Park.
- 12.10. At No. 1 St. Peters Avenue, the baseline APSH found all windows to be above the 25% recommendation. All but one window (Ref. 1b) would continue to achieve APSH of more than 25% post construction. Three windows (including Ref. 1b) would experience a reduction of more than 0.8 times the baseline value. For this reason, window 1b was determined to experience a 'minor adverse impact' of APSH with the remaining windows experiencing a 'negligible' impact.
- 12.11. In the assessment for WPSH the study found that all but one window (Ref. 1b) would achieve the recommended minimum WPSH. Whilst some windows were found to experience a reduction of more than 0.8 times the baseline value, the proposed

value would still be above the minimum recommended level. Window 1b is shown as n.a. in the assessment table for the property. The reason for the omission is explained in Section 2.3.3 of the report which states that, *'Whether a window is considered for APSH/WPSH impact assessment is based on its orientation. A south-facing window will, in general, receive the most sunlight. North-facing windows may receive sunlight on only a handful of occasions in a year, and windows facing eastwards or westwards will receive sunlight only at certain times of the day. Taking this into account, section 3.2.3 of the BRE Guidelines suggest that windows with an orientation within 90 degrees of due south should be assessed'*. Window 1b has a south-westerly orientation and was therefore excluded from the assessment.

12.12. At No. 2. St. Peters Avenue, the APSH assessment found that all three windows would have a proposed APSH above the 25% recommendation (ranging from 44.78% to 57.38%) and the reduction in baseline value would be more than 0.8 times the baseline level. Therefore, all windows would be compliant with BRE guidance for APSH. Of the three windows assessed for WPSH, two would experience a reduction of more than 0.8 times the baseline value. However, post construction, all windows would have an WPSH above the minimum recommendation in the BRE guidelines. Therefore, all windows would comply.

12.12.1. Five windows were assessed for APSH at No. 9 Cherrymount Park. Of these windows, only one was found to experience a negative impact under BRE recommendations. Window 9b is a ground floor window positioned under a canopy. The baseline APSH is 15.63%, which is below the BRE recommendation of 25%. The proposed APSH would be 9.91% and the ratio of proposed APSH to baseline APSH would be 0.63. The assessment calculated that the recommended minimum APSH would be 11.63% for that window, (based on a ratio of 0.8 times the reduction of proposed to baseline APSH), as the proposed APSH would equate to 85% of this figure it was deemed to have a 'minor adverse' impact.

12.12.2. In the WPSH assessment, only one of the 5 windows assessed was found to experience a negative impact under BRE recommendations. Window 9b is a ground floor window positioned under a canopy. This window has a baseline WPSH of 1.81% which is below the BRE recommendation of 5%. The proposed WPSH would be 0.03% and the ratio of proposed WPSH to baseline WPSH would be 0.01. This impact is categorised as 'major adverse' on this window.

12.12.3. As with the daylight assessment, the properties most effected are No. 9 Cherrymount Park and No. 1 St. Peter's Avenue. The rear garden to No. 9 affords some compensation to this property and whilst one window would perform badly at No. 1, the remaining windows would comply.

Sun on the Ground –

12.12.4. Section 3.3.17 of the BRE Guidelines (Section 3.3.17) states that a proposed development could have a noticeable effect on the sunlight received by an existing garden and/or amenity area, if half the area of the space does not receive at least two hours of sunlight during the spring equinox; **and** the area that receives more than two hours of sun on the spring equinox is less than 0.8 times its former value.

12.12.5. Of the properties assessed, the majority (No. 298 NCR, No's 5-13 Cherrymount Park and No's 24, 26, 28 and 30 Cabra Road) would experience either no reduction in the level of SoG or a minor reduction. The baseline situation indicates that the spaces to the rear of No's 2, 3, 4 and 5 St. Peter's Avenue would experience low levels of SoG on March 21st. However, No's 2 and 4 would experience no reduction in SoG as a result of the development and No. 3 would experience a minor reduction.

12.12.6. The space to the rear of No. 1 St. Peter's Avenue was predicted to have a baseline of 22.8% SoG on March 21st. The proposed SoG would be 17.38% which is less than the recommended minimum of 18.31%. The assessment concludes that, as the proposed quantum would be approximately 95% of the recommended minimum the impact would be minor adverse.

12.12.7. I disagree with the conclusion that the impact would be minor adverse. This amenity space is restricted and a reduction in the level of sun on the ground would be noticeable during the winter months.

Overshadowing –

12.12.8. The results of the overshadowing study found that the rear gardens of No's 5-13 Cherrymount Park would experience some additional overshadowing in the morning hours of the 21st of December, March and June. The mid-day hours of June 21st show some additional shadow to the rear garden of No. 8 Cherrymount Park. As

the affected area is to the rear of a long garden this is not considered to be significant.

12.12.9. Properties to the north of the site would experience additional overshadowing to the rear during the morning hours of the 21st of March and the afternoon hours of the 21st of December. The level of overshadowing during this time is not considered to be significant due to the time of the day which is early morning and early afternoon in some instances.

12.12.10. The space to the rear of No. 1 St. Peter's Avenue would experience additional overshadowing of the amenity space for the afternoon and early evening hours of June 21st and the afternoon hours of March 21st. Whilst the constrained position of this site is noted, the shadow study shows that the property will experience considerable overshadowing of their garden at certain afternoon and evening hours during the summertime. I consider this impact to be significant given the time of year the overshadowing would occur and the extent of the overshadowing.

Conclusion

12.12.11. The results of the Daylight and Sunlight assessment found that most properties would not be impacted through loss of daylight and sunlight. Properties that were found to experience negative impacts included No. 9 Cherrymount Park No's 1 and 2 St. Peter's Avenue. Regarding No. 9, only one ground floor window was found to experience adverse impacts. This window is covered by an overhanging canopy and is beside a projecting extension and was found to be below recommended baseline levels. Based on the location of the window, I do not consider the impacts to be significant in terms of loss of daylight and/or sunlight. One ground floor window to the rear of No's 1 and 2 St. Peters Avenue, respectively, was found to experience a 'minor adverse' impact on the level of daylight as a result of the development. The same window at No. 1 was also found to experience a 'minor adverse' impact on the level of Annual Probably Sunlight Hours.

12.12.12. I am satisfied that the proposed development would not have a significant impact on the level of daylight and sunlight to the properties on Cherrymount Park and along Cabra Road. The Shadow Study also indicates that these properties will not be significantly affected from overshadowing. However, I have a greater concern regarding the properties backing onto the site from St. Peter's Avenue. These

properties are older houses on constrained sites that have limited amenity space in a city environment. Whilst the overall reduction in VSC, APSH and WPSH may be determined as 'minor adverse' on a metric scale, the actual experience may be greater given the context of the site. The results of the Shadow Study also shows that the amenity space to the rear of No. 1 St. Peter's Avenue would be overshadowed to its full extent as certain times in the afternoon/early evening of the summer months. I consider this to be a significant adverse impact on the residential amenity of this property. Furthermore, as noted previously, third parties raised a concern that the lower level of St. Peter's Avenue was not considered in the assessment and that the proposed impact on daylight and sunlight could potentially be worse. The methodology in the assessment states that the '*A combination of survey information, available online photography and/or ordnance survey information were used to model the surrounding context and assessed buildings*'. It is unclear if the model specifically considered the changes in level between the subject site and the surrounding sites and whether this would have a significant impact on the results. Whilst the assessment also states that in the absence of surveyed information a degree of tolerance in the results should be allowed for, in the absence of clarity in this matter, I consider there to be a gap in the information. The omission of the extension to the rear of No. 6 Cherrymount also represents a gap in the information regarding impact on daylight and was addressed previously in the report.

12.12.13. I consider that Block B would have the most acute impact on the residential amenity of adjoining properties by virtue of its proximity to the properties to the north of the site. The proximity of the four-storey block would result in overlooking of the properties on Cabra Road and would overshadow the amenity space to the rear of No. 1 St. Peter's Avenue. It would also result in an overbearing impact of adjoining properties, and particularly the properties on St. Peter's Avenue. Whilst the applicant has put forward a reduction in the height to three storeys, I do not consider this adequate to successfully address the issues in relation to proximity to existing housing. A reduction in the scale of Block A would reduce the overbearing impact of the development to the houses on Cherrymount Park. However, as the overall development would have a significant impact on existing residential amenity, I consider that the option of omitting Block B whilst retaining a reduced Block A is not available given the level of design intervention required to accommodate such

changes. For this reason, I recommend that permission is refused for the development and for both options put forward by the applicant.

12.13. Architectural Heritage

12.13.1. The proposal seeks to convert and refurbish the existing protected structure and convert it into 3 apartments. It is proposed to put one apartment unit at each level and to maintain the existing external envelope. The apartments at ground and second floor levels are one bedroom while the first floor is proposed as a two-bed unit. All apartments would be larger than the required minimum standards in the Apartment Guidelines and would have generous living accommodation. The existing floor plan would be substantially retained with some alterations to internal walls required to provide a workable apartment. Some changes are also proposed to the fenestration to the side elevations and to the return. In the review of the application, two main issues were raised by the PA, the impact of the proposal on the protected structure and the level of information submitted regarding the protected structure.

Impact on Stone Villa

12.13.2. The PA were generally supportive of the proposal to return the protected structure to residential use, provided it was carried out in accordance with best conservation practice. However, the Conservation report considered that the height, scale and proximity of Block A to Stone Villa would result in an adverse impact on the character and setting of the protected structure. The report recommended that further information be requested regarding the details of existing fabric and the proposed works and also requested that the new block be reduced in scale and height. In the grounds of appeal, the applicant noted that a previous permission granted on the site (ABP PL 29N.247378, PA Ref. 4213/15) had a greater level of intervention to the protected structure and that the Conservation Officer was supportive of the reduced scale of development proposed for the protected structure under the subject scheme. They were of the opinion that sufficient distance was provided between both structures and noted the significant planning gain to be had from the reuse and refurbishment of the house.

12.13.3. Third parties also raised concerns regarding the impact of the proposal on the protected structure within the site and on the adjacent sites. It was noted that No's 24 and 26 Cabra Road are also listed on the RPS and that the impact of the proposal on their character and setting should be considered.

12.13.4. Block A would be positioned directly behind Stone Villa. There would be a separation distance of 5.8m between the rear wall of the return at Stone Villa and the southern elevation of Block A. The new block would be approximately 2m wider than the protected structure along its western elevation and as such would be visible when viewed from the front of the protected structure. The 4-storey block would also be approximately 1m higher than the roof ridge of the protected structure. The Conservation Report of the PA objected to the scale and proximity of Block A within the context of the protected structure and recommended that a rear garden of appropriate size should be provided between Stone Villa and Block A. I would agree with the Conservation Officer that the scale and height of Block A would have a negative impact on the setting of the protected structure. The additional height and visible elevation would detract visually from the historic house and this would be compounded by the proximity of Block A to the structure. A greater separation distance between both structures could reduce the impact on the setting of the protected structure. The floors above ground level on the eastern side of the block would extend over the access road and to the eastern site boundary. Whilst this section of the block would also be visible behind the protected structure, it would have less of an impact on the setting as it would be set back further within the site and would have sufficient separation distance. The alternative design option submitted with the appeal, would reduce the height of Block A to three storeys. This would reduce the roof of the new block to a height just above the eaves level of the protected structure. Whilst this would resolve the visual impact on the protected structure from the additional height, the projection on the western elevation beyond the building line would remain.

12.13.5. I am satisfied that the level of interventions required to provide the three separate apartments would be acceptable and would substantially retain the original floor plan in a manner that would make the historical progression of the building legible. The PA requested that the applicant address whether they proposed to reinstate the piano nobile level which was original to the house. The applicant did

not respond and the design details submitted in the updated AHIA show the main entrance at ground floor level. The floor plans submitted show that the reinstatement of the piano nobile level would require comprehensive alterations to the internal layout of the units. Whilst I accept that the optimal conservation response would be to fully restore Stone Villa to its original plan, there is sufficient planning gain to be had in restoring it to the plan which it has in its current historic iteration. For this reason, I consider the balance struck to provide three units within the historic building in the layout proposed to be acceptable.

Supporting Information

- 12.13.6. The report of the Conservation Officer of the PA recommended that further information was requested on the existing, extant fabric and architectural features in the building, details of how the conservation work would be carried out, details of how the structural works, services and upgrading works would be co-ordinated, the structural stabilisation works required, clarification of the front elevation treatment and a reduction in the scale and height of the new block to the rear.
- 12.13.7. The updated Architectural Heritage Impact Assessment (AHIA) states that it Provides a full assessment of the significance of the building, its setting and context and identifies any associated special architectural and historic character. A valuation of the chronology of the site is also included. It schedules the work proposed to save the building and assesses the impact of the works whilst also noting the mitigative aspects of the permitted design. and providing further detail in relation to the structural remedies on restorations to fabric including the iron gates to the front boundary. A full measured survey was submitted as part of the planning application. This material has been accompanied with comprehensive additional documentation including proposal drawings which have been augmented with a specific set of conservation drawings relating to the protected structure. This includes detailed information and elevational drawings of the front boundary as well as the structural assessment by consulting engineers and rotten infestation report by technical consultants. The AHIA fully evaluates the building and has provided an internal and external photographic record and a referenced record of all windows. The

assessment was completed in accordance with the DoHLGH's Architectural Heritage Guidelines.

12.13.8. I have reviewed the AHIA and I am satisfied that the report contains sufficient detail regarding the historical context of Stone Villa, the extant architectural features including boundary treatments, and has adequately described the extent and nature of works to be carried out. The report was circulated to the PA, but no further comments were received regarding the updated AHIA. A Structural Assessment and Timber Condition Report were also carried out to inform the report. Both of the additional surveys note the extensive repairs required to restore the building which is in an advanced state of deterioration.

12.13.9. Regarding the curtilage of the building, the AHIA states that there was clear separation between the rear of the site and the house. Historic maps reflect the rear of the house as walled gardens or supporting working gardens for the house, i.e. attendant grounds. The proposed development follows this approach with the house refurbished wholly within its front curtilage setting and the apartment blocks to the rear. The conclusion of the AHIA is that the heritage interests of the structure is the immediate curtilage to the front. The report notes the high quality of the architectural response to the new blocks and does not share the view that Block A would impact on the setting of the protected structure, which would be prominent in the roadside view. Notwithstanding the argument put forward by the applicant, I consider the proximity of Block A would impact on the setting of the protected structure. However, a reduction in the height of the block would address the visual impact. Whilst the projection on the western elevation of Block A would break the building line of Stone Villa, the visual impact of the new block could be mitigated through planting and the retention of the mature trees along the front boundary of the site.

12.13.10. Third party submissions question the quality of the AHIA, as the photographic survey contains photographs from 2016, the Outline Conservation Specification for works is generic and contains a footnote for a different building and the Structural Appraisal Report is a visual inspection only. I am satisfied that the AHIA submitted adequately addressed any gaps in information that was highlighted by the Conservation Officer of the PA and by the High Court decision referenced by the third party. Appendix V of the report is titled, 'Photographic Record & Assessment of Windows 2016 Revisited' and Appendix IV is a 'Photographic Record Internal

Photographs – July 2025’, which updates and supports the original survey. The Outline Conservation Spec. includes a reference to a different protected structure and the methodology for carrying out the works is general guidance for historic features. I consider this to be reasonable as the works to historic fabric in different buildings would generally be carried out in a similar manner. The document also states that, *‘It should be noted that it will be necessary for the contractor to further adjust, amend and revise the statement as works progress to take account of particular matters encountered during the works’*.

12.13.11. Observations noted that No's 24 and 26 Cabra Road are also protected structures and the impact of the development on these structures was not considered. No's 24 and 26 Cabra Road post-date Stone Villa and historic maps show the construction of the terrace facing onto Cabra Road on an infill site to the north of the subject site prior to 1867. The space to the rear of the terrace of protected structures is constrained and therefore I consider the primary value of the setting of the protected structures lies in the front elevation and the set piece of the terrace presenting to the street. The contiguous elevations submitted with the application do not include the properties on Cabra Road. However, the architectural drawing submitted by third parties includes a section through the proposed Block B and No. 26 Cabra Road. This drawing shows that the 4- storey Block B would be taller than the roof ridge of No. 26. However, as Block B would be 23m from the rear of No. 26 it is unlikely that Block B would be visible from the street. Given the separation distance between both buildings, I am satisfied that Block B would not impact on the character and setting of the protected structures that face onto Cabra Road.

12.13.12. I am satisfied that the alterations to the protected structure would be acceptable as they would involve minimal interventions to the original floor plan and would provide planning gain through bringing the structure back to use. I consider the four-storey height of Block A would be overbearing and would result in a negative visual impact on the setting of the protected structure. The reduction of one storey as proposed in the appeal would address the visual impact although Block A would still project past the western building line of Stone Villa. This is not the optimal solution, however, I accept that retention of the mature trees to the front of the site

would provide some visual screening when the structure is viewed from the public road.

12.14. Biodiversity

12.15. Third party submissions raised concern regarding the impact the development would have on biodiversity. Submissions noted that the mature trees and overgrown planting on the site created a healthy habitat for a range of species. The presence of bats on the site was noted as were observations of barn owl, and several species of birds.

12.15.1. The subject site is long and narrow and has been vacant for several years. On the occasion of the site inspection the site had become overgrown with brambles and the most northerly section of the site was inaccessible. Extensive clearance of the site would be required to facilitate the development. An Arboricultural Report was prepared and submitted with the application, as was an Ecological Impact Assessment (EclA). The original EclA was updated by the applicant with new surveys carried out in 2024. At that time the EclA identified five habitat types on the site with the most dominant habitat comprising 'scrub'. A larger area of 'dry meadow and grass' was located towards the centre of the site and to the rear of the existing house. Treelines are in place along the front site boundary and along the north-western corner of the site. The EclA considered that all five habitats were of **'high local ecological importance'**.

12.15.2. The Arboricultural Report states that the development will require the removal of fourteen trees and one group of shrubs. Of the trees to be removed, two are defined as Category B trees, nine are Category C trees with one Category C shrub grouping, and three are Category U trees. No Category A trees were found on the site. The report acknowledges that the loss of trees will have an initial impact on the immediate surrounding area. This will be mitigated through new 'high quality' tree planting which will result in the planting of more trees than are scheduled for removal. Mature trees will be retained on the site and have been incorporated into the design. Two mature trees will be retained at the front boundary (at the south-western corner) and three will be retained along the north-western site boundary.

12.16. Field surveys to detect the presence of protected fauna species found no direct or indirect evidence of species listed under the Wildlife Acts 1976-2021, the Wildlife (Amendment) Act 2023 or the EU Habitats Directive. The survey also found that the site would be unsuitable for Badger, Irish Hare and Otter, which had been officially recorded within 2km of the subject site. There is a potential for Hedgehog to use the site for foraging, nesting and/or commuting. Mitigation measures are included in the EclA to address this potential.

12.16.1. Bats - A Bat Survey Report was carried out for the site in 2019. This survey identified and assessed Potential Roost Features (PRF) on the proposed site. PRFs included trees on the site and the protected structure. Bat emergence surveys were also carried out at this time. The results found no bats emerging from the protected structure although several bats were recorded using the site for foraging and commuting. A second Bat Survey Report was carried out in 2021. Three trees displaying bat roost potential were examined and were found to have either low or negligible bat roost potential. The survey also observed access points / potential roost features (PRFs) for bats to exit / enter the protected structure and a further four emergence surveys were carried out. No bats were recorded existing or entering any of the PRFs identified in the protected structure. Two bat species (Common Pipistrelle and Leisler's Bat) were recorded using the site for foraging or commuting. The 2019 and 2021 surveys were updated by a third survey in 2024. An updated bat roost and habitat suitability survey was carried out during the daylight hours in May 2024 to assess and record any suitable roost features for bats in the Stone Villa structure. Three bat emergence studies were carried out using bat detectors and visual observations. A thermal imaging camera was used on the northern face of the building as this area had the most availability for PRFs. No bats were recorded emerging from the protected structure by either the surveyors or the thermal imaging camera during the three emergence surveys conducted during the summer of 2024. However, three species of bat were recorded utilising the proposed site, namely Common Pipistrelle, Soprano Pipistrelle, and Leisler's Bat. The study concluded that, as it was not possible to inspect all the locations where bats may be present, the absence of bat evidence in the surveys does not equate to the absence of bat roosts within the protected structure. To substantiate this, a bat static was placed within the building between the 22/08/2024 and 02/09/2024. The static within the building was

placed on the staircase on the first floor, in the centre of the building. There were no recordings of any bat species on the static bat detector within the building. The only recordings on this detector were of roosting feral pigeon and rainfall. Therefore, the site was deemed to be of **high local ecological importance** for foraging and commuting activity located within the boundary of the site. As no bat roosts were found on the site, a derogation licence is not required.

12.16.2. Breeding and Wintering Birds – A desk top study was carried out using information from the National Biodiversity Data Centre (NBDC). This showed an extensive list of protected breeding and wintering bird species within 2km of the site, (reproduced in Appendix F of the EclA). The wintering birds recorded in the NBDC records are largely comprised of aquatic and wading birds which are not associated with the habitats found in and around the proposed site. In addition, the study identified 15 bird species of conservation concern that could potentially use the habitats found in and around the site. (See Table 4-15 of the EclA for the full list).

12.16.3. During the breeding bird surveys, 18 bird species were recorded, of which three are on the list for Birds of Conservation Concern in Ireland (BoCCI). Goldcrest, Herring Gull and Spotted Flycatcher were recorded on the site and are all listed as 'amber' on the BoCCI list. Wood pigeon was also recorded and is listed as an Annex II species in the EU Birds Directive. A Collared Dove nest was recorded within a Sycamore in the scrub habitat, (which would be part of the site clearance), and Feral Pigeon was recorded roosting or nesting in the Stone Villa. Both species are green listed on the BoCCI. Based on the findings of the surveys, the EclA considered the site to be of **high local ecological importance** for breeding bird species given the foraging and refuge capacities on the site as well as the active nests on the site. The site is **less than local ecological importance** for wintering bird species given the lack of resources.

12.16.4. Third-party submissions stated that Barn Owl were observed on the site. Barn Owl is a red-listed species and are protected under the Wildlife Acts, (specifically the Wildlife (Amendment) Act 2000). Any disturbance or removal of the species would require a licence from the National Parks and Wildlife Service (NPWS). Although Barn Owl is known to nest in old buildings and trees, none were observed on the site during the site surveys, which included emergence surveys for the Stone Villa.

- 12.16.5. Terrestrial Invertebrates – The site was determined to be of **high local ecological importance** given the presence of two White-tailed bumblebee hives on the site. One hive was recorded in a hole on the northernmost facing wall of Stone Villa, and another was in the ground beneath the scrub close to the northern wall of the villa.
- 12.17. Invasive species - Four non-native invasive species were recorded within the site (Table 4-17). None of the species recorded are '*invasive non-native high impact species*' that are listed under the First Schedule of the S.I. No.374/2024 - European Union (Invasive Alien Species) Regulations 2024 (and Commission amendment (EU) 2025/1422).
- 12.18. The EclA concluded that prior to mitigation, the main impacts on biodiversity on the site would be from disturbance of species (foraging, commuting, nesting and refuge) and loss of habitat or habitat degradation. In the absence of mitigation and based on the importance of the species found to utilise the different habitats, the impact of the habitat removal would vary from a 'permanent negative impact of profound significance', (Stone-walls and other stonework), 'long-term negative impact of slight significance', (buildings and artificial surfaces, dry meadows & grassy verges, scrub), and, an initial 'medium-term negative operational impact of slight significance' (from the removal of treelines).
- 12.19. Regarding protected species, the removal of scrub and meadow habitats would reduce the available foraging, refuge / hibernation and commuting habitat for mammals, such as Hedgehog, within the site. Therefore, an initial **short-term negative impact of slight significance** is predicted for the local mammal species that utilise the site. For bat species, the proposed works to the protected structure will lead to the direct loss of the existing PRFs present within this structure. However, the bat emergence surveys carried out in 2024, 2021 and 2019 found that none of the PRFs within the protected structure were in active use by bat species. The removal of trees and installation of lights on site will result in habitat loss and potential visual disturbance on local bat species, while the removal of the scrub and meadow grassland section will reduce the level of foraging for terrestrial invertebrate species, which will have a knock-on effect of having a reduced prey base within the site. The EclA notes that the retention of three mature Sycamore trees in the north of the site will preserve commuting habitat for bats. The removal of trees and scrub

will also result in a loss of foraging and nesting habitat for breeding birds, which will result in an initial short-term negative impact of slight significance for local breeding bird populations.

12.20. A series of mitigation measures are contained in the EclA for the construction and operational phases of the development. During the construction phase the measures include the appointment of an Ecological Clerk of Works (ECoW), good site management to prevent impacts from pollution and the protection of trees and sensitive habitats to be retained. Biosecurity measures are also included to deal with invasive species. Clearance of vegetation and tree removal would be restricted to the months outside of the March – August nesting season and pre-construction surveys for breeding birds and hedgehogs will be conducted prior to the removal of vegetation. Disturbance of species would be minimised through avoidance measures such as limiting the hours of working to daylight hours and restrictions on lighting at nighttime.

12.21. Mitigation measures for the operational stage of the development include the provision of planting and native tree species. The planting of *Malus* tree species along the western boundary of the site will create new commuting habitat for local bat species. The planting of trees and hedging/shrubs will provide linear vegetation features which are used by bats for commuting. The proposed planting will connect the site with the wider area, allowing local bat species to continue using the site for commuting and opportunistic foraging. Implementation of specialist lighting will ensure that commuting routes and foraging opportunities for bats will be retained. Mitigation measures for hedgehog are also included. It is proposed to install a minimum of six bat boxes as an enhancement measure rather than a mitigation measure as the tree PRFs on the site are deemed to be negligible with no history of roosting in the protected structure. To prevent lighting-based disturbance to foraging bat species, there should be strict adherence to the existing lighting plan and the recommendations laid out in the previous JBA bat reports. Lux levels on site should be kept below 6 lux and where possible the main Stone Villa structure should not be lit at night.

12.21.1. The loss of 13 trees on site will reduce the foraging nesting habitat on site for local bird species. The planting plan includes the addition of 21 trees and 37 pleached trees will mitigate for some of this loss of habitat. To further mitigate the

loss of nesting habitat it is advised that bird boxes be installed around the site for garden birds that may utilise the site and the surrounding area. To mitigate habitat loss for terrestrial invertebrates (bees and other invertebrates) it is recommended that insect refugia be introduced into the site. The EclA recognised that it will take some time for newly planted vegetation and scrubby areas to mature and fulfil their ecological role. However, the implementation of mitigation measures will result in a neutral residual impact on ecology.

12.21.2. It is clear from the results of the EclA that the ecological value of the site is of local importance only. Field surveys found no evidence of protected species on the site, apart from the species using it for foraging and/or commuting. Whilst there is a value to local biodiversity in keeping the site as it is, it is not a practical solution for a vacant, city centre site with a dilapidated protected structure in place. Chapter 10 of the DCDP supports the retention of mature trees in new developments where feasible and Policies GI16 and GI18 promote the principle of net gain for biodiversity in new developments and recommend minimising external lighting and noise on sensitive locations. Whilst the loss of trees and habitats on the site is regrettable, it is somewhat inevitable given the value and development potential of the zoned site, between the canals and on the outskirts of the city centre. However, the EclA contains a suite of mitigation measures to reduce impacts during the construction and to restore/enhance biodiversity value on the site during the operational phase. I am satisfied that the potential impacts on protected species, including bats, have been sufficiently examined and considered and that the implementation of the mitigation measures including the planting plan will restore a suitable environment for commuting and foraging species.

12.22. Other Issues

12.22.1. Public Participation - Third party submissions raised a concern that due to the length of time the application was in the planning system, new residents had moved into the area and were excluded from commenting on the development as they were not initially part of the process. As the application was subject to a Judicial Review, the planning process was protracted and lengthy. There is no mechanism in the Planning and Development Acts that allows for an open public consultation when a High Court decision directs a file to be remitted back to the Commission. However, I note that that submissions from local resident's associations included concerns from

new residents in the area as well as those initially involved in the public consultation. On this basis, I am satisfied that all third-party concerns have been considered.

12.22.2. Boundary Issues – Observations were received a concern regarding the accuracy of the site boundary to the rear of properties on Cherrymount Park. Third parties submit that the boundary between No's 9, 10 and 11 Cherrymount Park, as understood by the developer, is not in accordance with the deed map. The discrepancy would result in the area to the rear of Stone Villa being more constrained than shown on the planning drawings. A technical report and survey were submitted in support of this assertion. The report concluded that some discrepancies exist between the deed map and the physical boundaries to the rear of Numbers 8, 9, 10 and 11 Cherrymount Park and the subject site. Notwithstanding the conclusion of the technical report and survey, I consider that any discrepancies in the positioning of the site boundary would not have a significant bearing on the impact of the development on adjoining properties. Disputes regarding boundaries between properties are civil issues and are not adjudicated on in the Planning Acts.

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13.0 AA Screening

13.1. 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 South Dublin Bay SAC (Site Code 000210), the Rockabill to Dalkey Island SAC (Site Code 003000), the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the Dalkey Islands SPA (Site Code 004172) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

13.2. This determination is based on:

- The absence of any ecological pathway from the development site to the nearest European Sites.
- The scale of the development site and location of the development in a fully developed urban area.

- Location-distance from nearest European sites.

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

14.0 Water Framework Directive

14.1. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment. I refer the Commission to Appendix 2 for my screening assessment.

14.2. The subject site is located within an urban area circa 0.6km away from the nearest waterbody (the Royal Canal). The proposed development comprises the development of an existing urban site (0.27ha) which involves site clearance and demolition of walls and structures. It is proposed to convert and refurbish an existing protected structure and to construct two blocks of apartments. No water deterioration concerns were raised in the planning appeal. The site is serviced by public wastewater connections.

14.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

14.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows,

- Nature, scale and location of the development.
- Distance from nearest water bodies and lack of hydrological connections.

14.5. I conclude that, on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

15.0 Recommendation

I recommend that planning permission be refused based on the reasons and considerations as set out below.

16.0 Reasons and Considerations

1. Notwithstanding the proposed variation in plans submitted with the grounds of appeal, which would reduce the height of the proposed blocks by one level, it is considered that the proximity of the development to the surrounding housing to the west, north and east could be visually overbearing and intrusive and would seriously injure the residential amenities of these properties by virtue of overshadowing. The proposed development would therefore be contrary to the Z1 zoning objective for the area which seeks to protect, provide, and improve residential amenities under the Dublin City Development Plan 2022-2028, and would therefore be contrary to the proper planning and sustainable development of the area.

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

Elaine Sullivan
Senior Planning Inspector

22nd of December 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-319232-24
Proposed Development Summary	Protected structure: Conversion, renovation and alteration of Stone Villa (a protected structure) to accommodate 32 apartments.
Development Address	297 North Circular Road, Phibsborough, Dublin 7
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2,	No Screening required

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p>	<p>EIA is Mandatory. No Screening Required</p>
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p>	<p>Class 10– Infrastructure Projects -</p> <p>10(b)(i) – Construction of more than 500 residential units.</p> <p>10(b)(iv) – urban development that would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP- 319232-24
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<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 would involve the conservation, alteration, renovation and sub-division of a protected structure to provide 3 no. apartments and the construction of an additional 29 apartments in 2 new blocks to the rear of the protected structure.</p> <p>The development would include all ancillary drainage works, including attenuation basins, and connections to the public foul water and mains water system. Car parking would be provided at surface level, and no deep excavations would be required.</p> <p>Site clearance works would be carried out. No major demolition would be required. Natural resources would be used in the construction of the development through materials and the use of the brownfield site.</p> <p>There are no major risks and/or disasters that are relevant to the development and the risks to human health would be from accidents occurring during the construction stage.</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 development site is in an urban area, with residential development to the south, west and north and a vacant commercial site to the east.</p> <p>The site is generally overgrown, with an empty house (protected structure) which is boarded up and in disrepair.</p> <p>There are no water courses running through the site.</p> <p>Bat surveys noted the presence of foraging and/or commuting bats. No bat roosts were identified, however some trees on the site were thought to have potential for bat roosts.</p> <p>The site is not designated as a Natural Heritage Area (NHA) or a Proposed NHA (pNHA). It is not designated as a European site and does not adjoin a designated site.</p>

	<p>It contains a protected structure which forms part of the overall development proposal. It is not located within a designated Architectural Conservation Area or within an area of archaeological interest and does not contain any National Monuments.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>The proposed development would result in the loss of 14 trees (2 x category B, 10 x Category C and 3 x category U) and vegetation on the site. This will have an impact on the visual amenity of the site and on local biodiversity. An Arboricultural Report was submitted with the application. The overall impact will be mitigated through the implementation of a landscaping plan and by planting new trees on the site.</p> <p>The presence of bats was noted on the site and although no bat roosts were identified the bat survey noted that three trees had potential for bat roosts. Disturbance to bats would be mitigated through the use of appropriate lighting and bat boxes. Any removal or disturbance to bat roosts would be authorised through a derogation licence. No other protected species were found on the site during surveys.</p> <p>Alteration works would be required to the protected structure. The impact of the works would be mitigated through adherence to a Conservation Method Statement.</p> <p>During the construction phase noise, dust and vibration emissions are likely. However, any impacts would be local and temporary in nature, and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts. Impacts on the surrounding road network at construction stage can be mitigated by way of adherence to a Construction Management Plan. No significant impacts on the surrounding road network are considered likely at operational stage.</p>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 3 – Appropriate Assessment Screening

Screening for Appropriate Assessment	
Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Case file ABP-319232-24	
Brief description of project	<p>Normal Planning Appeal</p> <p>Conversion, renovation and alteration of a Protected Structure to accommodate 3 no. apartments and the construction of 29 no. apartments in two blocks to provide a total of 32 no. apartments.</p> <p>See section 2 of Inspectors Report</p>
Brief description of development site characteristics and potential impact mechanisms	<p>The development site is currently vacant and overgrown with mature trees in the northern section of the site. The Protected Structure is dilapidated and in poor repair. The surrounding development is suburban in character with residential development to the north, south and west and a former car showroom to the east. A student housing development is on the opposite side of the North Circular Road.</p> <p>The Protected Structure would be retained and refurbished. Development works would involve site clearance and removal of vegetation and 14 no. mature trees. Construction works for the two apartment blocks would be standard in nature and would not require deep excavations (2m maximum). Car parking would be provided at surface level, and the buildings would not have basements. It is an urban site and will be served by the public water and wastewater services.</p> <p>There are no waterbodies on the site or adjoining the site.</p> <p>The nearest designated site to the appeal site is the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and is c. 3.3km overland from the site.</p> <p>South Dublin Bay SAC (SC 000210) is c 5.1km from the site.</p> <p>North Dublin Bay SAC (Site Code 000206) and North Bull Island SPA (SC 004006) are both c. 6.4km from the site.</p> <p>North-West Irish Sea SPA (SC 004236) is c. 8.7km from the site.</p>
Screening report	Y (Prepared by JBA Consulting and included in the Ecological Impact Assessment (EclA)).

Natura Impact Statement	N			
Relevant submissions	None specific to AA. Third parties raised concerns regarding the impact on biodiversity in general.			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
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	Wetland and Waterbirds [A999] Conservation Objectives on the NPWS website - South Dublin Bay and River Tolka Estuary SPA National Parks & Wildlife Service	3.3km overland (7.9km hydrological distance via the Royal Canal)	No direct connection. Weak indirect hydrological connection via the Royal Canal	Y
North Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide Conservation Objectives NPWS - North Dublin Bay SAC National Parks & Wildlife Service	6.4 km overland (9.6km hydrological distance via the Royal Canal)	No direct connection Weak indirect hydrological connection via the Royal Canal	Y
North Bull Island SPA	- Wetland and Waterbirds [A999] Conservation Objectives NPWS - North Bull Island SPA National Parks & Wildlife Service	6.4km overland (9.6km hydrological distance via the Royal Canal)	No direct connection Weak indirect hydrological connection via the Royal Canal	Y
South Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide Conservation Objectives NPWS - South Dublin Bay SAC National Parks & Wildlife Service	5.1km overland (8.2km hydrological distance via the Royal Canal)	No direct connection Weak indirect hydrological connection via the Royal Canal	Y
North-west Irish Sea SPA	Sea birds	8.7km overland	No direct connection	Y

	Conservation Objectives - North-west Irish Sea SPA National Parks & Wildlife Service	(10.1km hydrological distance via the Royal Canal)	Weak indirect hydrological connection via the Royal Canal	
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Further Commentary / discussion

Using the Souch-Pathway-Receptor model, no direct ecological or hydrological connections were identified between the subject site and any of the nearest European sites. A weak indirect hydrological connection exists from the Royal Canal, (approximately 0.6km overland from the site), to the River Liffey and onward to Dublin Bay. The Canal flows east and discharges to the River Liffey at a point to the east of Samuel Beckett Bridge. The Liffey then flows on to Dublin Bay and merges with the Irish Sea and the waters around the designated European sites listed above.

Due to the enclosed nature of the development site (fully serviced) and the presence of a significant buffer area of urban development between the site and the Royal Canal, I consider the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors in the European Sites.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p><u>Site 1</u></p> <p>South Dublin Bay and River Tolka Estuary SPA</p> <p>(Site Code – 004024)</p> <p>Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046]</p> <p>Oystercatcher <i>Haematopus ostralegus</i> [A130]</p>	<p>Direct – None</p> <p>Indirect - localised, temporary, low - magnitude impacts from noise, dust and construction related emissions to surface water during construction.</p> <p>Additional localized disturbance from residential use (lighting and noise) during the operational stage.</p>	<p>The contained nature of the site (serviced, defined site boundaries, no direct ecological connections or pathways) and distance from receiving features connected to the SPA make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SPA for the SCI listed. No SCI wintering birds (ex-situ) were identified during bird surveys for the site and it is not deemed to be suitable as an ex-situ site.</p>

<p>Ringed Plover <i>Charadrius hiaticula</i> [A137]</p> <p>Grey Plover <i>Pluvialis squatarola</i> [A141]</p> <p>Red Knot <i>Calidris canutus</i> [A143]</p> <p>Sanderling <i>Calidris alba</i> [A144]</p> <p>Dunlin <i>Calidris alpina</i> [A149]</p> <p>Bar-tailed Godwit <i>Limosa lapponica</i> [A157]</p> <p>Common Redshank <i>Tringa totanus</i> [A162]</p> <p>Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179]</p> <p>Roseate Tern <i>Sterna dougallii</i> [A192]</p> <p>Common Tern <i>Sterna hirundo</i> [A193]</p> <p>Arctic Tern <i>Sterna paradisaea</i> [A194]</p> <p>Wetland and Waterbirds [A999]</p>		<p>Conservation objectives would not be undermined.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
<p>Site 2</p> <p>North Dublin Bay SAC</p> <p>(Site Code 000206)</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>- Annual vegetation of drift lines [1210]</p>	<p>As above.</p>	<p>As above.</p>

<p>- <i>Salicornia</i> and other annuals colonising mud and sand [1310]</p> <p>- Atlantic salt meadows <i>Glauco-Puccinellietalia maritimae</i> [1330]</p> <p>- Mediterranean salt meadows <i>Juncetalia maritimi</i> [1410]</p> <p>- Embryonic shifting dunes [2110]</p> <p>- Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>- Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>- Humid dune slacks [2190]</p> <p>- Petalwort <i>Petalophyllum ralfsii</i> [1395] Reefs</p> <p>Phocoena phocoena (Harbour Porpoise)]</p>		
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
<p>Site 3</p> <p>North Bull Island SPA (Site Code 004006)</p> <p>Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046]</p> <p>- Shelduck <i>Tadorna tadorna</i> [A048]</p>	As above.	As above.

<ul style="list-style-type: none"> - Eurasian Teal <i>Anas crecca</i> [A052] - Northern Pintail <i>Anas acuta</i> [A054] - Northern 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] - Red 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] - Ruddy Turnstone <i>Arenaria interpres</i> [A169] - Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179] - Wetland and Waterbirds [A999] 		
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects

<p>Site 4</p> <p>South Dublin Bay SAC (Site Code 000210)</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</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] 	As above.	As above.
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	
	Impacts	Effects
<p>Site 5</p> <p>North-west Irish Sea SPA</p> <p>(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] 	As above.	As above.

<ul style="list-style-type: none"> - Lesser Black-backed Gull <i>Larus fuscus</i> [A183] - Herring Gull <i>Larus argentatus</i> [A184] - 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 albifrons</i> [A195] - Guillemot <i>Uria aalge</i> [A199] - Razorbill <i>Alca torda</i> [A200] - Puffin <i>Fratercula arctica</i> [A204] 		
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Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone) would not result in likely significant effects on the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (SC 000210), North Dublin Bay SAC (Site Code 000206), North Bull Island SPA (SC 004006) and the North-West Irish Sea SPA (SC 004236). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). 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 South Dublin Bay SAC (Site Code 000210), the Rockabill to Dalkey Island SAC (Site Code 003000), the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and the Dalkey Islands SPA (Site Code 004172) in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The absence of any ecological pathway from the development site to the nearest European Sites.

- The scale of the development site and location of the development in a fully developed urban area.
- Location-distance from nearest European sites.

Appendix 2

WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Residential Development, Dublin City Council – North Area

An Bord Pleanála ref. no.	ABP-319232-24	Townland, address	297 North Circular Road, Phibsborough, Dublin 7, Dublin City
Description of project	Construction of 29 apartments in two 4-storey blocks and the refurbishment of a protected structure to provide 2 additional apartments.		
Brief site description, relevant to WFD Screening,	The site is a flat infill site in an urban area surrounded by residential development. There are no watercourses in or around the site.		
Proposed surface water details	SUDs system proposed with hydrocarbon interceptor – surface water will discharge to the existing combined sewer in the North Circular Road.		
Proposed water supply source & available capacity	Uisce Eireann mains water connection to existing watermain in North Circular Road.		
Proposed wastewater treatment system & available capacity, other issues	Uisce Eireann Wastewater connection. A new connection will be provided to the existing combined sewer in the North Circular Road.		
Others?			

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection

Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	200m	Bevally Stream_10	Good	Not at risk	No pressures	Yes - multiple drainage ditches hydrologically connected to watercourse.
Groundwater Waterbody	Underlying site	Burren Valley IE_SE_G-0020	Good	Not at risk	No pressures	No – poorly draining clay soils offer protection to groundwaters
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.						
CONSTRUCTION PHASE						

No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Royal Canal Main Line IE_09_AWB_RCMLE	None – overland distance of 0.6km.	Siltation, pH (Concrete), hydrocarbon spillages	Standard construction practice CEMP	No – overland distance would not result in contamination from runoff	Screened out
		Tolka_060	None – overland distance of 1.6km	Siltation, pH (Concrete), hydrocarbon spillages	Standard construction practice CEMP	No – overland distance would not result in contamination from runoff	Screened out
2.	Ground	Dublin (IE_EA_G_008) groundwater body	Weak pathway through topsoil.	Spillages	As above	No due to low subsoil permeability.	Screened out

OPERATIONAL PHASE							
3.	Surface	Royal Canal Main Line IE_09_AWB_ RCMLE	None – overland distance of 0.6km.	Hydrocarbon spillage	SUDs features	No	Screened out
		Tolka_060	None – overland distance of 1.6km	Hydrocarbon spillage	SUDs features	No	Screened out
4.	Ground	Dublin (IE_EA_G_008) groundwater body	Pathway exists but poor drainage characteristics	Spillages	SUDs features	No	Screened out
DECOMMISSIONING PHASE							
5.	NA						

